



Board Meeting Agenda

Location: WSI Board Room, 1600 East Century Avenue, Bismarck ND
By phone: 701.328.0950 Conference ID: 501 960 686#
Date: **Tuesday, September 10, 2024**
Time: 8:30 A.M. [Click here to join the meeting](#)

I. MINUTES

- A. August 20, 2024

II. CONFLICT OF INTEREST DISCLOSURE CONSIDERATION

III. PRESENTATIONS

- A. Investment Performance Update – Scott Anderson, RIO

IV. DEFINED CONTRIBUTION PLAN IMPLEMENTATION

- A. House Bill 1040 Implementation Update – Rebecca (Information)
- B. In-Plan Annuity Options – Derrick (Board Action)

V. DEFINED BENEFIT

- A. Asset Liability Study Request for Proposal Update – Derrick (Board Action)

VI. DEFERRED COMPENSATION / DEFINED CONTRIBUTION

- A. 457 Companion Plan & 401(a) Plan 2nd Quarter 2024 Report – Derrick (Information)
- B. 457 Deferred Compensation Plan Document & 457 Deferred Compensation Companion Plan Document - Rebecca (Board Action)

VII. GROUP INSURANCE / FLEXCOMP

- A. Life Insurance Plan Renewal – Rebecca (Board Action)
- B. Medicare Part D Plan Contract Amendment – Katheryne (Board Action)
- C. Health Insurance Plan Renewal – Rebecca ***EXECUTIVE SESSION** (Board Action)
- D. Health Insurance Plan Request for Proposal (RFP) – Katheryne (Board Action)

VIII. LEGISLATION / ADMINISTRATIVE RULES

- A. Proposed Administrative Rules – Rebecca (Board Action)

IX. OPERATIONS / ADMINISTRATIVE

- A. Audit Committee Report – Shawna (Information)
- B. Quarterly Consultant Fees – Derrick (Information)
- C. Board Self-Evaluation Results – Rebecca (Information)

- D. Contracts Under \$10,000 – Rebecca (Information)
- E. Board Meetings During Legislative Session and Quorum Requirement – Rebecca (Information)
- F. Update Regarding Industrial Commission Letter – Rebecca (Information)
- G. Next Meeting Dates: Tuesday, October 8th and Tuesday, October 29th

X. MEMBER **EXECUTIVE SESSION

- A. Insurance Appeal Case #880 – Lindsay (Board Action)
- B. Unforeseeable Financial Hardship Case # 881 – Marcy (Board Action)

*Executive Session pursuant to N.D.C.C. §44-04-19.1(9) and §44-04-19.2) to discuss negotiating strategy or provide negotiating instructions to its attorney or other negotiator.

**Executive Session pursuant to N.D.C.C. §44-04-19.2, §44-04-19.2(1) and/or §54-52-26 to discuss confidential records or confidential member information.

INVESTMENT PERFORMANCE

Scott M Anderson, CFA – Chief Investment Officer

September 10, 2024

THE MARKET

NORTH
Dakota
Be Legendary.

Retirement & Investment

PERFORMANCE – BENCHMARK INDICES

| Summary of Returns | | | | | |
|---|------------|-------------|-------------|--------------|-----------------------------------|
| June 30, 2024 | | | | | |
| Benchmark Indices (% change, annualized) | YTD | 1 Yr | 5 Yr | 10 Yr | 10 Yr Volatility |
| Russell 1000 | 14.2% | 23.8% | 14.6% | 12.5% | 17.9% |
| Russell 2000 | 1.7% | 10.0% | 6.9% | 7.0% | 22.6% |
| S&P 500 | 15.3% | 24.5% | 15.0% | 12.8% | 17.7% |
| MSCI ACWI IMI Net | 10.3% | 18.3% | 10.3% | 8.2% | 14.3% |
| MSCI World ex US | 5.0% | 11.2% | 6.5% | 4.3% | 14.4% |
| MSCI Emerging Markets | 7.5% | 12.5% | 3.1% | 2.8% | 15.7% |
| Bloomberg Aggregate | -0.7% | 2.6% | -0.2% | 1.3% | 4.7% |
| Bloomberg Gov/Credit | -0.7% | 2.7% | -0.1% | 1.5% | 5.0% |
| Bloomberg US High Yield | 2.6% | 10.4% | 3.9% | 4.3% | 5.2% |
| NCREIF Property Index (06/30/2024) | -1.2% | -5.5% | 3.4% | 6.1% | 4.1% |

Source: Bloomberg

PERFORMANCE – BENCHMARK INDICES

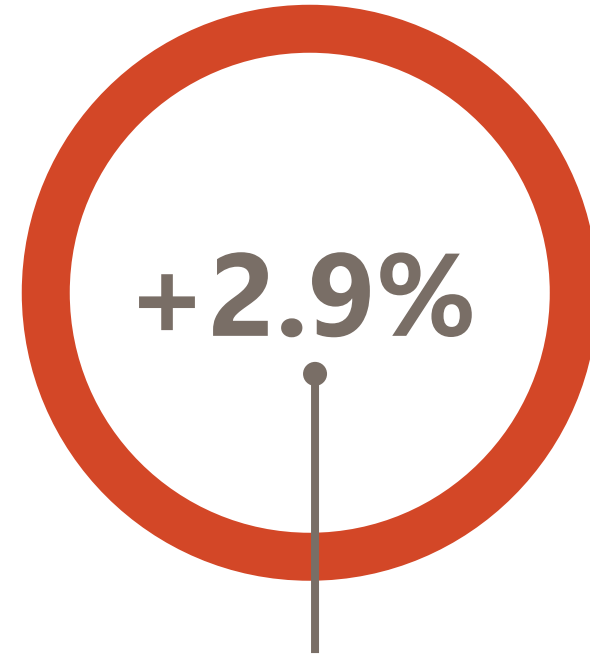
| Summary of Returns | | | | | |
|------------------------------------|------------|-------------|-------------|--------------|-------------------------|
| September 06, 2024 | | | | | |
| Benchmark Indices | | | | | |
| (% change, annualized) | YTD | 1 Yr | 5 Yr | 10 Yr | 10 Yr Volatility |
| Russell 1000 | 13.6% | 22.2% | 14.1% | 12.1% | 18.0% |
| Russell 2000 | 4.1% | 13.2% | 8.2% | 7.4% | 22.9% |
| S&P 500 | 14.5% | 22.8% | 14.5% | 12.5% | 17.9% |
| MSCI ACWI IMI Net | 10.9% | 19.1% | 10.6% | 8.1% | 14.4% |
| MSCI World ex US | 8.7% | 17.5% | 7.6% | 4.8% | 14.5% |
| MSCI Emerging Markets | 7.1% | 12.3% | 3.8% | 2.2% | 15.8% |
| Bloomberg Aggregate | 4.4% | 9.9% | 0.2% | 1.8% | 4.7% |
| Bloomberg Gov/Credit | 4.3% | 9.8% | 0.3% | 2.0% | 5.0% |
| Bloomberg US High Yield | 6.5% | 13.3% | 4.4% | 4.7% | 5.2% |
| NCREIF Property Index (06/30/2024) | -1.2% | -5.5% | 3.4% | 6.1% | 4.1% |

Source: Bloomberg

HAS INFLATION PEAKED?¹



**ANNUAL INFLATION RATE
(June 2021 thru June 2022)**

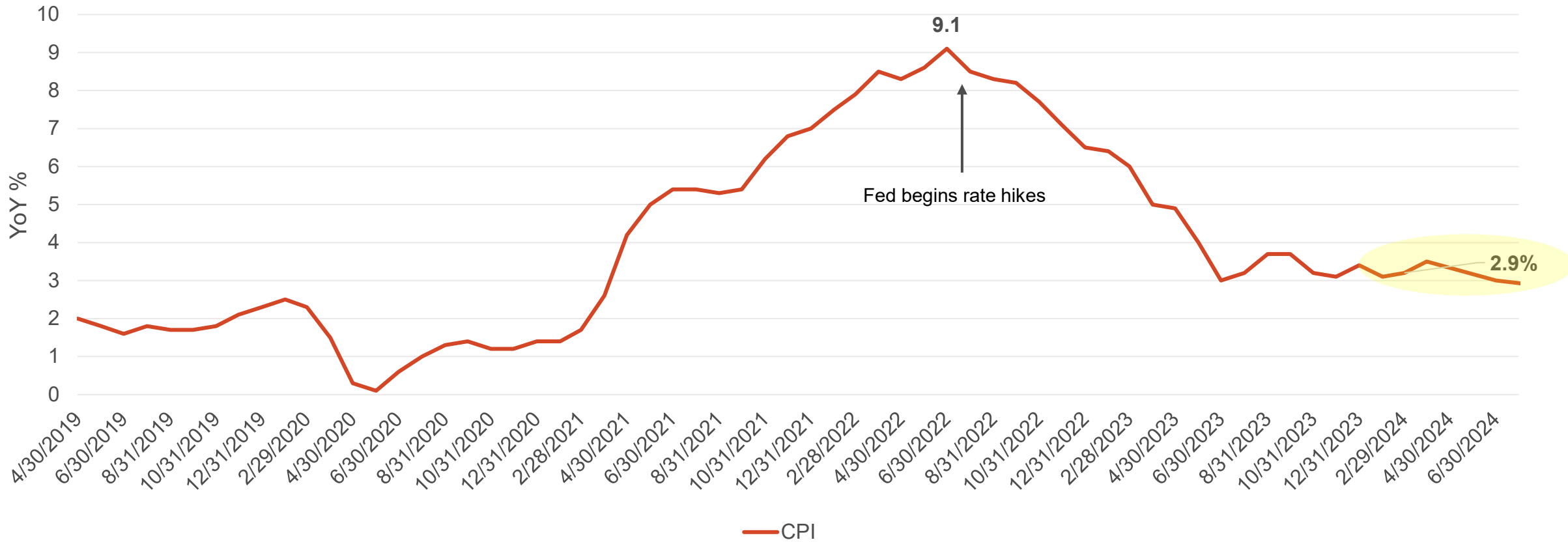


**ANNUAL INFLATION RATE
(July 2023 thru July 2024)
3.2% Ex Food & Energy**

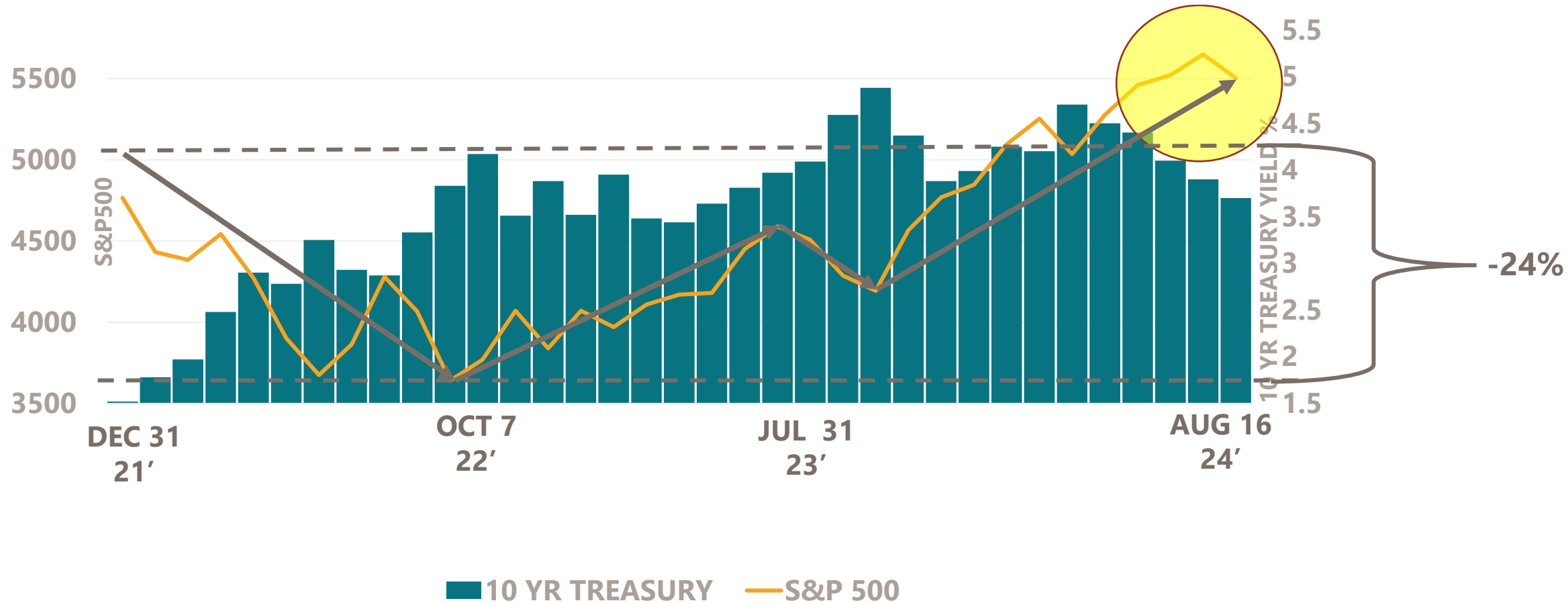
1. Bureau of Labor Statistics

INFLATION PAST 5 YEARS

Annual Inflation Rate



THE S&P500 HAS TRACKED INFLATION EXPECTATIONS¹



1. FRED

COMPETING NARRATIVES

| | LOW GROWTH | HIGHER GROWTH |
|----------------|--|--|
| HIGH INFLATION | <p>(Hard Landing)</p> <ul style="list-style-type: none"> ▪ High Levels of Debt – Higher Interest Rates ▪ Tight Labor Market/Labor Force Growth ▪ Consumer Savings Are Running Out ▪ Higher Energy Prices From Policy ▪ Political Risk ▪ Student Loan Payments Restart Reducing Retail Spending | <p>(No Landing)</p> <ul style="list-style-type: none"> ▪ Continued Government Spending ▪ Tight Labor Market/Labor Force Growth ▪ Inflation Psychology ▪ Higher Energy Prices From Policy ▪ Millennials in Peak Spending Years ▪ Housing Shortage/Higher Prices ▪ Real Consumer Income Growth |
| LOW INFLATION | <p>(Soft Landing)</p> <ul style="list-style-type: none"> ▪ Housing Inflation Abates ▪ Lower Interest Rates ▪ Lower Growth/Lower Energy Prices ▪ Student Loan Payments Restart Reducing Retail Spending ▪ Reduced Government Spending ▪ Political Risk Diminish | <p>(Goldilocks)</p> <ul style="list-style-type: none"> ▪ Low Unemployment Buys Economy ▪ Lower Interest Rates ▪ Millennials in Peak Spending Years ▪ Reduced Government Spending ▪ Global Political Risks Are Resolved/ Peace Dividend ▪ Productivity Boom From AI |

GOOD NEWS ¹

BLOOMBERG AGG YIELD¹: 4.21%



**BEST GUESS FOR
FUTURE BOND
RETURN!**

1. Fixed income benchmark; yields are the best estimate of future bond returns.

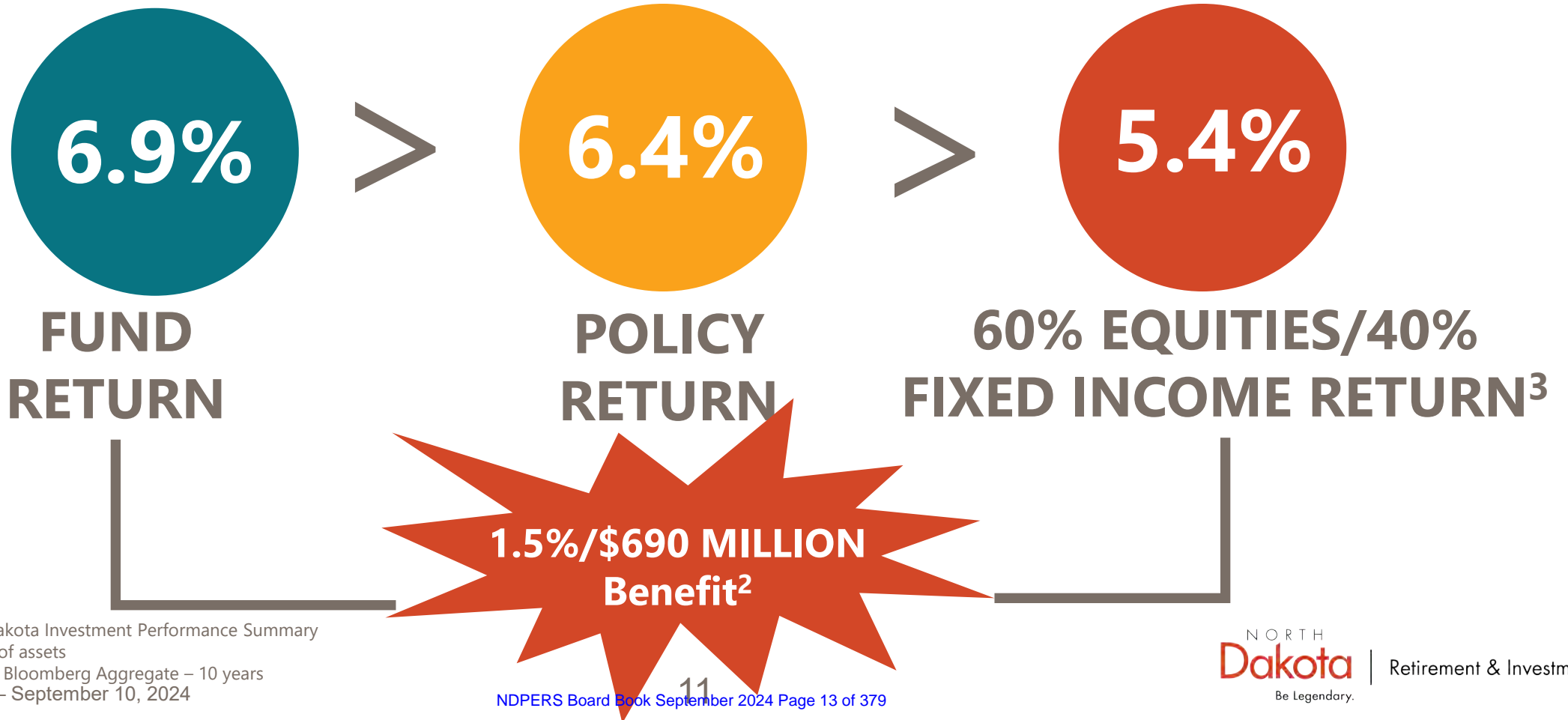
PERFORMANCE



Retirement & Investment

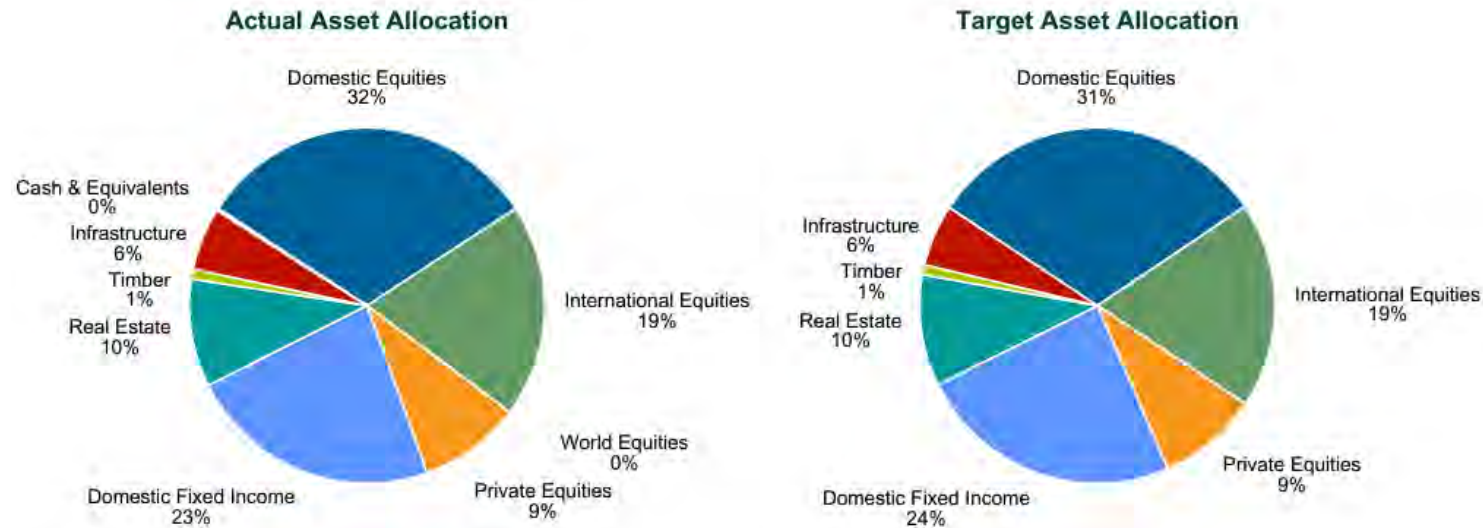
INVESTMENT MANAGEMENT BENEFITS

PERS TEN YEAR AVERAGE RETURN¹



1. Thru June 2024; North Dakota Investment Performance Summary
2. Starting with \$4.3 Billion of assets
3. 60% MSCI ACW IMI/40% Bloomberg Aggregate – 10 years
Scott M Anderson, CFA – September 10, 2024

ASSET ALLOCATION



| Asset Class | \$000s Actual | Weight Actual | Target | Percent Difference | \$000s Difference |
|------------------------|------------------|---------------|---------------|--------------------|-------------------|
| Domestic Equities | 1,359,582 | 31.6% | 31.3% | 0.3% | 14,806 |
| International Equities | 833,891 | 19.4% | 18.7% | 0.7% | 30,965 |
| World Equities | 26 | 0.0% | 0.0% | 0.0% | 26 |
| Private Equities | 401,406 | 9.3% | 9.2% | 0.1% | 3,871 |
| Domestic Fixed Income | 992,973 | 23.1% | 24.2% | (1.1%) | (46,281) |
| Real Estate | 423,055 | 9.8% | 10.1% | (0.3%) | (13,392) |
| Timber | 38,804 | 0.9% | 0.9% | (0.0%) | (632) |
| Infrastructure | 244,879 | 5.7% | 5.6% | 0.1% | 2,447 |
| Cash & Equivalents | 8,190 | 0.2% | 0.0% | 0.2% | 8,190 |
| Total | 4,302,807 | 100.0% | 100.0% | | |

1. March 2024 values – Callan

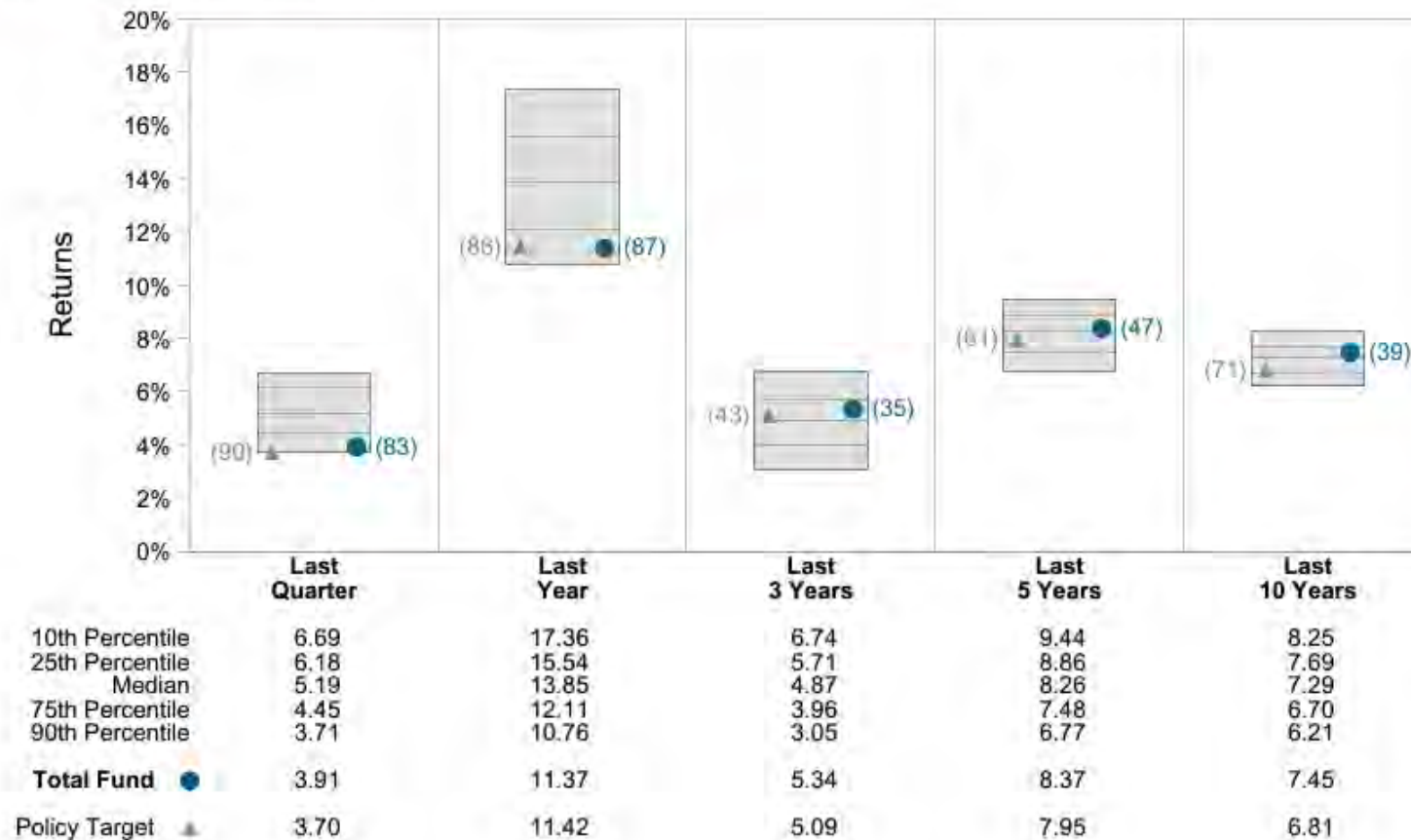
PERS PERFORMANCE

| AS OF June 30, 2024 PERS \$4.3 Billion | Year to Date | 1 Year | 3 year | 5 Year¹ | Risk (5 Year) |
|---|---------------------|---------------|---------------|---------------------------|----------------------|
| Total Fund Return - Net | 5.1% | 8.9% | 3.2% | 7.6% | 9.9% |
| Policy Benchmark Return | 5.3% | 9.4% | 3.0% | 7.2% | 10.2% |
| Total Relative Return¹ | -0.2% | -0.5% | 0.2% | 0.4% | |

1. Corridor benchmark applied only in year-to-date numbers

PERS PERFORMANCE

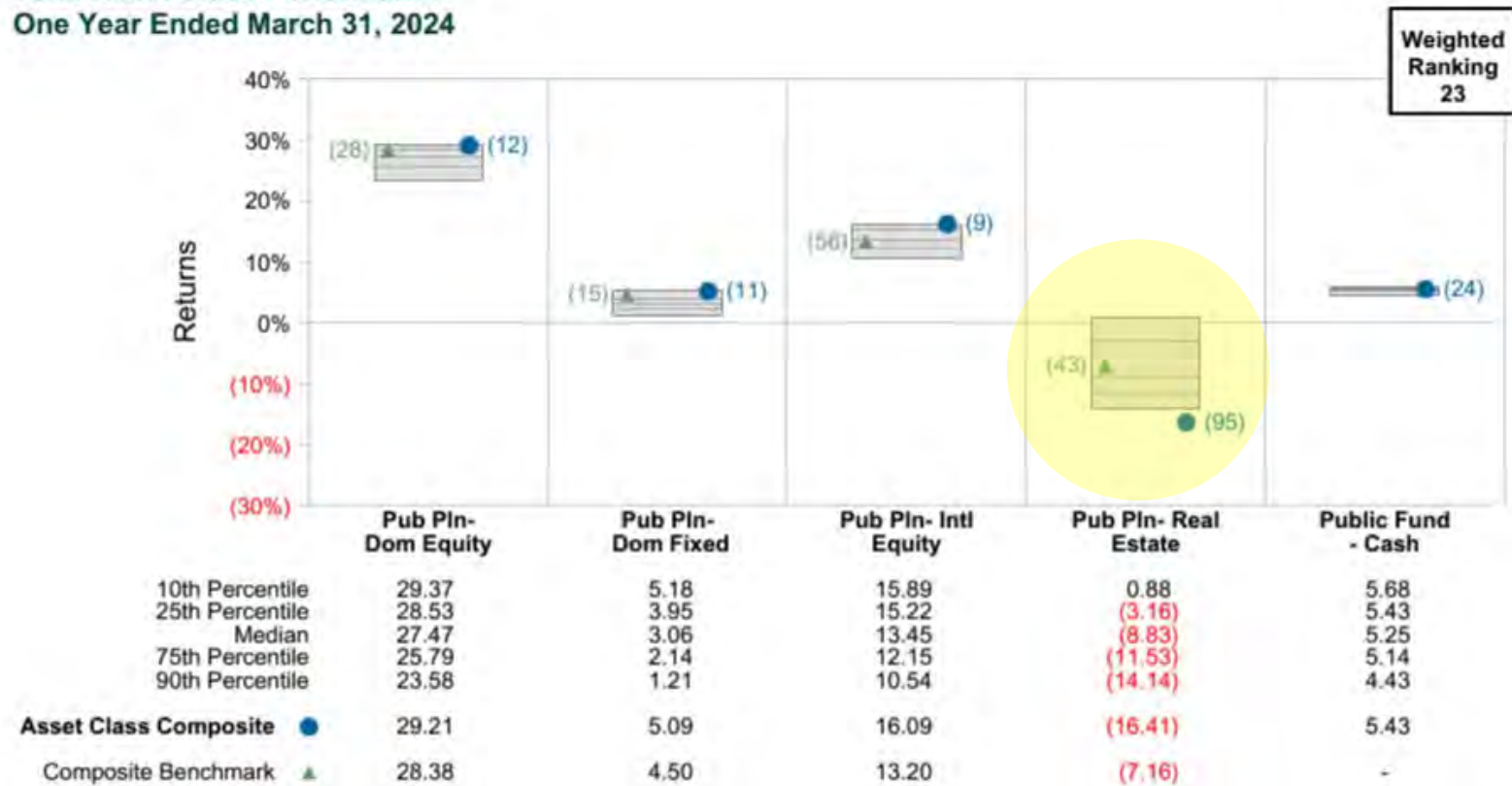
Callan Public Fund Sponsor Database



1. March 2024 values – Callan

ASSET CLASS PERFORMANCE

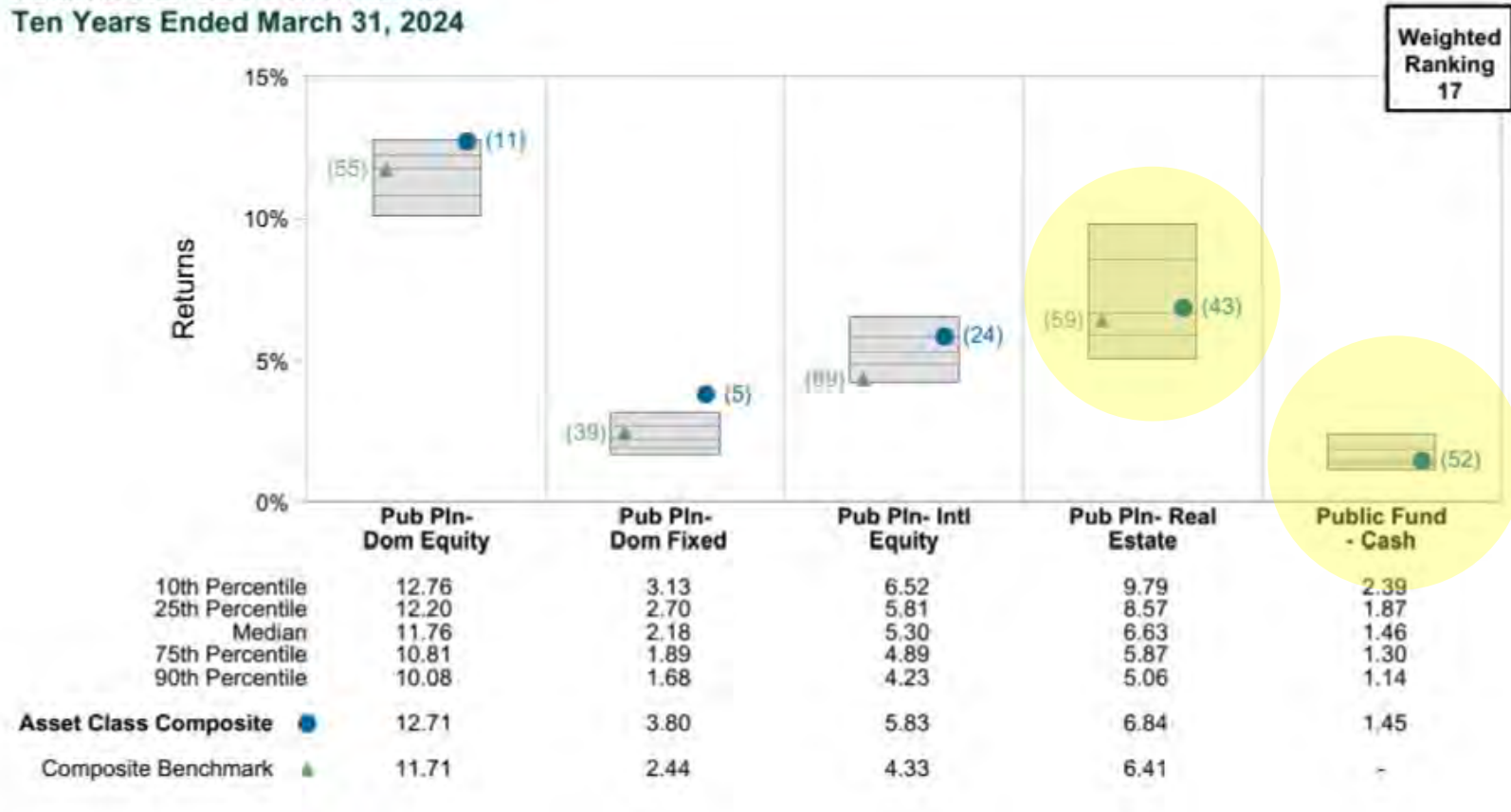
**Total Asset Class Performance
One Year Ended March 31, 2024**



1. March 2024 values – Callan

ASSET CLASS PERFORMANCE

**Total Asset Class Performance
Ten Years Ended March 31, 2024**



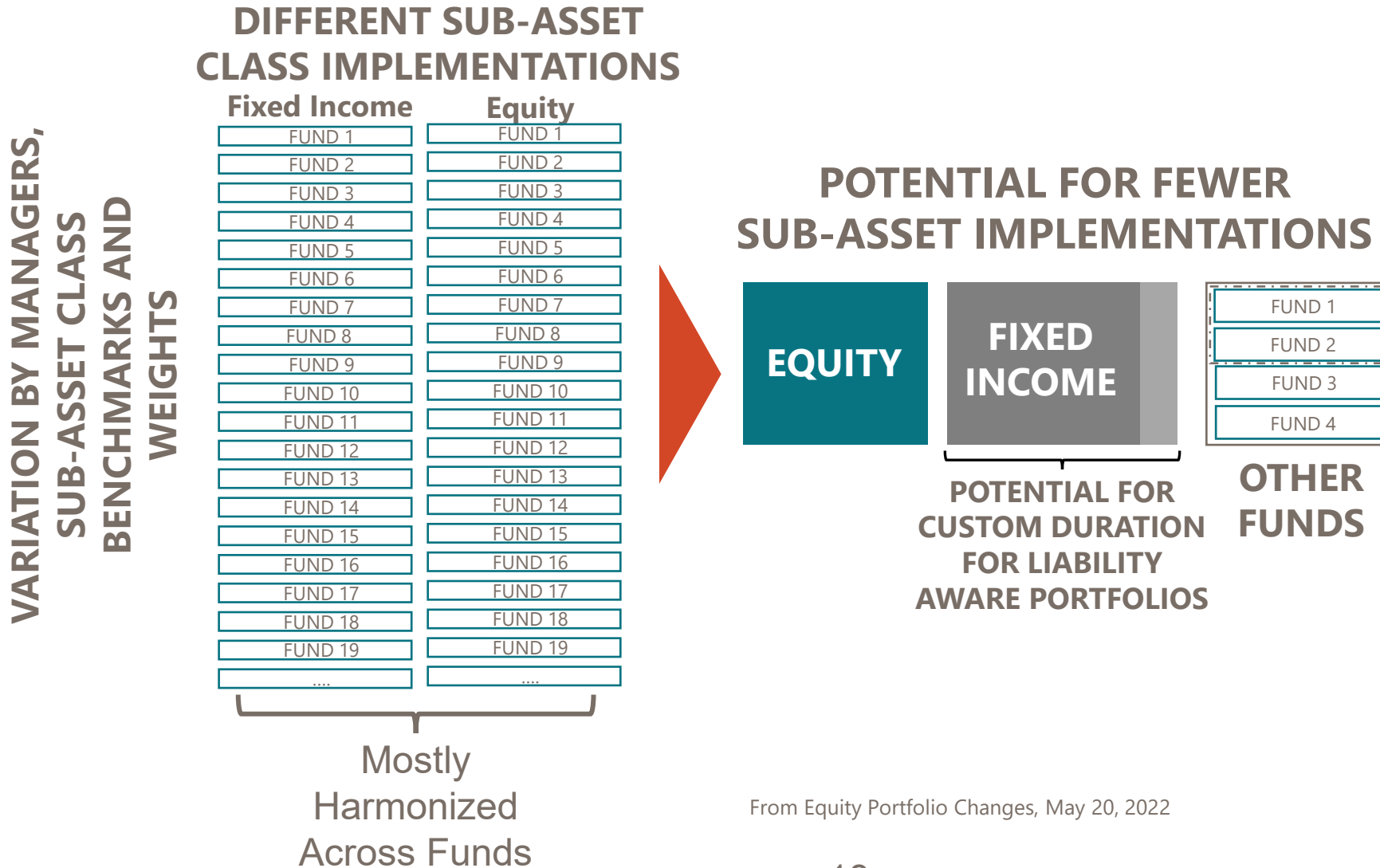
1. March 2024 values – Callan

ALLOCATION CONSULTANT

Scott M Anderson, CFA

September 10, 2024

IMPLEMENTATION OPPORTUNITY¹



From Equity Portfolio Changes, May 20, 2022

PENSION FUND LEVEL STUDIES

ACTUARIAL EXPERIENCE STUDY

ASSET/LIABILITY STUDY

ASSET ALLOCATION STUDY

Objectives:

1. Plan Assumption Accuracy
2. Risk Management
3. Adapting Funding and Investment Policies
4. Plan Design Enhancements

Components:

1. Data Collection/Analysis
2. Review Benefit Payments and Participant Behavior
3. Recommend Adjustments to the Actuarial Calculation of Liabilities and Costs

Objectives:

1. Establish Current Capital Market Assumptions
2. Incorporate Material Changes to Plan Policies and Demographics
3. Evaluate Impact on Assets and Liabilities With New Capital Market Assumptions Given a Liability Model and an Asset Allocation
4. Confirm Current Asset Allocation is Suitable

Components:

1. Liability Model
2. Asset Projections
3. Simulations of a range of high-level asset allocations including the current asset allocation
4. Plan asset/liability results across scenarios

Objectives:

1. Determine Optimal Asset Allocation Given a Required Return and Risk Assumptions
2. Determine Optimal Sub-Asset Class Structure and Platform for Allocation Implementation
3. Determine Appropriate Plans and Allocation Sequence for Transitioning an Allocation
4. Determine Suitability for Funding and Policy Goals

Components:

1. Capital Market Assumptions
2. Comprehensive Asset Allocation
3. Allocation Implementation Plan
4. Asset/Liability Study Light

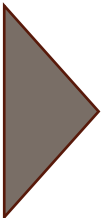
ASSET/LIABILITY STUDY HEAVY,
ASSET ALLOCATION LIGHT
(For Major Plan Changes or Major Assumption Changes)

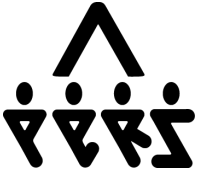
ASSET ALLOCATION HEAVY
ASSET/LIABILITY STUDY LIGHT
(Major Allocation Structure Changes and Continuous Improvements)

RETAINED ASSET ALLOCATION CONSULTANT

- Assist with determining the best asset allocation for similar required returns and risk (coordinated with client boards) – reduces the number of plan allocations at the asset class and sub-asset class level
- Update the Legacy Fund allocation when initiated by the Legacy Fund Board
- Provide periodic capital market assumptions to understand asset allocation drift, for exposure management and to trigger new allocation structure studies
- Assist to continuously improve the allocation process and employ better allocation structures as number of allocations is reduced
- Assist with sub-asset analysis including portfolio construction and manager opinions
- Explore liability aware overlay options by pension plan to reduce asset/liability risk

Fewer Dimensions/Better Allocation/Lower Costs

- 
- **One consistent set of capital market assumptions**
 - **One allocation philosophy**
 - **Fewer sub-asset structures**
 - **Consistent implementation across funds**
 - **Reduced cost of allocation and implementation**



Memorandum

TO: NDPERS Board

FROM: Rebecca

DATE: September 10, 2024

SUBJECT: House Bill 1040 Implementation Update

The following activities have occurred for House Bill 1040 implementation since our last Board discussion:

- Weekly meetings are being conducted with both the Enrollment and Accounting Divisions to test the modifications made to our business system relating to HB 1040. On a weekly basis, updates are being submitted to Sagitec, our business system vendor, for additional modifications that need to be made based on user acceptance testing.
- Have discussions with Sagitec as vendor has questions.
- Finalized 457 Deferred Compensation Plan Document and 457 Companion Plan Document with input from legal counsel (both Ice Miller and Dean) on suggested changes to ensure state and federal law compliance. This item is on the agenda for the Board to approve the updated versions.
- Held kick-off staff introduction and training related to HB 1040 on August 22.
- Presented a transition update to the Association of Counties Board on August 29.
- Distributed first “short clip” to Team ND and participating employers to forward to their employees. Topics included:
 - What is HB 1040?
 - Differences between Defined Benefit Plans and Defined Contribution Plans
- Finalizing second “short clip” for members with intent to distribute the 3rd week of September. Topics include:
 - Funding of the Main Plan
 - Special Election Eligibility Criteria
- Developing third “short clip” to distribute in October. Topics include:
 - Years of Service and Tier
 - Special Election and Transfer Incentive

- Distributed education regarding updates to Peoplesoft to State and Higher Education Peoplesoft employers on September 5.
- Met with Human Resources Management Services (HRMS) to discuss opportunities to present to the HRMS HR Essentials (state) Team members in November.
- Programmatic updates and testing continued within the State's Central Payroll reporting platform (PeopleSoft).
- Meeting was conducted with Higher Education's developers to discuss the benefit plan setup needed for both January 1, 2025 as well as January 1, 2026.
- Planning meetings held focused on special election window for eligible state employees.
- Outward facing communication pieces being reviewed and updated to include plan handbooks, new hire and termination guides and website updates.
- Appeared before the Administrative Rules Committee on September 4 to provide an update regarding the NDPERS proposed administrative rules and respond to questions.

In addition, presentations on the status of implementation will be made this week to the Retirement Committee and the Employee Benefits Programs Committee.

Attachment 1 and Attachment 2 are included as an overview of work efforts and timelines identified.

House Bill 1040 Administrative Implementation

| | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|---|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| HB 1040 Administrative Implementation | | | | | | | | | | | | |
| Marketing intern recruitment | ★ | | | | | | | | | | | |
| 1% employer contribution increase launched | ★ | | | | | | | | | | | |
| Inventory the PERSLink correspondence updates | | | ★ | | | | | | | | | |
| Targeted communications to subs in main but not public safety | | | | ★ | | | | | | | | |
| Targeted communications to subs in main but not deferred comp | | | | ★ | | | | | | | | |
| Recordkeeper transition | | | | | | ★ | | | | | | ★ |
| PERSLink correspondence updates | | | | | | ★ | | | | ★ | | |
| PERSLink correspondence testing | | | | | | ★ | | | | ★ | | |
| Form updates | | | | | | ★ | | | | ★ | | |
| Plan document updates | | | | | | | | | | ★ | | |
| Plan handbook updates | | | | | | | | | | ★ | | |
| Special election window education for eligible employees | | | | | | | | | | | ★ | |
| Administrative rule making promulgation | | | | | | | | | | | | ★ |
| Employer training | | | | | | | | | | | | ★ |
| Website updates | | | | | | | | | | | | ★ |
| Revise new hire, transfer, termination guides | | | | | | | | | | | | ★ |
| Staff training | | | | | | | | | | | | ★ |
| Biweekly internal administrative implementation meetings | | | | | | | | | | | | ★ |
| Communication team biweekly meetings | | | | | | | | | | | | ★ |
| Education on new plan provision to members | | | | | ★ | | | ★ | | | ★ | ★ |
| Education on new plan provision to employers | | | ★ | | | ★ | | | ★ | | | ★ |

KEY

★ Deadline

| |
|-----------------|
| Task Completed |
| Work Effort |
| Deadline Missed |

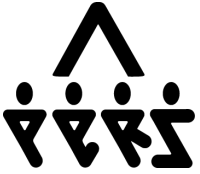
House Bill 1040 Programming Implementation Timeline

| | 2023 | | | | | | 2024 | | | | | | | | | | | |
|--|------|-----|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
| HB 1040 Programming Implementation | | | | | | | | | | | | | | | | | | |
| Funding for development effective | ★ | | | | | | | | | | | | | | | | | |
| HB 1040 section-by-section analysis to determine system enhancements | | ★ | | | | | | | | | | | | | | | | |
| Meet with GRS to discuss the incentive, and get programming parameters | | ★ | | | | | | | | | | | | | | | | |
| NDPERS updates file layout documentation for employers | | | | | | | | | | | ★ | | | | | | | |
| NDPERS develops sample file layouts for employers | | | | | | | | | | | ★ | | | | | | | |
| Biweekly meetings to discuss section-by-section coding | | | | | | | | | | | | | | | | ★ | | |
| NDPERS user acceptance testing of enhancements | | | | | | | | | | | | | | | | ★ | | |
| State PeopleSoft development | | | | | | | | | | | | | | | | | ★ | |
| Higher Ed PeopleSoft development | | | | | | | | | | | | | | | | | ★ | |
| Political sub development | | | | | | | | | | | | | | | | | ★ | |
| Employer file testing | | | | | | | | | | | | | | | | | | ★ |

KEY

★ Deadline

| |
|------------------------|
| Task Completed |
| Work Effort |
| Deadline Missed |



Memorandum

TO: NDPERS Board

FROM: Derrick Hohbein

DATE: September 10, 2024

SUBJECT: In-Plan Annuity Options

During the August 27, 2024 Investment Subcommittee meeting, in-plan annuity options were considered to be added to the 401(a) Defined Contribution investment lineup to comply with the requirements outlined in HB 1040. The Board can also choose to add the in-plan annuity options to the 457(b) Companion plan to keep the line-ups consistent. Specifically, there are two sections of Code addressing the annuity requirements:

54-52.6-05(3). Direction of Investments:

The board shall provide a diversified menu of mutual funds and in-plan lifetime annuity options, either fixed, variable, or a combination of both. In selecting an annuity provider the board shall comply with section 54-52.6-05.1.

54-52.6-05.1. Annuity provider – Qualifications:

1. The board shall select one or more annuity providers to provide the annuity options under this chapter.
2. In selecting an annuity provider under this section, the board shall:
 - a. Determine whether the annuity provider and the provider's subsidiaries and affiliates have appropriate financial strength and stability at the time of selection and during the term of contract with the board.
 - (1) The board may require the provider to provide the board with written representation:

- (a) The provider is in compliance with title 26.1.
- (b) The provider at the time of selection is and for each of the preceding seven years was in compliance and good standing with the insurance Page No. 14 commissioner of the provider's domiciliary state and the provider is not operating under an order of rehabilitation or liquidation.
- (c) The provider maintains and has maintained reserves that satisfy the statutory requirements of each state in which the provider does business.

(2) The board may require a provider selected by the board to provide annuities under this chapter to notify the board of a change of circumstances resulting in the provider failing to meet any of the requirements under paragraph 1.

(3) The board must have determined the provider has a claims paying ability rating that meets standards adopted by the board.

- b. Determine whether the annuity provider is able to provide contracted rights and benefits to a participating member.
- c. Determine whether the costs, including fees and commissions, of the annuity options in relation to the benefits and product features of the annuity options are reasonable.
- d. Determine whether the administrative services to be provided under the annuity option are appropriate. At a minimum the administrative services must include periodic reports to the board.
- e. Determine whether the annuity provider is experienced in paying lifetime retirement income through annuities offered to public employee defined contribution retirement plans.
- f. Determine whether the annuity provider offers a menu of annuity options that meet the following conditions:
 - (1) The annuity options are suitable for participating members and beneficiaries.
 - (2) The contract terms and income benefits are clearly stated, based on reasonable assumptions.
 - (3) The menu of annuity options offers a range of lifetime income options.
 - (4) If an annuity is a variable annuity, the annuity offers a fixed account option along with a variable option.
- g. Determine whether the annuity provider offers objective and participant-specific education and tools to help a participating member understand the appropriate use of annuities as a long-term retirement savings vehicle.

Because the text above refers to “annuities”, counsel has advised staff and Callan that multiple annuity options need to be offered. As a result, the review included a view toward offering more than one annuity option. Additionally, section 54-52.6-05.1.2.f.(4) requires that if a variable annuity is offered, a fixed annuity also be offered.

In the current institutional retirement market, there are broadly three types of products that meet the in-plan annuity requirements of the law. Callan considered all three based on both their availability on Empower’s platform (all three types are available) as well as their appropriateness for NDPERS participants. These options include:

1) Guaranteed Fixed Accounts:

- In-plan, annuity with guaranteed crediting rate and fixed payout
- Long track record and substantial public sector usage
- Multiple options exist but limited to those available on the recordkeeper’s platform
- Options for how to annuitize (e.g. single life, joint & survivor)
- No flexibility once drawing income
- Full liquidity for participants but plan level restrictions
- Fees: Insurer collects the spread (difference between earnings and crediting rate) plus any explicitly stated fees

2) Guaranteed Minimum Withdrawal Benefit (GMWB):

- In-plan, variable annuity with potential for fixed payout
- Limited track record and public sector usage
- Few options exist and limited to those available on the recordkeeper’s platform
- Options for how to annuitize (e.g. single life, joint & survivor)
- Primary benefit is to guarantee continuation of a specified withdrawal rate if all assets are spent down
 - Guaranteed, payout contingent on participant following all withdrawal recommendations
- Full liquidity for participants but plan level restrictions

- Fees: Including both investment management and annuity, in the 1-2% range
 - As a variable annuity, these would still result in a requirement to add a fixed annuity as well, per H.B. 1040
- 3) Target date series with an annuity component:
- In-plan, variable annuity with potential for fixed payout
 - Short track record and public sector usage
 - Products have been introduced over the last 3-5 years, have limited track records and limited participant experience for drawing income
 - Few options exist and limited to those available on the recordkeeper's platform
 - Options for how to annuitize (e.g. single life, joint & survivor)
 - No flexibility once drawing income
 - Full liquidity for participants but plan level restrictions
 - Fees: In-line with the target date family glide path plus the implicit spread paid when annuity contracts start to be purchased in the glide path
 - As a variable annuity, these would still result in a requirement to add a fixed annuity as well, per H.B. 1040

Callan is recommending moving forward with two or more Guaranteed Fixed Accounts as the most suitable in-plan annuity options at this time, and as the options that most easily and directly fulfill the requirements of H.B. 1040. The rationale to proceed in this way was informed by the following:.

Callan's concerns with GMWB's are: 1) The payout only occurs upon death or after a participant has withdrawn all of their original funds, consistent with the conditions of the annuity contract 2) Analysis has shown that participants ordinarily will receive a net benefit (payout over contributions and earnings) after protracted market declines (e.g. 10 years) 3) Relatively high fees decrease market value relative to cheaper investment choices all else equal.

Callan's concerns with target date funds with annuity components are: 1) Products currently available have limited track records for both results and participants drawing income, which are specific criteria for due diligence outlined in H.B. 1040 2) The selection of a target date fund should meet the requirements outlined by the Department of Labor for evaluating suitability. North Dakota's changing benefit structure likely results in different savings behavior and plan usage, which should be reflected when looking at a target date suite for the Plans. This type of data is not yet available 3) Many of the available funds have not yet passed Callan's due diligence screens.

Neither of the above options are widely utilized by public sector plans.

Attachment 1 provides an overview of the in-plan options available and a summary matrix of the Guaranteed Fixed Accounts that Callan analyzed. The Investment Subcommittee was not comfortable with using funds offered by The Standard, given their lower credit rating.

The Empower's Custom Sable Value fund has a minimum initial purchase requirement of \$50 mm, which cannot be waived given initial expected assets flowing into the in-plan annuity options. New York Life has a \$3mm minimum purchase requirement, which has been waived.

The investment subcommittee recommended Callan do a more thorough analysis on the following four funds, and that analysis is included in Attachment 2.

- Empower
 - Empower Investments Fixed Account Series
 - Guaranteed Income Fund
- New York Life
 - New York Life Guaranteed Interest Account
 - New York Life Insurance Company Anchor Account

BOARD ACTION:

Select the in-plan annuity options the Board would like to include in the investment lineup of both the 401(a) Defined Contribution and 457 Deferred Compensation Companion Plans with Empower.

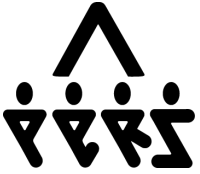
Comparison of Fixed Account Solutions

| Fund Family | Fund Name | Structure | Net Expense Ratio | Rate Reset Period | Guaranteed Minimum Rate | Guarantor | Guarantor Credit Quality (S&P) | Minimum Initial Purchase | Plan Level Liquidity |
|---------------|---|-------------------------|------------------------|---|-------------------------|--|--------------------------------|--------------------------|---|
| Empower | Custom Stable Value | Separate Account | Varies by mandate size | Quarterly | 0% | Empower Annuity & Insurance Company of America | AA | \$50,000,000 | - Lump sum MVA - Book value up to duration of the portfolio + 3 years (can pay market value at any time) |
| | Empower Investments Fixed Account Series | General Account | 0.10%-0.35% | Quarterly | 0% | Empower Annuity & Insurance Company of America | AA | - | - 12-month put (may be extended to 36 months in certain interest rate environments) - Lump sum with MVA - 20 quarterly installments |
| | Guaranteed Income Fund | General Account | 0.00%-0.65% | Semi Annual | 1-3% | Empower Annuity Insurance Company | AA- | - | - Book value in 90 days * If excessive withdrawals, could extend to 6 installments over 5 years or up to 10 annual installments |
| New York Life | New York Life Guaranteed Interest Account | General Account | 0.10%-0.75% | Semi Annual | 1-3% | New York Life | AA+ | \$3,000,000 | - Lump sum with two-way MVA - 6 installments over 5 years |
| | New York Life Ins Co Anchor Account | Pooled Separate Account | 0.35%-0.90% | Interest accrued daily & credited monthly | N/A | New York Life | AA+ | \$3,000,000 | - 12-month put - Lump sum with MVA |
| The Standard | Apex Capital Preservation Income Fund | General Account | 0.00%-0.60% | Semi-Annual | 1% | StanCorp Financial Group | BBB+ | - | - Lump sum (lesser of book value or market value) - 6 installments over 5 years |
| | Apex Guaranteed Fixed Income Fund | General Account | 0.00%-1.55% | Semi-Annual | 1% | StanCorp Financial Group | BBB+ | - | - 6 installments over 5 years |
| | Apex Guaranteed Rate Stable Value Fund | General Account | 0.10%-0.60% | Semi-Annual | 1% | StanCorp Financial Group | BBB+ | - | - 6 installments over 5 years |
| | Apex Standard Stable Asset Fund I | General Account | 0.10% | Semi-Annual | 1% | StanCorp Financial Group | BBB+ | - | - Lump sum (lesser of book value or market value) - 6 installments over 5 years |
| | Capital Preservation Income Fund | General Account | 0.10%-0.35% | Quarterly | 1% | StanCorp Financial Group | BBB+ | - | - Lump sum (lesser of book value or market value) - 6 installments over 5 years |
| | Guaranteed Fixed Interest Fund 1 | General Account | 0.10%-1.10% | Quarterly | 1% | StanCorp Financial Group | BBB+ | - | - 6 installments over 5 years |
| | Guaranteed Rate Stable Value Fund | General Account | 0.10%-0.35% | Quarterly | 1% | StanCorp Financial Group | BBB+ | - | - 12-month put |
| | The Standard Stable Asset Fund 1 | General Account | 0.10%-0.80% | Quarterly | 1% | StanCorp Financial Group | BBB+ | - | - Lump sum (lesser of book value or market value) - 6 installments over 5 years |

All contracts are benefit responsive
MVA = Market Value Adjustment.

Guaranteed Fixed Account Comparison Matrix

| Fund Family | Fund Name | Structure | Net Expense Ratio | Initial Crediting Rate | Rate Reset Period | Guaranteed Minimum Rate | Guarantor | Guarantor Credit Quality (S&P) | Minimum Initial Purchase | Participant Level Liquidity | Plan Level Liquidity |
|---------------|---|-------------------------|-------------------|------------------------|---|-------------------------|--|--------------------------------|--------------------------|-----------------------------|---|
| Empower | Empower Investments Fixed Account Series | General Account | Spread | 2.70% | Quarterly | 0% | Empower Annuity & Insurance Company of America | AA | - | Benefit responsive | - 12-month put (may be extended to 36 months in certain interest rate environments) - Lump sum with MVA - 20 quarterly installments |
| | Guaranteed Income Fund | General Account | Spread | 4.00% | Semi Annual | 1-3%; Q3 '24 at 2.90% | Empower Annuity Insurance Company | AA- | - | Benefit responsive | - Book value in 90 days * If excessive withdrawals, could extend to 6 installments over 5 years or up to 10 annual installments |
| New York Life | New York Life Guaranteed Interest Account | General Account | Spread | 5.25% until 12/31/24 | Semi Annual | 1-3%; current 3.00% | New York Life | AA+ | \$3,000,000 | Benefit responsive | - Lump sum with two-way MVA - 6 installments over 5 years |
| | New York Life Ins Co Anchor Account | Pooled Separate Account | Spread | 3.87% | Interest accrued daily & credited monthly | N/A | New York Life | AA+ | \$3,000,000 | Benefit responsive | - 12-month put - Lump sum with MVA |



Memorandum

TO: NDPERS Board

FROM: Derrick Hohbein

DATE: September 10, 2024

SUBJECT: Asset Liability Study

Every five years, an asset liability study, asset allocation study, and experience study are performed on the Main Retirement System and Retiree Health Insurance Credit (RHIC) program. Under NDCC 21-10-02.1, these studies can only be done by consultants of the North Dakota Retirement & Investment Office (RIO).

The asset allocation and any subsequent allocation changes for each fund must be approved by the governing body of that fund and the state investment board. The governing body of each fund shall use the staff and consultants of the retirement and investment office in developing asset allocation and investment policies

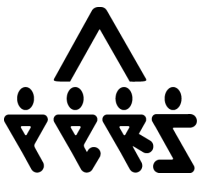
Presently, the consultants that work for the SIB who do this type of work are: Callan, GRS, Mercer, RVK, SEI, and Verus Investments. NDPERS received two proposals for the Asset Liability Study RFP, from Callan and RVK (the others elected not to bid).

Callan had a fixed fee of \$75,000 for both the Main Plan and RHIC Plan studies. As part of the Best and Final Offer, Callan revised their quote to a fixed fee of \$70,000. RVK had a fixed fee of \$68,000 for both the Main Plan and RHIC Plan studies. As part of the Best and Final Offer, RVK revised their quote to a fixed fee of \$65,000.

Note that in 2019, the study performed by Callan had a fixed fee of \$68,000.

BOARD ACTION:

Select a consultant to perform the Asset Liability Study for the Main and RHIC plans.



Memorandum

TO: NDPERS Board

FROM: Derrick Hohbein

DATE: September 10, 2024

SUBJECT: 457 Companion Plan & 401(a) Plan 2nd Quarter 2024 Report

Attached is the 2nd quarter 2024 investment report for the 401(a) & 457 Companion Plans, which was reviewed by the Investment Subcommittee. The reports are available separately on the NDPERS website. The two plans have 10,765 (10,610 in Q1) participants with \$246.2 million (\$243.9 million in Q1) in assets.

Assets in the 401(a) plan increased to \$23.6 million (\$22.6 million in Q1) as of June 30, 2024. The number of active participants slightly increased and is now at 106 (93 in Q2). The Target Date funds have 56% of the plan assets.

Assets in the 457 Companion Plan increased to \$222.6 million (\$221.4 in Q1) as of June 30, 2024. The number of active participants increased and is now at 7,886 (7,150 in Q1). The Target Date funds have 65.9% of the plan assets.

Benchmarks:

Fund returns for the quarter were mostly positive for the funds in the core lineup. 27 core funds had positive returns for the quarter (9 had negative returns). Core fund performance was mixed when compared to benchmarks. Note that index funds are expected to slightly underperform their benchmarks because of fund administration fees.

Fund / Investment News:

The Retirement & Investment Office provided an overview of the returns of the Pension Funds. The NDPERS Investment Subcommittee reviewed the 2nd Quarter 2024 plan review and field activity report with Empower. Callan gave a market overview, investment performance report, as well as recommendations on annuity options to comply with the requirements of HB 1040. Finally, discussion took place regarding the Asset Liability Study that will be conducted after the Actuarial Experience Study.

The investment subcommittee did have a actionable items for the Board, and are included as separate agenda items for consideration.

**NDPERS
Quarterly Investment
Report
2nd Quarter
4/01/2024 – 6/30/2024**



North Dakota Public Employees Retirement System
1600 East Century Ave, Suite 2
Box 1657
Bismarck, ND 58502

New 457 & 401(a) Investment Structure

Implemented July 1, 2024

| Tier I: Asset Allocation | Tier II: Passive Core | Tier II: Active Core | Tier III: Specialty |
|--------------------------------|------------------------------|---|-------------------------|
| Target Date Funds | | Capital Preservation | |
| TIAA-CREF Lifecycle Retirement | | Galliard Stable Value Vanguard Treasury MM | |
| | Core Fixed Income | Core Plus Fixed Income | |
| | Vanguard Total Bond Index | Baird Core Plus Bond | |
| | U.S. Large-Cap Equity | | |
| | Vanguard Institutional Index | | |
| | Broad Non-U.S. Equity | Broad Non-U.S. Equity | |
| | Vanguard Total Intr'l Index | MFS International Diversification | |
| | | U.S. Small/Mid-Cap Equity | |
| | | JP Morgan US SMID Core | |
| | | | Real Estate |
| | | | Cohen & Steers Realty |
| | | | Brokerage Window |

Plan Performance Monitoring

As of June 30, 2024

| | Last Quarter | Last Year | Last 3 Years | Last 5 Years | Last 7 Years |
|----------------------------------|--------------|-----------|--------------|--------------|--------------|
| Asset Allocation Funds | | | | | |
| TIAA-CREF Lifecycle Ret. Inc | 1.09% | 9.21% | 0.90% | 4.54% | 4.81% |
| LifeCycle Ret Income CB | 1.21% | 9.46% | 1.19% | 5.04% | 5.31% |
| Callan Tgt Dt Idx 2010 | 0.97% | 8.52% | 1.01% | 4.48% | 4.86% |
| TIAA-CREF Lifecycle Ret. 2010 | 1.17% | 9.21% | 0.92% | 4.55% | 4.87% |
| LifeCycle 2010 CB | 1.16% | 8.96% | 0.99% | 4.88% | 5.25% |
| Callan Tgt Dt Idx 2010 | 0.97% | 8.52% | 1.01% | 4.48% | 4.86% |
| TIAA-CREF Lifecycle Ret. 2015 | 1.23% | 9.45% | 0.94% | 4.88% | 5.18% |
| LifeCycle 2015 Cust Bnch | 1.23% | 9.67% | 1.25% | 5.36% | 5.69% |
| CAI Tgt Dt Idx 2015 | 1.00% | 8.84% | 1.13% | 4.78% | 5.14% |
| TIAA-CREF Lifecycle Ret. 2020 | 1.22% | 10.11% | 1.11% | 5.31% | 5.59% |
| LifeCycle 2020 Cust Bnch | 1.31% | 10.40% | 1.52% | 5.89% | 6.19% |
| CAI Tgt Dt Idx 2020 | 1.06% | 9.38% | 1.38% | 5.27% | 5.62% |
| TIAA-CREF Lifecycle Ret. 2025 | 1.28% | 11.00% | 1.41% | 6.01% | 6.22% |
| LifeCycle 2025 Cust Bnch | 1.40% | 11.27% | 1.89% | 6.56% | 6.81% |
| CAI Tgt Dt Idx 2025 | 1.16% | 10.37% | 1.85% | 6.12% | 6.38% |
| TIAA-CREF Lifecycle Ret. 2030 | 1.48% | 12.36% | 1.89% | 6.85% | 6.92% |
| LifeCycle 2030 Cust Bnch | 1.55% | 12.50% | 2.40% | 7.39% | 7.54% |
| CAI Tgt Dt Idx 2030 | 1.33% | 11.85% | 2.54% | 7.11% | 7.24% |
| TIAA-CREF Lifecycle Ret. 2035 | 1.63% | 13.93% | 2.53% | 7.77% | 7.89% |
| LifeCycle 2035 Cust Bnch | 1.72% | 13.92% | 3.09% | 8.31% | 8.33% |
| CAI Tgt Dt Idx 2035 | 1.52% | 13.46% | 3.33% | 8.14% | 8.09% |
| TIAA-CREF Lifecycle Ret. 2040 | 1.88% | 15.76% | 3.35% | 8.81% | 8.53% |
| LifeCycle 2040 Cust Bnch | 1.95% | 15.68% | 3.95% | 9.34% | 9.19% |
| CAI Tgt Dt Idx 2040 | 1.71% | 14.91% | 4.00% | 8.96% | 8.75% |
| TIAA-CREF Lifecycle Ret. 2045 | 2.04% | 16.91% | 3.76% | 9.61% | 9.11% |
| LifeCycle 2045 Cust Bnch | 2.12% | 16.83% | 4.42% | 10.13% | 9.81% |
| CAI Tgt Dt Idx 2045 | 1.84% | 15.94% | 4.48% | 9.52% | 9.19% |
| TIAA-CREF Lifecycle Ret. 2050 | 2.12% | 17.53% | 3.97% | 9.84% | 9.30% |
| LifeCycle 2050 Cust Bnch | 2.20% | 17.37% | 4.61% | 10.36% | 9.99% |
| CAI Tgt Dt Idx 2050 | 1.92% | 16.57% | 4.75% | 9.81% | 9.41% |
| TIAA-CREF Lifecycle Ret. 2055 | 2.13% | 17.72% | 4.06% | 9.96% | 9.40% |
| LifeCycle 2055 Cust Bnch | 2.23% | 17.59% | 4.71% | 10.50% | 10.11% |
| CAI Tgt Dt Idx 2055 | 1.95% | 16.86% | 4.87% | 9.93% | 9.50% |
| TIAA-CREF Lifecycle Ret. 2060 | 2.12% | 17.90% | 4.13% | 10.09% | 9.49% |
| LifeCycle 2060 Cust Bnch | 2.26% | 17.80% | 4.81% | 10.64% | 10.23% |
| Callan Tgt Dt Idx 2055 | 1.95% | 16.86% | 4.87% | 9.93% | 9.50% |
| T. Rowe Capital Appreciation Adv | 1.74% | 13.99% | 6.21% | 10.43% | 10.71% |
| S&P 500 Index | 4.28% | 24.56% | 10.01% | 15.05% | 14.28% |

Plan Performance Monitoring

As of June 30, 2024

| | Last Quarter | Last Year | Last 3 Years | Last 5 Years | Last 7 Years |
|-----------------------------------|--------------|-----------|--------------|--------------|--------------|
| Large Cap U.S. Equity | | | | | |
| Franklin Growth Fund Advisor | 3.43% | 23.95% | 6.43% | 13.88% | 14.17% |
| S&P 500 Index | 4.28% | 24.56% | 10.01% | 15.05% | 14.28% |
| Allspring Growth Adm | 6.17% | 29.47% | 0.68% | 11.94% | 14.55% |
| Russell 3000 Growth Index | 7.80% | 32.22% | 10.33% | 18.55% | 17.93% |
| Vanguard Dividend Growth Inv | (1.57%) | 8.88% | 6.43% | 10.19% | 11.46% |
| S&P 500 Index | 4.28% | 24.56% | 10.01% | 15.05% | 14.28% |
| Vanguard Institutional Index | 4.28% | 24.51% | 9.97% | 15.01% | 14.25% |
| S&P 500 Index | 4.28% | 24.56% | 10.01% | 15.05% | 14.28% |
| Hartford Dividend and Growth R5 | 1.06% | 16.34% | 8.14% | 12.20% | 11.52% |
| S&P 500 Index | 4.28% | 24.56% | 10.01% | 15.05% | 14.28% |
| T. Rowe Price Equity Income | (0.76%) | 15.47% | 6.71% | 9.78% | 9.12% |
| Russell 1000 Value Index | (2.17%) | 13.06% | 5.52% | 9.01% | 8.61% |
| Mid Cap U.S. Equity | | | | | |
| PGIM Jennison Mid-Cap Growth Z | (3.23%) | 9.31% | (0.28%) | 10.47% | 11.36% |
| Russell MidCap Growth Idx | (3.21%) | 15.05% | (0.08%) | 9.93% | 11.69% |
| Columbia Mid Cap Index Fund A | (3.55%) | 13.18% | 4.03% | 9.77% | 8.90% |
| S&P Mid Cap 400 Index | (3.45%) | 13.57% | 4.47% | 10.27% | 9.40% |
| Virtus Ceredex Mid-Cap Value I | (3.68%) | 12.67% | 2.73% | 7.39% | 7.37% |
| Russell MidCap Value Idx | (3.40%) | 11.98% | 3.65% | 8.49% | 7.67% |
| Small Cap U.S. Equity | | | | | |
| Brown Small Company Fund Investor | (6.57%) | (4.22%) | (12.03%) | (0.54%) | 4.44% |
| Russell 2000 Growth Index | (2.92%) | 9.14% | (4.86%) | 6.17% | 7.28% |
| DFA U.S. Small Cap Inst'l | (2.80%) | 11.66% | 3.23% | 9.89% | 8.28% |
| Russell 2000 Index | (3.28%) | 10.06% | (2.58%) | 6.94% | 6.85% |
| Northern Small Cap Value Fund | (3.73%) | 10.20% | 2.41% | 6.29% | 5.20% |
| Russell 2000 Value Index | (3.64%) | 10.90% | (0.53%) | 7.07% | 5.89% |
| Non-U.S. Equity | | | | | |
| AF New Perspective R4 | 2.82% | 18.60% | 3.09% | 12.07% | 11.76% |
| MSCI ACWI | 2.87% | 19.38% | 5.43% | 10.76% | 10.02% |
| Vanguard Total Int'l Stock Adm | 0.80% | 10.96% | 0.34% | 5.75% | 5.18% |
| FTSE GI All Cap ex US Idx | 0.86% | 11.68% | 0.48% | 5.87% | 5.33% |
| Invesco Developing Markets Y | 0.58% | 3.02% | (9.23%) | 0.13% | 2.21% |
| MSCI EM | 5.00% | 12.55% | (5.07%) | 3.10% | 3.54% |

Plan Performance Monitoring





As of June 30, 2024

| | Last Quarter | Last Year | Last 3 Years | Last 5 Years | Last 7 Years |
|---------------------------------|-----------------|--------------|--------------------|--------------------|--------------------|
| Fixed Income | | | | | |
| Vanguard Total Bond Index Adm | 0.18% | 2.76% | (3.01%) | (0.20%) | 0.86% |
| Blmbg:Aggregate Flt Adj | 0.08% | 2.73% | (2.99%) | (0.18%) | 0.91% |
| Baird Core Plus Bond Investor | 0.22% | 4.05% | (2.53%) | 0.40% | 1.34% |
| Blmbg:Universal | 0.19% | 3.47% | (2.68%) | 0.11% | 1.15% |
| MM Premier Infl-Pr and Inc Srvc | 0.89% | 4.03% | (1.41%) | 2.13% | 2.44% |
| Blmbg:TIPS | 0.79% | 2.71% | (1.33%) | 2.07% | 2.47% |
| PGIM High Yield Fund Z | 1.32% | 10.40% | 1.25% | 3.70% | 4.30% |
| Blmbg HY Corp 1% Iss Cap | 1.09% | 10.47% | 1.67% | 3.82% | 4.15% |
| Templeton Global Bond Advisor | (4.68%) | (5.51%) | (4.96%) | (4.67%) | (2.87%) |
| FTSE WGBI | (1.58%) | (0.63%) | (6.92%) | (3.20%) | (1.28%) |
| Capital Preservation | | | | | |
| Galliard Stable Value J | 0.60% | 2.31% | 1.78% | 1.88% | 1.74% |
| 3-month Treasury Bill | 1.32% | 5.40% | 3.03% | 2.16% | 2.07% |
| Vanguard Treasury MM Inv | 1.32% | 5.40% | 3.07% | 2.12% | 2.01% |
| 3-month Treasury Bill | 1.32% | 5.40% | 3.03% | 2.16% | 2.07% |
| Sector Funds | | | | | |
| Cohen & Steers Realty Shares | 0.61% | 6.85% | (0.25%) | 5.15% | 6.33% |
| FTSE NAREIT All Eq Index | (0.90%) | 5.78% | (1.63%) | 3.40% | 4.94% |

Active Manager Monitoring Summary

As of June 30, 2024

| Manager | Below Benchmark | | | Above Benchmark | | Above Peer Median | | Qualitative Assessment | | | | |
|-------------------------------|---------------------|---------------|---------------|-----------------|---------------|-------------------|------|------------------------|-------|---------|---------------|--|
| | 8 Straight Quarters | 3-Year Period | 5-Year Period | 3-Year Period | 5-Year Period | Firm | Team | Process | Perf. | Product | Overall Eval. | |
| Large U.S. Equity | | | | | | | | | | | | |
| Franklin Growth Fund | No | No | No | No | No | | | | | | Stable | |
| Allspring Growth | No | No | No | No | No | | | | | | On Watch | |
| Vanguard Dividend Growth | No | No | No | No | No | | | | | | Stable | |
| Hartford Dividend and Growth | No | No | No | Yes | Yes | | | | | | Stable | |
| T. Rowe Price Equity Income | No | Yes | Yes | Yes | No | | | | | | Stable | |
| Mid U.S. Equity | | | | | | | | | | | | |
| PGIM Jennison Mid-Cap Growth | No | No | Yes | Yes | Yes | | | | | | Stable | |
| Virtus Ceredex Mid-Cap Value | No | No | No | No | No | | | | | | Stable | |
| Small U.S. Equity | | | | | | | | | | | | |
| Brown Small Company Fund | No | No | No | No | No | | | | | | Stable | |
| DFA U.S. Small Cap | No | Yes | Yes | Yes | Yes | | | | | | Stable | |
| Northern Small Cap Value Fund | No | Yes | No | No | No | | | | | | Stable | |
| Global Equity | | | | | | | | | | | | |
| AF New Perspective | No | No | Yes | No | Yes | | | | | | Stable | |
| Invesco Developing Markets | No | No | No | No | No | | | | | | Stable | |
| Fixed Income | | | | | | | | | | | | |
| Baird Core Plus Bond | No | Yes | Yes | Yes | Yes | | | | | | Stable | |
| MM Premier Inf-Pr and Inc Svc | No | No | Yes | Yes | Yes | | | | | | Stable | |
| PGIM High Yield Fund | No | No | No | No | Yes | | | | | | Stable | |
| Templeton Global Bond | No | Yes | No | No | No | | | | | | On Watch | |
| Sector Fund | | | | | | | | | | | | |
| Cohen & Steers Realty Shares | No | Yes | Yes | Yes | Yes | | | | | | Stable | |

| Assessment | Status and Actions |
|--|--|
| Stable  | Firm, Team, Strategy are performing as expected |
| In Review  | Callan is proposing that the fund be added to the watchlist |
| Cautionary  | Staff is reviewing strategy with consultant and scheduling an update meeting with manager |
| Terminating  | Following staff review and consultant recommendation, manager will be terminated following a successful replacement search |

Participant balances

As of 7/31/2024

Account balances comparison

| | |
|------------------|-----------|
| Average | Benchmark |
| \$119,731 | \$67,632 |
| Median | Top 10% |
| \$74,057 | \$319,488 |

The average and median account balance for your plan is based on 197 participants

Account balances by employment status

| | | |
|------------------------|-------------------|------------------|
| Active | Average balance | \$137,409 |
| | Median balance | \$96,738 |
| | # of participants | 106 |
| Separated from service | Average balance | \$99,139 |
| | Median balance | \$59,606 |
| | # of participants | 91 |

Overview

The account balance insights presented are based on all participants that have a balance greater than \$0. When applicable, any outstanding loan amounts are not included as part of a participant's account balance.

Distribution of account balances



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100456-01 The North Dakota Public Employees Retirement System Defined Contribution 401(a) Plan

Participant balances

As of 7/31/2024

Account balances comparison

| | |
|-----------------|-----------|
| Average | Benchmark |
| \$21,063 | \$83,579 |
| Median | Top 10% |
| \$4,328 | \$154,121 |

The average and median account balance for your plan is based on 10,568 participants

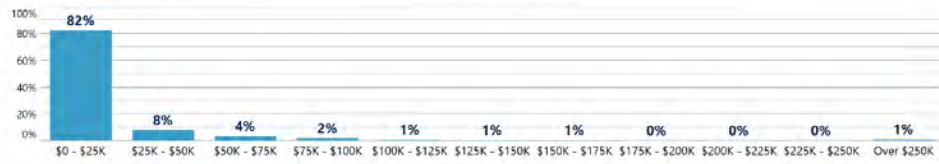
Account balances by employment status

| | | |
|------------------------|-------------------|-----------------|
| Active | Average balance | \$19,505 |
| | Median balance | \$4,303 |
| | # of participants | 7,886 |
| Separated from service | Average balance | \$25,647 |
| | Median balance | \$4,386 |
| | # of participants | 2,682 |

Overview

The account balance insights presented are based on all participants that have a balance greater than \$0. When applicable, any outstanding loan amounts are not included as part of a participant's account balance.

Distribution of account balances



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100455-01 The North Dakota Public Employees Retirement System Deferred Compensation 457(b) Companion Plan

Investment strategy utilization

As of 7/31/2024

Investment strategy utilization by employment status

Active participants

| Investment strategy | # of participants | % of participants | Assets | % of assets | Average balance |
|-------------------------|-------------------|-------------------|-------------|-------------|-----------------|
| Target-date strategy | 67 | 34.0% | \$8,187,090 | 34.7% | \$122,195 |
| Brokerage strategy | 1 | 0.5% | \$13,824 | 0.1% | \$13,824 |
| Do-it-yourself strategy | 38 | 19.3% | \$6,364,400 | 27.0% | \$167,484 |

Separated from service participants

| Investment strategy | # of participants | % of participants | Assets | % of assets | Average balance |
|-------------------------|-------------------|-------------------|-------------|-------------|-----------------|
| Target-date strategy | 68 | 34.5% | \$5,050,987 | 21.4% | \$74,279 |
| Do-it-yourself strategy | 23 | 11.7% | \$3,970,636 | 16.8% | \$172,636 |

Overview

The investment strategy utilization is based on all participants that have a balance greater than \$0. Each participant is assigned a single investment strategy to provide insights on how investment options, features, and services are being utilized.

When a participant is assigned a strategy, 100% of their balance is grouped within that strategy even if they have a diverse investment mix. Additionally, each participants' strategy is reevaluated and assigned every month so a participant may move in and out of the different strategies from month to month.

For the full list of investment strategies and their definitions, please refer to the glossary.

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100456-01 The North Dakota Public Employees Retirement System Defined Contribution 401(a) Plan

Investment strategy utilization

As of 7/31/2024

Investment strategy utilization by employment status

Active participants

| Investment strategy | # of participants | % of participants | Assets | % of assets | Average balance |
|-------------------------|-------------------|-------------------|---------------|-------------|-----------------|
| Target-date strategy | 7,077 | 67.0% | \$106,272,839 | 47.7% | \$15,017 |
| Brokerage strategy | 22 | 0.2% | \$2,400,348 | 1.1% | \$109,107 |
| Do-it-yourself strategy | 787 | 7.4% | \$45,139,874 | 20.3% | \$57,357 |

Separated from service participants

| Investment strategy | # of participants | % of participants | Assets | % of assets | Average balance |
|-------------------------|-------------------|-------------------|--------------|-------------|-----------------|
| Target-date strategy | 2,407 | 22.8% | \$40,453,315 | 18.2% | \$16,807 |
| Risk-based strategy | 3 | 0.0% | \$421,981 | 0.2% | \$140,660 |
| Brokerage strategy | 3 | 0.0% | \$432,813 | 0.2% | \$144,271 |
| Do-it-yourself strategy | 269 | 2.5% | \$27,476,039 | 12.3% | \$102,141 |

Overview

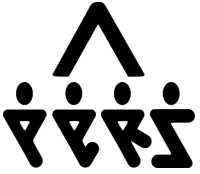
The investment strategy utilization is based on all participants that have a balance greater than \$0. Each participant is assigned a single investment strategy to provide insights on how investment options, features, and services are being utilized.

When a participant is assigned a strategy, 100% of their balance is grouped within that strategy even if they have a diverse investment mix. Additionally, each participants' strategy is reevaluated and assigned every month so a participant may move in and out of the different strategies from month to month.

For the full list of investment strategies and their definitions, please refer to the glossary.

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100455-01 The North Dakota Public Employees Retirement System Deferred Compensation 457(b) Companion Plan



**North Dakota
Public Employees Retirement System**
1600 East Century Avenue, Suite 2 • PO Box 1657
Bismarck, North Dakota 58502-1657

Rebecca Fricke
Executive Director
(701) 328-3900
1-800-803-7377

Fax (701) 328-3920 Email ndpers-info@nd.gov Website www.ndpers.nd.gov

Memorandum

TO: NDPERS Board

FROM: Rebecca

DATE: September 10, 2024

SUBJECT: 457(b) Deferred Compensation Plan Document and 457(b)
Deferred Compensation Companion Plan Document

One of the items we've been discussing monthly as part of the House Bill 1040 implementation update is that the 457(b) Deferred Compensation Plan Document and 457(b) Deferred Compensation Companion Plan Documents needed to be reviewed and updated.

Staff along with legal counsel from both the Attorney General's Office and Ice Miller have updated both of the 457(b) Deferred Compensation Plan Document (Attachment 1) and 457(b) Deferred Compensation Companion Plan Document (Attachment 2) to ensure compliance with state and federal law. At this time, we are seeking approval of the updated Plan Documents and request that they be approved to be effective October 1, 2024.

Once approved, staff will begin working with Ice Miller to request an IRS Private Letter Ruling for the 457(b) Deferred Compensation Plan per the Board's action at the June meeting.

Board Action Requested:

Approve the updated 457(b) Deferred Compensation Plan Document and 457(b) Deferred Compensation Companion Plan Documents effective October 1, 2024.

Attachment 1

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM DEFERRED
COMPENSATION 457(b) COMPANION PLAN STATE DEFERRED COMPENSATION
PROGRAM

SECTION 457 COMPANION PLAN AND TRUST

Amended and Restated effective July 1, 2015, July October 1, 2024

Revised: 9/10/2024

Adoption Resolution

Resolved, that effective ~~July-October~~ 1, 20~~24~~15, the State of North Dakota has ~~adopted the attached amended and~~ restated ~~the~~ Section 457 ~~Companion~~ Plan. The Plan is intended to satisfy the requirements of Section 457(b) of the Internal Revenue Code of 1986, as amended, and its associated regulations.

Signature

Date

Title

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM

DEFERRED COMPENSATION 457(b) SECTION 457 COMPANION PLAN

ARTICLE 1

PURPOSE

The North Dakota Public Employees Retirement System Board ("Board") hereby amends, reestablishes and reaffirms the Section 457 ~~Companion~~ Plan and Trust ("the Plan"). The Plan consists of the provisions set forth in this document. The primary purpose of this Plan is to retain present employees and attract new employees for participating employers by providing increased retirement income and other deferred benefits to employees and their beneficiaries in accordance with the provisions of section 457 of the Internal Revenue Code and amendments thereto and by providing additional investment opportunities that are not otherwise available under the North Dakota Section 457 Deferred Compensation Plan. This Plan shall be an agreement solely between the employer and participating employees. The Plan is intended to satisfy the requirements of an eligible deferred compensation plan under Internal Revenue Code section 457(b) and shall be interpreted as such.

Nothing contained in this Plan shall be deemed to constitute an employment contract or agreement for services between participating employees and their employer nor shall it be deemed to give a participating employee any right to be retained in the employ of, or under contract to, an employer. Nothing herein shall be construed to modify the terms of any employment contract or agreement for services between participating employees and their employer as this Plan is intended to be a supplement thereto.

ARTICLE 2

DEFINITIONS

- 2.1 **Account Balance.** The bookkeeping account maintained with respect to each Participant which reflects the value of the deferred Compensation credited to the Participant, including the Participant's Deferrals, Employer Contributions, the earnings or losses of the Trust Fund (net of Trust Fund expenses) allocable to the Participant, and any distribution made to the Participant or the Participant's Beneficiary. The Account Balance also includes any account established under Article 7 for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after the Participant's death, and any account established for an alternate payee (as defined in Code section 414(p)(8)). ~~The bookkeeping account maintained with respect to each Participant which reflects the value of the deferred Compensation credited to the Participant, including the Participant's Deferrals, the earnings or losses of the Trust Fund (net of Trust Fund expenses) allocable to the Participant, and any distribution made to the Participant or the Participant's Beneficiary. The Account Balance also includes any account established under Article 7 for rollover contributions and plan to plan transfers made for a Participant,~~

~~the account established for a Beneficiary after the Participant's death, and any account established for an alternate payee (as defined in Code section 414(p)(8)).~~

- 2.2 **Administrator.** The North Dakota Public Employees Retirement System Board shall serve as the Plan's Administrator; however, the Administrator may designate an entity, person or persons as an administrative services provider to carry out certain nondiscretionary, administrative functions under the Plan, as described in Article 8.
- 2.3 **Beneficiary.** The person or persons designated by the Participant who is entitled to receive benefits under the Plan after the death of a Participant. If no person is designated by the Participant or if the designated Beneficiary predeceases the Participant, the Participant's estate shall be the Beneficiary.
- 2.4 **Board.** The North Dakota Public Employees Retirement System Board.
- 2.5 **Code.** The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.
- 2.6 **Compensation.** All cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses and overtime pay, that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employee's gross income for the calendar year but for a compensation reduction election under section 125, 132(f), 401(k), 403(b) or 457(b) of the Code. Compensation also includes amounts paid to a Participant who has had a Severance from Employment, other than retirement or severance incentive payments, to the extent such amounts are paid by the later of 2½ months after the Participant's Severance from Employment or the end of the calendar year in which the Severance from Employment occurred, in accordance with Treas. Reg. section 1.457-(4)(d)(1) so long as the Employee would have been able to use the leave if employment had continued. Effective for years beginning after December 31, 2008, Compensation shall include military differential wage payments, as defined in Code section 3401(h).
- 2.7 **Deferral.** The amount of Compensation deferred in any calendar year, ~~including unused annual leave, sick leave and compensation leave, compensation time and back pay, but excluding amounts payable under any bona fide vacation leave, sick leave, compensation time, severance pay, disability pay or death benefit plans of the Employer.~~
- 2.8 **Eligible Retired Public Safety Officer.** An individual who has had a Severance from Employment as a public safety officer, as defined in Code section 402(l)(4)(C), with an Employer, by reason of either disability or attainment of the age set forth in N.D.C.C. § 54-52-17 at which the Participant has the right to retire and receive unreduced retirement benefits under N.D.C.C. Chapter 54-52,
- 2.89 **Employee.** Each person, whether appointed or elected, employed by the Employer as a common law employee who performs services for the Employer for which Compensation

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is paid, and who has been determined by the Employer to be eligible to participate in the Plan in accordance with Section 3.1. Employee does not include an independent contractor.

2.910 Employer. The State of North Dakota, which includes any of the State's departments, divisions, agencies or institutions, as well as any city, county, or other political subdivision, agency or instrumentality of the State, within the meaning of section 414(d) of the Code ~~and section 3(32) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")~~ that enters into an agreement with the Board to participate in the Plan.

2.11 Employer Contribution. Any nonelective contribution and/or matching contribution made pursuant to an election of the Employer accepted by the Plan Administrator.

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2.102 Includible Compensation. An Employee's actual wages in box 1 of Form W-2 for a year for services to the Employer, but subject to ~~at the~~ maximum amount of \$200,000 ~~(or such higher maximum as may apply~~ under Code section 401(a)(17)), and increased (up to the dollar maximum) by any compensation reduction election under section 125, 132(f), 401(k), 403(b) or 457(b) of the Code. Effective for years beginning after December 31, 2008, Compensation shall include military differential wage payments, as defined in Code section 3401(h). Includible Compensation is determined without regard to any community property laws.

2.134 Investment Provider. Any organization that has been approved by the Board to provide investment products under the Plan.

2.124 Normal Retirement Age. Age 70 ½, or if later, the date the employee incurs a Severance from Employment. For purposes of the special section 457 catch-up limitation under Section 4.3, a Participant may designate, in writing, a Normal Retirement age that is earlier than age 70 ½ but not earlier than the earliest age at which the Participant has a right to retire and receive, under the applicable defined benefit pension plan of the Employer, immediate retirement benefits without actuarial or other reduction because of retirement before some later specified age. If the Participant is not eligible to receive benefits under a defined benefit pension plan maintained by the Employer, the Participant's designated Normal Retirement Age may not be earlier than age 55.

2.153 Participant. An individual who (i) is currently deferring Compensation, or who (ii) is entitled to an Employer Contribution, or (iii) has previously deferred Compensation under the Plan by salary reduction or received an Employer Contribution, and who has not received a distribution of his or her entire benefit under the Plan.~~An individual who is currently deferring Compensation, or who has previously deferred Compensation under the Plan by salary reduction and who has not received a distribution of his or her entire benefit under the Plan.~~

2.164 Plan. The North Dakota Public Employees Retirement System Deferred Compensation 457(b) ~~Companion~~ Plan, as amended or restated from time to time.

2.17 Plan Contributions. Deferrals and Employer Contributions made to the Plan.

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2.158 Plan Year. The calendar year.

2.19 Qualified Health Insurance Premiums. Premiums for coverage for an Eligible Retired Public Safety Officer, his spouse, and/or his dependents, as defined in Code section 152, by an accident or health plan or qualified long-term care insurance contract, as defined in Code section 7702B(b).

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2.2016 Required Beginning Date. April 1 of the calendar year following the later of the calendar year in which the Participant ~~retires~~ incurs a Severance from Employment or reaches the required minimum distribution age under Code Section 401(a)(9).

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2.217 Severance from Employment. ~~The date 31~~Thirty-one days after the Employee dies, retires or otherwise has a severance from employment with the Employer, as determined by the Administrator (and taking into account guidance issued under the Code).

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2.221718 Trust Fund. –The trust fund created under and subject to the provisions in Article 9.

2.231819 Trustee. The Board, or such other trustee duly appointed and currently serving in accordance with the provisions of Article 9.

2.19240 Valuation Date. Each business day or such other valuation date as specified by the Investment Provider for a particular investment product, or as otherwise designated by the Board.

ARTICLE 3

PARTICIPATION AND CONTRIBUTIONS

3.1 Eligibility. Each Employee who works a minimum of 20 hours per week for 20 or more weeks per year, who is at least age 18 and who fills a permanent position that is regularly funded and not of limited duration shall be eligible to participate in the Plan and may defer Compensation hereunder immediately upon satisfying the eligibility requirements under this Section 3.1.

3.2 Election Required for Participation Deferrals. An Employee may elect to become a Participant by executing an election to defer a portion of his or her Compensation (and have that amount contributed as Deferrals on his or her behalf) and submitting it to the Administrator. This participation election shall be made pursuant to a deferral agreement under which the Employee agrees to be bound by all the terms and conditions of the Plan. The Administrator may establish a minimum deferral amount, and may change such minimums from time to time. Subject to the limits of Article 4, a Participant must currently defer a minimum of \$25 per month. The participation election shall include selection of an Investment Provider. Any such election shall remain in effect until a new election is submitted.

3.3 Commencement of Participation. ~~An Employee shall become a Participant as soon as administratively practicable following the date the Employee files a participation election pursuant to Section 3.2 or becomes eligible for Employer Contributions under Section 3.9. An election under Section 3.2 shall become effective no earlier than the calendar month~~

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~~following the month in which the election is made, or such other date as may be permitted under the Code. An Employee shall become a Participant as soon as administratively practicable following the date the Employee files a participation election pursuant to Section 3.2. Such election shall become effective no earlier than the calendar month following the month in which the election is made, or such other date as may be permitted under the Code.~~

- 3.4 Information Provided by the Participant.** Each Employee enrolling in the Plan should provide to the Administrator at the time of initial enrollment, and later if there are any changes, any information necessary or advisable for the Administrator to administer the Plan, including, without limitation, whether the Employee is a participant in any other eligible plan under Code section 457(b).
- 3.5 Contributions Made Promptly.** Deferrals by the Participant under the Plan shall be transferred to the Trust Fund within a period that is not longer than is reasonable for the proper administration of the Participant's Account Balance.
- 3.6 Amendment of Deferral Election.** Subject to other provisions of the Plan, a Participant may at any time revise his or her participation election, including a change of the amount of his or her Deferrals, as well as his or her investment direction and his or her designated Beneficiary through the Investment Provider(s). However, the Board retains the authority to limit the frequency of changes to the amount of Deferrals, applied uniformly to all Employees, as it deems appropriate. Unless the election specifies a later effective date, a change in the amount of Deferrals shall take effect as of the first day of the next following month or as soon as administratively practicable if later. A change in the investment direction shall take effect as of the date provided by the Administrator on a uniform basis for all Employees. A change in the Beneficiary designation shall take effect when the election is accepted by the Investment Provider.
- 3.7 Leave of Absence.** Unless an election is otherwise revised, if a Participant is absent from work by leave of absence, Deferrals under the Plan shall continue to the extent that Compensation continues. If a Severance from Employment is determined to have occurred, the Participant may elect to receive a distribution of benefits as provided for in Article 5.
- 3.8 Disability.** A disabled Participant may elect to make Deferrals during any portion of the period of his or her disability to the extent that he or she has actual Compensation (not imputed compensation and not disability benefits) from which to make contributions to the Plan and has not had a Severance from Employment.
- 3.9 Employer Contributions.** A Participant shall become entitled to Employer Contributions as elected by the Employer and communicated to the Plan Administrator in a form acceptable to the Administrator. An Employee who is not a Participant shall become a Participant immediately upon becoming entitled to an Employer Contribution pursuant to the Employer's election, regardless of whether such Employee elects to make Deferrals.

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ARTICLE 4

LIMITATIONS ON AMOUNTS DEFERRED

4.1 Basic Annual Limitation. ~~The maximum annual amount of Plan Contributions for any calendar year shall not exceed the lesser of (1) the Applicable Dollar Amount or (2) the Participant's Includible Compensation for the calendar year. The Applicable Dollar Amount is the amount set forth under Code Section 457(e)(15), as indexed in accordance with Code section 415(d). The maximum annual amount of Deferrals under the Plan for any calendar year shall not exceed the lesser of (1) the Applicable Dollar Amount or (2) the Participant's Includible Compensation for the calendar year. The Applicable Dollar Amount is the amount set forth under Code section 457(e)(15), as indexed in accordance with Code section 415(d).~~

4.2 Age 50 Catch-up Contributions. A Participant who will attain age 50 or more by the end of the calendar year is permitted to make an additional annual amount of Deferrals, up to the maximum age 50 catch-up Deferrals for the year. The maximum annual dollar amount of the age 50 catch-up Deferrals for a year is the amount set forth under Code section 414(v)(2), as indexed in accordance with Code section 414(v)(2)(C) and Code section 415(d).

4.3 Special Section 457 Catch-up Limitation. ~~If the applicable year is one of the Participant's last three consecutive calendar years ending before the year in which the Participant attains Normal Retirement Age and the amount determined under this Section 4.3 exceeds the amount computed under Section 4.1 and 4.2, then the annual limit on Deferrals under this Article 4 shall be the lesser of:~~

~~(a) An amount equal to two times the Applicable Dollar Amount under Section 4.1 for such year; or~~

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~~(b) The sum of:~~

~~(1) An amount equal to the aggregate limit under Section 4.1 for the current year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Employee under the Plan, minus the aggregate amount of Compensation that the Participant deferred under the Plan during such years, plus~~

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~~(2) An amount equal to the aggregate limit under Code section 457(b)(2) for each prior calendar year beginning after December 31, 1978 and before January 1, 2002 during which the Participant was an Employee (determined without regard to Sections 4.2 and 4.3), minus the aggregate contributions to Pre-2002 Coordination Plans (as defined in Section 4.4(e)) for such years.~~

~~However, in no event can the deferred amount be more than the Participant's Compensation for the year. If the applicable year is one of the Participant's last three consecutive calendar years ending before the year in which the Participant attains Normal Retirement Age and the amount determined under this Section 4.3 exceeds the amount computed under Section 4.1 and 4.2, then the annual limit on Plan Contributions under this Article 4 shall be the lesser of:~~

~~(a) An amount equal to two times the Applicable Dollar Amount under Section 4.1 for such year; or~~

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(b) The sum of:

- (1) An amount equal to the aggregate limit under Section 4.1 for the current year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Employee under the Plan, minus the aggregate amount of Plan Contributions under the Plan for the Participant during such years, plus
- (2) An amount equal to the aggregate limit under Code section 457(b)(2) for each prior calendar year beginning after December 31, 1978 and before January 1, 2002 during which the Participant was an Employee (determined without regard to Sections 4.2 and 4.3), minus the aggregate contributions to Pre-2002 Coordination Plans (as defined in Section 4.4(c)) for such years.

However, in no event can the deferred amount be more than the Participant's Compensation for the year.

4.4 Special Rules. For purposes of this Article 4, the following rules shall apply:

- (a) If the Participant is or has been a participant in one or more other eligible plans within the meaning of Code section 457(b), then the Plan and all such other plans shall be considered one plan for the purposes of applying the limitation in this Article 4. For this purpose, the Administrator shall take into account any other such eligible plan maintained by the Employer and shall also take into account any other such eligible plan for which the Administrator receives from the Participant sufficient information concerning his or her participation in such other plan.
- (b) In applying Section 4.3, a year shall be taken into account only if the Participant was eligible to participate in the Plan during all or a portion of the year and Compensation deferred, if any, under the Plan was subject to the maximum amount described in Section 4.1 or any other plan limit required by Code section 457(b).
- (c) For purposes of Section 4.3(b)(2), the term “contributions to Pre-2002 Coordination Plans” means any employer contribution, salary reduction or elective contribution under any other eligible Code section 457(b) plan, or a salary reduction or elective contribution under any other eligible Code section 401(k) qualified cash or deferred arrangement, Code section 402(h)(1)(B) simplified employee pension (SARSEP), Code section 403(b) annuity contract and Code section 408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in Code section 501(c)(18), including plans, arrangements or accounts maintained by the Employer or any employer for whom the Participant performed services. —However, the contributions for any calendar year are only taken into account for purposes of Section 4.3(b)(2) to the extent that the total of such contributions does not exceed the aggregate limit referred to in Code section 457(b)(2) for that year.

- (d) For purposes of Sections 4.1, 4.2 and 4.3, an individual is treated as not having deferred compensation under a plan for a prior taxable year to the extent Excess Deferrals (as defined in Section 4.5) under the plan are distributed. To the extent that the combined deferrals for pre-2002 years exceeded the maximum deferral limitations, the amount is treated as an Excess Deferral for those prior years.

4.5 Correction of Excess Deferrals. If the annual amount of Plan Contributions on behalf of a Participant for any calendar year exceeds the limitations described in this Article 4, or the annual amount of Plan Contributions on behalf of a Participant for any calendar year exceeds the limitations described in this Article 4 when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under Code section 457(b) for which the Participant provides information that is accepted by the Administrator, then the annual amount of Plan Contributions, to the extent in excess of the applicable limitation ("Excess Deferral"), and adjusted for any income or loss in value, if any, allocable thereto, shall be distributed to the Participant.~~If the annual amount of Deferrals on behalf of a Participant for any calendar year exceeds the limitations described in this Article 4, or the annual amount of Deferrals on behalf of a Participant for any calendar year exceeds the limitations described in this Article 4 when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under Code section 457(b) for which the Participant provides information that is accepted by the Administrator, then the annual amount of Deferrals, to the extent in excess of the applicable limitation ("Excess Deferral"), and adjusted for any income or loss in value, if any, allocable thereto, shall be distributed to the Participant.~~

4.6 Protection of Persons Who Serve in a Uniformed Service.~~An Employee whose employment is interrupted by qualified military service under Code section 414(u) or who is on a leave of absence for qualified military service under Code section 414(u) may elect to make additional Deferrals upon resumption of employment with the Employer equal to the maximum annual Deferrals that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for five years following the resumption of employment, or if sooner, for a period equal to three times the period of the interruption or leave.~~

~~In addition, effective for deaths occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Code section 414(u)(5)), this Plan shall provide all applicable benefits required in accordance with Code section 401(a)(37), but the provisions of Code section 414(u)(9) shall not apply to this Plan. An Employee whose employment is interrupted by qualified military service under Code section 414(u) or who is on a leave of absence for qualified military service under Code section 414(u) may elect to make additional Deferrals upon resumption of employment with the Employer equal to the maximum amount of annual Deferrals that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for five years following the resumption of employment, or if sooner, for a period equal to three times the period of the interruption or leave.~~

If such Participant elects to make such additional Deferrals, then the Employer shall make up the related matching Employer Contributions which would have been required had such Deferrals actually been made during the period of qualified military service. The make-up contributions by the Employer shall be made as soon as practicable after the Participant makes such make-up contributions.

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If the Participant timely resumes employment in accordance with USERRA after a qualified military leave, the Employer shall make any nonelective Employer Contributions that would have been made if the Participant had remained employed during the Participant's qualified military service. Such contributions must be made no later than ninety (90) days after the date of such reemployment or when contributions are normally due for the year in which the qualified military service was performed, if later.

In determining the amount of Deferrals and Employer Contributions, a Participant shall be treated as receiving compensation from the Employer during such period of qualified military service equal to: (i) the compensation the Participant would have received during such period if the Participant were not in qualified military service, determined based on the rate of pay the Participant would have received from the Employer but for the absence during the period of qualified military service; or (ii) if the compensation the Participant would have received during such period is not reasonably certain, the Participant's average compensation from the Employer during the twelve (12) month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

In addition, effective for deaths occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Code section 414(u)(5)), this Plan shall provide all applicable benefits required in accordance with Code section 401(a)(37), but the provisions of Code section 414(u)(9) shall not apply to this Plan.

ARTICLE 5

DISTRIBUTION OF BENEFITS

5.1 Benefit Distributions. A Participant's Account Balance may not be paid to the Participant (or, if applicable, the Participant's Beneficiary), until one of the following events has occurred:

- (a) the Participant's Severance from Employment;
- (b) the Participant's death;
- (c) an unforeseeable emergency, within the meaning of and subject to Section 5.4;
- (d) ~~the Participant elects a small Account Balance distribution in accordance with Section 5.5(a).~~

(e) The Participant has a Severance from Employment and is subject to the mandatory distribution of his Account Balance under Section 5.5(b).

If a Participant has a separate account attributable to rollover contributions to the Plan pursuant to Section 7.1, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account.

5.2 **Benefit Distribution Election.**

- (a) A Participant may elect to commence distribution of his or her Account Balance any time after Severance of Employment by filing an application for a distribution with the Administrator. However, in no event may distribution of benefits to the Participant commence later than April 1st of the year following the later of the year in which the Participant attains the Required Beginning Date, 70 ½ or the year in which the Participant severs employment with the Employer. The amount of such required minimum distribution shall be determined in accordance with Code section 401(a)(9) and the regulations thereunder, as applicable to a governmental plan as defined in Code section 414(d).
- (b) A Participant (or, if applicable, the Participant's Beneficiary) may elect a distribution in the form of a lump sum or systematic distribution option as permitted under the terms of the investment product(s), or may elect a direct rollover to an Eligible Retirement Plan~~eligible retirement plan~~ as described in Section 5.6. ~~In addition, the Participant's entire interest in the Plan must be distributed over the life of the Participant or the lives of the Participant and designated Beneficiary over a period not extending beyond the life expectancy of the Participant or the life expectancy of the Participant and designated Beneficiary.~~ Notwithstanding any other provision of the Plan, the elected form of distribution shall comply with required distribution rules under Code section 401(a)(9) and the regulations thereunder, as applicable to a governmental plan as defined in Code section 414(d), including any minimum distribution incidental benefit requirements.
- (c) Effective in 2009, notwithstanding subsections (a) and (b) above, a Participant (or, if applicable, the Participant's Beneficiary) who would have been required to receive required minimum distributions for 2009 but for the enactment of Code section 401(a)(9)(H) ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's designated Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will receive those distributions for 2009 unless the Participant or Beneficiary chooses not to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence. In addition, notwithstanding Section 5.6(a)(3) of the Plan, and solely for the purpose of applying the direct rollover provisions of the Plan, the Board shall only offer direct rollover of 2009 RMDs and Extended 2009 RMDs that are

received by a Participant or Beneficiary to the extent such distributions that would be Eligible Rollover Distributions without regard to Code section 401(a)(9)(H).

(d) Effective 2020, notwithstanding any other provisions of this Plan, a Participant who would have been required to receive required minimum distributions in 2020 (or paid in 2021 for the 2020 calendar year for a recipient with a Required Beginning Date of April 1, 2021) but for the enactment of section 401(a)(9)(I) of the Code ("2020 RMD"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2020 RMDs, or (2) one or more payments (that include the 2020 RMDs) in a series of substantially equal periodic payments made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancies) of the Participant and the Participant's designated Beneficiary, or for a period of at least 10 years ("Extended 2020 RMDs"), will receive those 2020 distributions unless the Participant or Beneficiary elects not to receive such distribution. Notwithstanding the preceding sentence, a Participant or Beneficiary will be given an opportunity to make an election as to whether or not to receive such 2020 RMD distributions.

5.3 Death Benefit Distributions prior to January 1, 2022. For Participant deaths prior to January 1, 2022, this Section 5.3 shall apply. Upon the death of the Participant, the Participant's Beneficiary may elect to receive the Participant's Account Balance in any form permitted under Section 5.2. However, if the Beneficiary of the Participant is the Participant's estate, the benefit will be payable only in a single lump sum. Such Beneficiary may also designate his or her own beneficiary, or if none is designated, the Beneficiary's estate will receive any benefits payable upon the Beneficiary's death. Notwithstanding any other provision in the Plan to the contrary, distributions upon the death of a Participant shall be made in accordance with the following requirements and shall otherwise comply with Code section 401(a)(9) and the regulations thereunder, as applicable to a governmental plan as defined in Code section 414(d), including any minimum distribution incidental benefit requirements.

- (a) If the designated Beneficiary is not the Participant's surviving spouse, distributions after the Participant's death must either (1) begin to be distributed no later than December 31st of the calendar year immediately following the year of the Participant's death, payable over a period not to exceed the Beneficiary's life expectancy; or (2) be distributed no later than December 31st of the calendar year containing the fifth anniversary of the Participant's death.
- (b) If the designated Beneficiary is the Participant's surviving spouse, distributions after the Participant's death must begin to be distributed by the later of December 31st of the calendar year immediately following the year of the Participant's death or December 31st of the calendar year in which the Participant would have attained age seventy-two (72) (or age 70 ½ with respect to a Participant who was born before July 1, 1949), or other applicable age under Code section 401(a)(9). ~~RMD-age 70 ½.~~ Payments to a surviving spouse must be made over a period not to exceed the surviving spouse's life expectancy. Alternatively, the surviving spouse may elect to receive a total distribution of the Participant's Account Balance by no later than

December 31st of the calendar year containing the fifth anniversary of the Participant's death.

- (c) If ~~required minimum distributions under Code section 401(a)(9) have RMD~~ has distributions have begun prior to the death of the Participant, the remaining portion of the Participant's Account Balance shall be distributed to the Beneficiary at least as rapidly as under the method of distribution in effect prior to the Participant's death.

5.4 Death Benefit Distributions After December 31, 2021. Notwithstanding any contrary provisions, effective for Participant deaths after December 31, 2021, the following distribution provisions in this section 5.4 shall take effect; provided, however, that such provisions shall be subject to any regulations or other guidance issued under the SECURE Act.

a. Death with a Designated Beneficiary. If the Participant dies before the distribution of his or her entire account (regardless of whether any distributions had begun before the Participant's death) and the Participant has a designated Beneficiary:

1. The entire account shall be distributed to the designated Beneficiary by December 31 of the calendar year containing the tenth anniversary of the Participant's death.

2. Notwithstanding the paragraph above, if the designated Beneficiary is surviving spouse, then the surviving spouse may elect for the Participant's account(s) to be distributed (i) by December 31 of the calendar year containing the tenth (10th) anniversary of the Participant's death, or (ii) the later of December 31 of the calendar year immediately following the calendar year in which the Participant died or December 31 of the calendar year in which the Participant would have attained age seventy-two (72) (or age 70 ½ with respect to a Participant who was born before July 1, 1949), or other applicable age under Code section 401(a)(9).

3. For calendar years beginning after December 31, 2023, if the designated Beneficiary is the Participant's surviving spouse, the surviving spouse may elect to be treated as if he or she were the Participant, pursuant to Code Section 401(a)(9)(B)(iv).

b. Death without a Designated Beneficiary. If the Participant dies before distributions of his or her account begins and the Participant has no designated Beneficiary, the Participant's account under the Plan shall be distributed by December 31 of the calendar year containing the fifth (5th) anniversary of the Participant's death. If the Participant dies after distribution of his or her account begins and the Participant has no designated

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Beneficiary, any remaining portion of the account shall continue to be distributed at least as rapidly as under the method of distribution in effect at the time of the Participant's death.

5.54 Unforeseeable Emergency Distributions. If the Participant has an unforeseeable emergency before Severance from Employment, the Participant may elect to receive a lump sum distribution equal to an amount not to exceed the amount reasonably necessary to satisfy the emergency need, which may include amounts necessary to pay federal, state or local income taxes or penalties reasonably anticipated to result from the distribution, as determined by the Administrator.

For this purpose, an unforeseeable emergency is defined as a severe financial hardship of the Participant resulting from an illness or accident of the Participant, the Participant's spouse or dependents (as defined in Code section 152(a) without regard to Code section 152(b)(1), (b)(2) and (d)(1)(B)); loss of the Participant's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, e.g., as a result of natural disaster); the need to pay for the funeral expenses of the Participant's spouse or dependent (as defined in Code section 152(a) without regard to Code section 152(b)(1), (b)(2) and (d)(1)(B)); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant. For example, the imminent foreclosure of or eviction from the Participant's primary residence may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses, including nonrefundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. Except as otherwise specifically provided in this Section 5.4, neither the purchase of a home nor the payment of college tuition is an unforeseeable emergency.

A distribution on account of unforeseeable emergency may not be made to the extent that such emergency is or may be relieved through reimbursement of compensation from insurance or otherwise, by liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship, or by cessation of deferrals under the Plan.

~~If the unforeseeable emergency distribution is approved, the participant must cease participating in the 457 deferred compensation plan for at least six (6) months from the date your hardship application is approved and in effect.~~

5.65 Distribution of Small Account Balances. Upon proper written request to the Administrator, a Participant may elect to receive a distribution of his or her total Account Balance in a lump sum if the Account Balance does not exceed \$5,000 (or the dollar limit under Code section 411(a)(11), if greater) without regard to amounts attributable to rollover contributions under Section 7.1, no Deferrals have been made for the Participant during the two-year period immediately prior to the date of distribution, and the Participant has not previously received a distribution of his or her Account Balance under this Section 5.5.

~~(a) Upon proper written request to the Administrator, a Participant may elect to receive a distribution of his or her total Account Balance in a lump sum if the Account Balance~~

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does not exceed \$7,000 (or the dollar limit under Code section 411(a)(11), if greater) without regard to amounts attributable to rollover contributions under Section 7.1, no Plan Contributions have been made for the Participant during the two-year period immediately prior to the date of distribution, and the Participant has not previously received a distribution of his or her Account Balance under this Section 5.6.

~~(b) Notwithstanding any other provision of the Plan, in the event a Participant has a Severance from Employment with an Account Balance that does not exceed \$1,000, including amounts attributable to rollover contributions under Section 7.1, the following small account balance automatic distribution rules will apply:~~

~~(1) Subject to any procedures adopted by the Administrator, including but limited to any advance notice of the application of the provisions of this Section 5.6(b) as may be prescribed by the Administrator, if the Participant shall not have elected, in accordance with Sections 5.2(b) and 5.7 and related procedures, to have such Account Balance paid directly to an Eligible Retirement Plan (as defined in Section 5.7(b)) specified by the Participant in a direct rollover or otherwise distributed from the Plan, then the Administrator will distribute such benefit in a lump sum, without the written consent of the Participant.~~

~~(2) The provisions of this Section 5.6(b) shall apply to any Account Balance of a Participant who has had a Severance from Employment prior to the effective date of this Section 5.6(b).~~

Commented [AMV1]: This section is removed from 457 plan but is included in Companion Plan

5.766 Direct Rollovers. Notwithstanding any provision of the Plan to the contrary, a Distributee shall be permitted to elect to have an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan in a direct rollover, at the time and in the manner prescribed by the Administrator.

- (a) An "Eligible Rollover Distribution" means any distribution of all or a portion of a Participant's Account Balance, except that an Eligible Rollover Distribution does not include:
- (1) any distribution that is one of series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and a designated Beneficiary, or for a specified period of 10 years or more;
 - (2) any distribution made under Section 5.4 as a result of an unforeseeable emergency; or
 - (3) any distribution to the extent such distribution is a required minimum distribution under Code section 401(a)(9).

- (b) An “Eligible Retirement Plan” means an individual retirement account described in Code section 408(a), an individual retirement annuity described in Code section 408(b), an annuity plan described in Code section 403(a), a qualified trust described in Code section 401(a), an eligible deferred compensation plan described in Code section 457(b) that is maintained by a governmental entity described in Code section 457(e)(1)(A), an annuity contract described in Code section 403(b), ~~or a~~ Roth IRA described in Code section 408A, and effective December 18, 2015, a SIMPLE IRA as described in Code section 408(p), provided that the rollover contribution is made after the two-year period beginning on the date the Distributee first participated in any qualified salary reduction arrangement maintained by the Distributee’s employer under Code Section 408(p)(2), as described in Code Section 72(t)(6) that accepts the Distributee’s Eligible Rollover Distribution. However, for an Eligible Rollover Distribution to a designated Beneficiary other than the surviving spouse, an Eligible Retirement Plan is only an individual retirement account described in Code section 408(a) or an individual retirement annuity described in Code section 408(b) that is treated as an inherited IRA in accordance with Code section 402(c)(11).
- (c) A “Distributee” includes a Participant or former Participant or the Participant’s or former Participant’s designated Beneficiary. In addition, the Participant’s or former Participant’s spouse or former spouse are Distributees with regard to the interest of the spouse or former spouse.

~~**5.877** Amount of Account Balance. For all purposes under the Plan, the amount of any payment under this Article 5 shall be based on the amount of the Account Balance on the preceding Valuation Date, plus Deferrals made to the Plan from the Valuation Date to the date of distribution. For all purposes under the Plan, the amount of any payment under this Article 5 shall be based on the amount of the Account Balance on the preceding Valuation Date, plus Plan Contributions made to the Plan from the Valuation Date to the date of distribution.~~

5.98 Retired Public Safety Officer Health Premiums. Pursuant to Code section 457(a)(3), Eligible Retired Public Safety Officers may elect an annual distribution of the lesser of the amount paid by such Eligible Retired Public Safety Officer, or \$3,000, for the payment of Qualified Health Insurance Premiums.

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ARTICLE 6

LOANS

This Plan does not permit loans from the Account Balances of Participants.

ARTICLE 7

ROLLOVERS AND TRANSFERS

7.1 Rollover Contributions to the Plan. A Participant who ~~is has enrolled an actively and is currently eligible to defer~~ Contributions under this Plan contributing Employee and who is entitled to receive an Eligible Rollover Distribution (as defined in Section 5.6(a) but excluding any after-tax employee contributions) from another Eligible Retirement Plan~~eligible retirement plan~~ (as defined in Code section 402(c)(8)) may request to have all or a portion of such Eligible Rollover Distribution paid to the Plan. The Administrator may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Code section 402 and to confirm that such plan is an Eligible Retirement Plan~~eligible retirement plan~~ within the meaning of Code section 402(c)(8).

The Plan shall establish and maintain for the Participant a separate account for any Eligible Rollover Distribution~~eligible rollover distribution~~ paid to the Plan from any Eligible Retirement Plan~~eligible retirement plan~~ that is not an eligible governmental plan under Code section 457(b). In addition, the Plan shall establish and maintain for the Participant a separate account for any Eligible Rollover Distribution~~eligible rollover distribution~~ paid to the Plan from any Eligible Retirement Plan~~eligible retirement plan~~ that is an eligible governmental plan under Code section 457(b).

7.2 Plan-to-Plan Transfers to the Plan. ~~Participants who are participants in another eligible governmental plan under Code section 457(b) may transfer assets to this Plan as provided in this Section 7.2, but only if the other plan provides for the direct transfer of each Participant's interest therein to the Plan. The Administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with Code section 457(e)(10) and Treas. Reg. section 1.457-10(b) and to confirm that the other plan is an eligible governmental plan as defined in Treas. Reg. section 1.457-2(f). The amount so transferred shall be credited to the Participant's Account Balance and shall be held, accounted for, administered and otherwise treated in the same manner as Deferrals by the Participant under the Plan, except that transferred amounts shall not be considered a Deferral under the Plan in determining the maximum deferral under Article 4.~~ Participants who are participants in another eligible governmental plan under Code section 457(b) may transfer assets to this Plan as provided in this Section 7.2, but only if the other plan provides for the direct transfer of each Participant's interest therein to the Plan. The Administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with Code section 457(e)(10) and Treas. Reg. section 1.457-10(b) and to confirm that the other plan is an eligible governmental plan as defined in Treas. Reg. section 1.457-2(f). The amount so transferred shall be credited to the Participant's Account Balance and shall be held, accounted for, administered and otherwise treated in the same manner as Plan Contributions under the Plan, except that transferred amounts shall not be considered a Plan Contribution under the Plan in determining the maximum deferral under Article 4.

7.3 Plan-to-Plan Transfers from the Plan. Participants and Beneficiaries may elect to have all or any portion of their Account Balance transferred to another eligible governmental plan within the meaning of Code section 457(b) and Treas. Reg. section 1.457-2(f). A transfer is permitted for a Participant under this Section 7.3 only if the Participant has had a Severance from Employment with the Employer and is an employee of the entity that

maintains the other eligible governmental plan. Further, a transfer is permitted only if the other eligible governmental plan provides for the acceptance of plan-to-plan transfers with respect to Participants and Beneficiaries and for each Participant or Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred.

Upon the transfer of assets under this Section 7.3, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 7.3 (e.g., to confirm that the receiving plan is an eligible governmental plan and to assure that the transfer is permitted under the receiving plan) or to effectuate the transfer pursuant to Treas. Reg. section 1.457-10(b).

- 7.4 Permissive Service Credit Transfers.** A Participant may elect to have any portion of his or her Account Balance transferred to a tax-qualified, governmental defined benefit plan (as defined in Code section 414(d)) that provides for the acceptance of plan-to-plan transfers for the purchase of permissive service credit (as defined in Code section 415(n)(3)(A)) under the receiving governmental defined benefit plan or a repayment to which Code section 415 does not apply by reason of Code section 415(k)(3). A transfer for such purpose may be made before the Participant has had a Severance from Employment.

ARTICLE 8

ADMINISTRATION

This Plan shall be administered by the Administrator, as directed by the Board, in accordance with Code section 457 and applicable regulations thereunder. The Board shall have the authority to make all discretionary decisions affecting the rights or benefits of the Participants which may be required in administration of this Plan. The Board's decisions shall be afforded the maximum deference permitted by applicable law. The Board shall exercise all rights, powers and duties granted to it by law and as necessary to administer the Plan. The Board shall approve or disapprove Investment Providers and may contract with Investment Providers to offer investment products under the Plan and provide services to the Plan as the Board deems appropriate.

The Board may delegate specific duties and responsibilities under the Plan, including by contracting with an administrative service provider to perform specific, nondiscretionary administrative functions under the Plan, including the maintenance of Participants' Account Balances, the provision of periodic reports on the status of each Account Balance, the disbursement of benefits on behalf of the Board in accordance with the terms of this Plan, and the maintenance of Beneficiary designations. The Board shall supervise the operation of the Plan, maintain records and supply information to the Participants or other parties.

ARTICLE 9

TRUST FUND

- 9.1 Establishment of Trust.** ~~The assets of the Plan, including all Employee deferred Compensation contributions, property, rights purchased with deferred Compensation, and all income attributable to such assets, are held in trust by the Board for the exclusive benefit of participating Employees and their Beneficiaries. The terms of the Trust Fund under this Section 9.1 must make it impossible, prior to the satisfaction of all liabilities with respect to the Accounts of Participants and Beneficiaries, for any part of the assets or income of the contracts to be used for, or diverted to, any purpose other than for the exclusive benefit of the Participants and Beneficiaries of the Plan and Trust. The Trust Fund shall be established pursuant to a written agreement that constitutes a valid trust under the laws of the State of North Dakota. The trust is intended to be exempt from taxation under Code sections 457(g) and 501(a).~~The assets of the Plan, including all Plan Contributions, property, rights purchased with Plan Contributions, and all income attributable to such assets, are held in insurance annuity contracts or custodial account contracts that have been entered into with one or more investment Providers by the Board that meet the exclusive benefit and other requirements of Code sections 457(g) and 401(f). Under the terms of the insurance annuity and custodial account contracts under this Section 9.1 it shall be impossible, prior to the satisfaction of all liabilities with respect to the Accounts of Participants and Beneficiaries, for any part of the assets or income of the contracts to be used for, or diverted to, any purpose other than for the exclusive benefit of the Participants and Beneficiaries of the Plan and Trust. For purposes of this Article 9, custodial accounts and annuity contracts shall be treated as held in trust so long as such custodial accounts and annuity contracts satisfy the requirements set forth in Treas. Reg. section 1.457-8(a)(3).
- 9.2 Trustee.** The Board shall be the Trustee for the Plan, unless the Board duly appoints another individual or entity to serve as trustee and such individual or entity agrees to act in that capacity hereunder. The Trustee shall ensure that all investments, amounts, property and rights held under the Trust Fund are held for the exclusive benefit of Participants and their Beneficiaries. The Trust Fund shall be liable to pay benefits under this Plan only to the extent of amounts that are available under the investment products selected by Participants and Beneficiaries, and neither the Board nor Employers shall be responsible for the investment or performance results of such investment products.
- 9.3 Specific Powers and Duties.** The Board shall:
- (a) Exercise exclusive authority to invest and manage assets of the Plan. However, the Board may permit Participants to direct and control the investment of their

contributions, together with accumulated earnings, among the investment options established by the Board.

- (b) Establish and adopt a statement of investment objectives and policies setting forth the manner and parameters of the investment of the assets of the Plan. The statement of investment objectives and policies shall be established in a manner consistent with the purposes of the Plan. The Board shall monitor the performance of the investments of the Plan to ensure such remain consistent with the investment policy established by the Board.
- (c) Establish an administrative budget sufficient to perform the duties under the Plan and to draw upon authorized sources to fund the budget.
- (d) Pay Plan benefits and related taxes from the assets of the Plan.
- (e) Obtain by employment or contract all the services necessary or appropriate to administer the Plan, including actuarial, auditing, custodial, investment, legal and recordkeeping services.
- (f) Procure and dispose of the goods and property of the Plan necessary for its proper administration.
- (g) Represent the Employers in all matters concerning the administration of the Plan.
- (h) Have full power and authority to adopt rules and regulations for the administration of the Plan and to interpret, alter, amend, or revoke any rules and rules and regulations so adopted.

9.4 **Accounting.** For accounting purposes, the Board will maintain a summary of the individual Account Balances of all Participants of the Plan whose benefits have not been annuitized. The accounting summary shall be identified as the general account of the North Dakota Section 457 ~~Companion~~ Plan and Trust and will reflect from time to time the total deferred liability of the Plan as well as the individual balances for all Participants of the Plan.

ARTICLE 10

MISCELLANEOUS

10.1 **Nonassignability.** Except as provided in Sections 10.2 and 10.3, the interests of each Participant or Beneficiary under this Plan are not subject to the claims of creditors. Participants and Beneficiaries shall not have any right to sell, assign, transfer or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be nonassignable and nontransferable. Nor shall any unpaid benefits be subject to attachment, garnishment or execution for the payment of any debts or judgments or be transferable by operation of law in the event of bankruptcy or insolvency of the Participant or any other person.

10.2 Domestic Relations Orders. A Participant's benefit may be subject to division under a domestic relations orders between the Participant and the alternate payee (as defined in Code section 414(p)(8)) if the order is determined to be a qualified domestic relations order (as defined in Code section 414(p)(1) and modified by Code section 414(p)(11)). The Administrator shall establish reasonable procedures for determining the qualified status of a domestic relations order and for effectuating distribution pursuant to a qualified domestic relations order. Distribution shall be made to an alternate payee in a single lump sum pursuant to a domestic relations order within 21 days after the later of the date the order is deemed to be qualified pursuant to the Plan policies and procedures or the date the order is entered by the court, without regard to whether the Participant is eligible for a distribution of benefits under the Plan.

10.3 IRS Levy. Notwithstanding Section 10.1, the Administrator may pay from a Participant's or Beneficiary's Account Balance the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

10.4 Mistaken Contributions. If any contribution is made to the Plan by a good faith mistake of fact, then within one year after payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, to the Employer.

10.5 Payments to Minors and Incompetents. If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Investment Provider, benefits will be paid to such person as the Investment Provider may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

10.6 Distributee Cannot be Located. ~~The Investment Provider shall make all reasonable attempts to determine the identity and address of a Participant or Participant's Beneficiary entitled to benefits under the Plan. If the Investment Provider is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Trust Fund shall continue to hold the benefits due such person. If the Administrator does not have current contact information for or is unable to identify a Participant or Beneficiary, the Administrator shall make reasonable attempts to determine the address and identity of the Participant or Beneficiary entitled to benefits under the Plan. A reasonable attempt to locate a missing or lost Participant or Beneficiary shall include (a) providing notice to the Participant at the Participant's last known address via certified mail; (b) determining whether the Employer's records or the records of another plan maintained by the Employer has a more current address for the Participant; (c) attempting to contact any named Beneficiary of the Participant; and (d) searching for the missing Participant via free electronic search tools, such as internet search engines, public record databases, obituaries, and social media. If such search methods are unsuccessful, based on the facts and circumstances,~~

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the Administrator may use other search methods, including using internet search tools, commercial locator services, credit reporting agencies, information brokers, investigation databases, and analogous services that may involve charges. The Administrator may charge missing Participants and Beneficiaries reasonable expenses for efforts to find them. In the event that the Administrator is unable to locate a Participant or Beneficiary entitled to benefits under the Plan, the Trustee shall continue to hold the benefits due to such person under the Plan in the Participant's Account.

- 10.7 Applicable Law.** This Plan and Trust shall be construed under the laws of the State of North Dakota with the intent that it meets the requirements of an eligible deferred compensation plan under Code section 457(b), as amended. The provisions of this Plan and Trust shall be interpreted whenever possible in conformity with the requirements of that Code section.
- 10.8 Gender and Number.**—The masculine pronoun, whenever used herein, shall include the feminine pronoun, and the singular shall include the plural, except where context requires otherwise.

ARTICLE 11

AMENDMENT OR TERMINATION

- 11.1 Amendment or Termination of the Plan.** The Board may terminate (with 60 days notice to the Employer and the Participants and Beneficiaries) or amend the provisions of this Plan at any time; provided, however, no termination or amendment shall affect the rights of a Participant or a Beneficiary to the receipt of benefits with respect to any Compensation deferred before termination or amendment, as adjusted for the investment experience of the Participant's or Beneficiary's Account Balance prior to or subsequent to the termination or amendment of the Plan. An Employer who has entered into agreement with the Board to participate in this Plan may, with 60 days notice to the Board and their Participants and Beneficiaries, terminate their participation agreement in a manner consistent with and in the same manner as described in the preceding sentence.
- 11.2 Distribution Upon Termination.**—Upon termination of the Plan, the Board shall direct distribution of the assets of the Plan and Trust Fund to Participants and Beneficiaries in a manner that is consistent with and satisfies the provisions of Section 5.2 as soon as administratively practicable after a resolution to terminate the Plan is adopted.

5380863v1/01640.083

July 10, 2018

**Amendment to the
North Dakota Section 457 Companion Plan and Trust**

~~WHEREAS, the North Dakota Section 457 Companion Plan and Trust (the "Plan") was established by the North Dakota Public Employees Retirement System Board (the "Board"); and~~

~~WHEREAS, pursuant to Section 11.1 of the Plan, the Board may amend the Plan; and~~

~~WHEREAS, the Board has determined that an amendment to the Plan is required to permit the mandatory distribution of certain small account balances under the Plan.~~

NOW THEREFORE, BE IT RESOLVED, that the following amendments to the Plan are adopted effective as of [DATE]:

1. ~~Section 5.1(d) is amended to replace the reference to "Section 5.5" with a reference "Section 5.5(a)".~~
2. ~~Section 5.1 is amended to add a new Section 5.1(e) after Section 5.1(d) to read, in its entirety, as follows:

(e) ~~The Participant has a Severance from Employment and is subject to the mandatory distribution of his Account Balance under Section 5.5(b).~~~~
3. ~~Section 5.5 is amended, to read in its entirety, as follows:~~

~~**5.5 Distribution of Small Account Balances.**~~

- ~~(a) ~~Upon proper written request to the Administrator, a Participant may elect to receive a distribution of his or her total Account Balance in a lump sum if the Account Balance does not exceed \$5,000 (or the dollar limit under Code section 411(a)(11), if greater) without regard to amounts attributable to rollover contributions under Section 7.1, no Deferrals have been made for the Participant during the two year period immediately prior to the date of distribution, and the Participant has not previously received a distribution of his or her Account Balance under this Section 5.5.~~~~
- ~~(b) ~~Notwithstanding any other provision of the Plan, in the event a Participant has a Severance from Employment with an Account Balance that does not exceed \$1,000, including amounts attributable to rollover contributions under Section 7.1, the following small account balance automatic distribution rules will apply:

(1) ~~Subject to any procedures adopted by the Administrator, including but limited to any advance notice of the application of the provisions of this Section 5.5(b) as may be prescribed by the Administrator, if the Participant shall not have elected, in accordance with Sections 5.2(b) and 5.6 and related procedures, to have such Account Balance paid directly to an Eligible Retirement Plan (as defined in Section 5.6(b)) specified by the Participant in a direct rollover or otherwise distributed from the Plan, then the Administrator will distribute such benefit in a lump sum, without the written consent of the Participant.~~

(2) ~~The provisions of this Section 5.5(b) shall apply to any Account Balance of a Participant who has had a Severance from Employment prior to the effective date of this Section 5.5(b).~~~~~~

~~IN WITNESS WHEREOF, this instrument has been executed by a duly authorized individual on July 10, 2018.~~

**NORTH DAKOTA PUBLIC EMPLOYEES
RETIREMENT SYSTEM BOARD**

By: _____
Scott A. Miller
NDPERS Executive Director

**~~Amendment Two to the
North Dakota Section 457 Companion Plan and Trust~~**

~~WHEREAS, the North Dakota Section 457 Companion Plan and Trust (the "Plan") was established by the North Dakota Public Employees Retirement System Board (the "Board");~~

~~WHEREAS, pursuant to Section 11.1 of the Plan, the Board may amend the Plan; and~~

~~WHEREAS, the Board has determined that a retroactive amendment to the Plan is required to permit employer contributions to the Plan.~~

NOW, THEREFORE, BE IT RESOLVED, that the following amendments to the Plan are adopted effective as of January 1, 1988, except as otherwise provided herein:

Section 2.1 shall be amended to read as follows:

~~**Account Balance.** The bookkeeping account maintained with respect to each Participant which reflects the value of the deferred Compensation credited to the Participant, including the Participant's Deferrals, Employer Contributions, the earnings or losses of the Trust Fund (net of Trust Fund expenses) allocable to the Participant, and any distribution made to the Participant or the Participant's Beneficiary. The Account Balance also includes any account established under Article 7 for rollover contributions and plan to plan transfers made for a Participant, the account established for a Beneficiary after the Participant's death, and any account established for an alternate payee (as defined in Code section 414(p)(8)).~~

Section 2.13 shall be amended to read as follows:

~~**Participant.** An individual who (i) is currently deferring Compensation, or who (ii) is entitled to an Employer Contribution, or (iii) has previously deferred Compensation under the Plan by salary reduction or received an Employer Contribution, and who has not received a distribution of his or her entire benefit under the Plan.~~

A new Section 2.20 shall be added to read as follows:

~~**Employer Contribution.** Any nonelective contribution and/or matching contribution made pursuant to an election of the Employer accepted by the Plan Administrator.~~

A new Section 2.21 shall be added to read as follows:

~~**Plan Contributions.** Deferrals and Employer Contributions made to the Plan.~~

A new Section 2.22 shall be added to read as follows:

~~**Eligible Retired Public Safety Officer.** An individual who has had a Severance from Employment as a public safety officer, as defined in Code section 402(f)(4)(C), with an Employer, by reason of either disability or attainment of the age set forth in N.D.C.C. § 54-52-17 at which the Participant has the right to retire and receive unreduced retirement benefits under N.D.C.C. Chapter 54-52.~~

A new Section 2.23 shall be added to read as follows:

~~**Qualified Health Insurance Premiums.** Premiums for coverage for an Eligible Retired Public Safety Officer, his spouse, and/or his dependents, as defined in Code section 152, by an accident or health plan or qualified long term care insurance contract, as defined in Code section 7702B(b).~~

The title of Section 3.2 shall be amended to read as follows:

Election Required for Deferrals.

Section 3.3 shall be amended to read as follows:

Commencement of Participation. ~~An Employee shall become a Participant as soon as administratively practicable following the date the Employee files a participation election pursuant to Section 3.2 or becomes eligible for Employer Contributions under Section 3.9. An election under Section 3.2 shall become effective no earlier than the calendar month following the month in which the election is made, or such other date as may be permitted under the Code.~~

A new Section 3.9 shall be added to read as follows:

Employer Contributions. ~~A Participant shall become entitled to Employer Contributions as elected by the Employer and communicated to the Plan Administrator in a form acceptable to the Administrator. An Employee who is not a Participant shall become a Participant immediately upon becoming entitled to an Employer Contribution pursuant to the Employer's election, regardless of whether such Employee elects to make Deferrals.~~

Section 4.3 shall be revised to read as follows:

Basic Annual Limitation. ~~The maximum annual amount of Plan Contributions for any calendar year shall not exceed the lesser of (1) the Applicable Dollar Amount or (2) the Participant's Includible Compensation for the calendar year. The Applicable Dollar Amount is the amount set forth under Code Section 457(e)(15), as indexed in accordance with Code section 415(d).~~

Section 4.3 shall be revised to read as follows:

Special Section 457 Catch-up Limitation. ~~If the applicable year is one of the Participant's last three consecutive calendar years ending before the year in which the Participant attains Normal Retirement Age and the amount determined under this Section 4.3 exceeds the amount computed under Section 4.1 and 4.2, then the annual limit on Plan Contributions under this Article 4 shall be the lesser of:~~

(a) ~~An amount equal to two times the Applicable Dollar Amount under Section 4.1 for such year; or~~

(b) ~~The sum of:~~

(1) ~~An amount equal to the aggregate limit under Section 4.1 for the current year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Employee under the Plan, minus the aggregate amount of Plan Contributions under the Plan for the Participant during such years, plus~~

(2) ~~An amount equal to the aggregate limit under Code section 457(b)(2) for each prior calendar year beginning after December 31,~~

1978 and before January 1, 2002 during which the Participant was an Employee (determined without regard to Sections 4.2 and 4.3); minus the aggregate contributions to Pre-2002 Coordination Plans (as defined in Section 4.4(c)) for such years.

However, in no event can the deferred amount be more than the Participant's Compensation for the year.

Section 4.5 shall be revised to read as follows:

Correction of Excess Deferrals. If the annual amount of Plan Contributions on behalf of a Participant for any calendar year exceeds the limitations described in this Article 4, or the annual amount of Plan Contributions on behalf of a Participant for any calendar year exceeds the limitations described in this Article 4 when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under Code section 457(b) for which the Participant provides information that is accepted by the Administrator, then the annual amount of Plan Contributions, to the extent in excess of the applicable limitation ("Excess Deferral"), and adjusted for any income or loss in value, if any, allocable thereto, shall be distributed to the Participant.

Effective December 12, 1994 (except as otherwise set forth herein), Section 4.6 shall be revised to read as follows:

Protection of Persons Who Serve in a Uniformed Service. An Employee whose employment is interrupted by qualified military service under Code section 414(u) or who is on a leave of absence for qualified military service under Code section 414(u) may elect to make additional Deferrals upon resumption of employment with the Employer equal to the maximum amount of annual Deferrals that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for five years following the resumption of employment, or if sooner, for a period equal to three times the period of the interruption or leave.

If such Participant elects to make such additional Deferrals, then the Employer shall make up the related matching Employer Contributions which would have been required had such Deferrals actually been made during the period of qualified military service. The make up contributions by the Employer shall be made as soon as practicable after the Participant makes such make up contributions.

If the Participant timely resumes employment in accordance with USERRA after a qualified military leave, the Employer shall make any nonelective Employer Contributions that would have been made if the Participant had remained employed during the Participant's qualified military service. Such contributions must be made no later than ninety (90) days after the date of such reemployment or when contributions are normally due for the year in which the qualified military service was performed, if later.

~~In determining the amount of Deferrals and Employer Contributions, a Participant shall be treated as receiving compensation from the Employer during such period of qualified military service equal to: (i) the compensation the Participant would have received during such period if the Participant were not in qualified military service, determined based on the rate of pay the Participant would have received from the Employer but for the absence during the period of qualified military service; or (ii) if the compensation the Participant would have received during such period is not reasonably certain, the Participant's average compensation from the Employer during the twelve (12) month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).~~

~~In addition, effective for deaths occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Code section 414(u)(5)), this Plan shall provide all applicable benefits required in accordance with Code section 401(a)(37), but the provisions of Code section 414(u)(9) shall not apply to this Plan.~~

Section 5.5(a) shall be revised to read as follows:

~~Upon proper written request to the Administrator, a Participant may elect to receive a distribution of his or her total Account Balance in a lump sum if the Account Balance does not exceed \$5,000 (or the dollar limit under Code section 411(a)(11), if greater) without regard to amounts attributable to rollover contributions under Section 7.1, no Plan Contributions have been made for the Participant during the two year period immediately prior to the date of distribution, and the Participant has not previously received a distribution of his or her Account Balance under this Section 5.5.~~

Section 5.7 shall be revised to read as follows:

~~**Amount of Account Balance.** For all purposes under the Plan, the amount of any payment under this Article 5 shall be based on the amount of the Account Balance on the preceding Valuation Date, plus Plan Contributions made to the Plan from the Valuation Date to the date of distribution.~~

A new Section 5.8 shall be added to read as follows:

~~**Retired Public Safety Officer Health Premiums.** Pursuant to Code section 457(a)(3), Eligible Retired Public Safety Officers may elect an annual distribution of the lesser of the amount paid by such Eligible Retired Public Safety Officer, or \$3,000, for the payment of Qualified Health Insurance Premiums. The Plan must pay any such distribution directly to an insurer or to the administrator of a self-insured plan.~~

Section 7.2 shall be revised to read as follows:

~~**Plan to Plan Transfers to the Plan.** Participants who are participants in another eligible governmental plan under Code section 457(b) may transfer assets to this Plan as provided in this Section 7.2, but only if the other plan provides for the direct~~

~~transfer of each Participant's interest therein to the Plan. The Administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with Code section 457(e)(10) and Treas. Reg. section 1.457-10(b) and to confirm that the other plan is an eligible governmental plan as defined in Treas. Reg. section 1.457-2(f). The amount so transferred shall be credited to the Participant's Account Balance and shall be held, accounted for, administered and otherwise treated in the same manner as Plan Contributions under the Plan, except that transferred amounts shall not be considered a Plan Contribution under the Plan in determining the maximum deferral under Article 4.~~

Section 9.1 shall be revised to read as follows:

~~**Establishment of Trust.** The assets of the Plan, including all Plan Contributions, property, rights purchased with Plan Contributions, and all income attributable to such assets, are held in insurance annuity contracts or custodial account contracts that have been entered into with one or more investment Providers by the Board that meet the exclusive benefit and other requirements of Code sections 457(g) and 401(f). Under the terms of the insurance annuity and custodial account contracts under this Section 9.1 it shall be impossible, prior to the satisfaction of all liabilities with respect to the Accounts of Participants and Beneficiaries, for any part of the assets or income of the contracts to be used for, or diverted to, any purpose other than for the exclusive benefit of the Participants and Beneficiaries of the Plan and Trust. For purposes of this Article 9, custodial accounts and annuity contracts shall be treated as held in trust so long as such custodial accounts and annuity contracts satisfy the requirements set forth in Treas. Reg. section 1.457-8(a)(3).~~

~~IN WITNESS WHEREOF, this instrument has been executed by a duly authorized individual on this _____ day of _____, 2019.~~

NORTH DAKOTA PUBLIC EMPLOYEES
RETIREMENT SYSTEM BOARD

By: _____
Scott A. Miller
NDPERS Executive Director

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM DEFERRED
COMPENSATION 457(b) COMPANION PLAN STATE DEFERRED COMPENSATION
PROGRAM

SECTION 457 COMPANION PLAN AND TRUST

Amended and Restated effective July 1, 2015, July October 1, 2024

Revised: 9/10/2024

Adoption Resolution

Resolved, that effective ~~July-October~~ 1, 20~~24~~¹⁵, the State of North Dakota has ~~adopted the attached amended and~~ restated the Section 457 Companion Plan. The Plan is intended to satisfy the requirements of Section 457(b) of the Internal Revenue Code of 1986, as amended, and its associated regulations.

Signature

Date

Title

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM

DEFERRED COMPENSATION 457(b) SECTION 457 COMPANION PLAN

ARTICLE 1

PURPOSE

The North Dakota Public Employees Retirement System Board ("Board") hereby amends, reestablishes and reaffirms the Section 457 Companion Plan and Trust ("the Plan"). The Plan consists of the provisions set forth in this document. The primary purpose of this Plan is to retain present employees and attract new employees for participating employers by providing increased retirement income and other deferred benefits to employees and their beneficiaries in accordance with the provisions of section 457 of the Internal Revenue Code and amendments thereto and by providing additional investment opportunities that are not otherwise available under the North Dakota Section 457 Deferred Compensation Plan. This Plan shall be an agreement solely between the employer and participating employees. The Plan is intended to satisfy the requirements of an eligible deferred compensation plan under Internal Revenue Code section 457(b) and shall be interpreted as such.

Nothing contained in this Plan shall be deemed to constitute an employment contract or agreement for services between participating employees and their employer nor shall it be deemed to give a participating employee any right to be retained in the employ of, or under contract to, an employer. Nothing herein shall be construed to modify the terms of any employment contract or agreement for services between participating employees and their employer as this Plan is intended to be a supplement thereto.

ARTICLE 2

DEFINITIONS

- 2.1 Account Balance. ~~The bookkeeping account maintained with respect to each Participant which reflects the value of the deferred Compensation credited to the Participant, including the Participant's Deferrals, Employer Contributions, the earnings or losses of the Trust Fund (net of Trust Fund expenses) allocable to the Participant, and any distribution made to the Participant or the Participant's Beneficiary. The Account Balance also includes any account established under Article 7 for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after the Participant's death, and any account established for an alternate payee (as defined in Code section 414(p)(8)).~~ ~~The bookkeeping account maintained with respect to each Participant which reflects the value of the deferred Compensation credited to the Participant, including the Participant's Deferrals, the earnings or losses of the Trust Fund (net of Trust Fund expenses) allocable to the Participant, and any distribution made to the Participant or the Participant's Beneficiary. The Account Balance also includes any account established under Article 7 for rollover contributions and plan to plan transfers made for a Participant,~~

~~the account established for a Beneficiary after the Participant's death, and any account established for an alternate payee (as defined in Code section 414(p)(8)).~~

- 2.2 **Administrator.** The North Dakota Public Employees Retirement System Board shall serve as the Plan's Administrator; however, the Administrator may designate an entity, person or persons as an administrative services provider to carry out certain nondiscretionary, administrative functions under the Plan, as described in Article 8.
- 2.3 **Beneficiary.** The person or persons designated by the Participant who is entitled to receive benefits under the Plan after the death of a Participant. If no person is designated by the Participant or if the designated Beneficiary predeceases the Participant, the Participant's estate shall be the Beneficiary.
- 2.4 **Board.** The North Dakota Public Employees Retirement System Board.
- 2.5 **Code.** The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.
- 2.6 **Compensation.** All cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses and overtime pay, that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employee's gross income for the calendar year but for a compensation reduction election under section 125, 132(f), 401(k), 403(b) or 457(b) of the Code. Compensation also includes amounts paid to a Participant who has had a Severance from Employment, other than retirement or severance incentive payments, to the extent such amounts are paid by the later of 2½ months after the Participant's Severance from Employment or the end of the calendar year in which the Severance from Employment occurred, in accordance with Treas. Reg. section 1.457-(4)(d)(1) so long as the Employee would have been able to use the leave if employment had continued. Effective for years beginning after December 31, 2008, Compensation shall include military differential wage payments, as defined in Code section 3401(h).
- 2.7 **Deferral.** The amount of Compensation deferred in any calendar year, ~~including unused annual leave, sick leave and compensation leave, compensation time and back pay, but excluding amounts payable under any bona fide vacation leave, sick leave, compensation time, severance pay, disability pay or death benefit plans of the Employer.~~
- 2.8 **Eligible Retired Public Safety Officer.** An individual who has had a Severance from Employment as a public safety officer, as defined in Code section 402(l)(4)(C), with an Employer, by reason of either disability or attainment of the age set forth in N.D.C.C. § 54-52-17 at which the Participant has the right to retire and receive unreduced retirement benefits under N.D.C.C. Chapter 54-52,
- 2.89 **Employee.** Each person, whether appointed or elected, employed by the Employer as a common law employee who performs services for the Employer for which Compensation

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is paid, and who has been determined by the Employer to be eligible to participate in the Plan in accordance with Section 3.1. Employee does not include an independent contractor.

2.910 Employer. The State of North Dakota, which includes any of the State’s departments, divisions, agencies or institutions, as well as any city, county, or other political subdivision, agency or instrumentality of the State, within the meaning of section 414(d) of the Code ~~and section 3(32) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”)~~ that enters into an agreement with the Board to participate in the Plan.

2.11 Employer Contribution. Any nonelective contribution and/or matching contribution made pursuant to an election of the Employer accepted by the Plan Administrator.

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2.102 Includible Compensation. An Employee’s actual wages in box 1 of Form W-2 for a year for services to the Employer, but subject to ~~at the~~ maximum amount of \$200,000 ~~(or such higher maximum as may apply~~ under Code section 401(a)(17)), and increased (up to the dollar maximum) by any compensation reduction election under section 125, 132(f), 401(k), 403(b) or 457(b) of the Code. Effective for years beginning after December 31, 2008, Compensation shall include military differential wage payments, as defined in Code section 3401(h). Includible Compensation is determined without regard to any community property laws.

2.134 Investment Provider. Any organization that has been approved by the Board to provide investment products under the Plan.

2.124 Normal Retirement Age. Age 70 ½, or if later, the date the employee incurs a Severance from Employment. For purposes of the special section 457 catch-up limitation under Section 4.3, a Participant may designate, in writing, a Normal Retirement age that is earlier than age 70 ½ but not earlier than the earliest age at which the Participant has a right to retire and receive, under the applicable defined benefit pension plan of the Employer, immediate retirement benefits without actuarial or other reduction because of retirement before some later specified age. If the Participant is not eligible to receive benefits under a defined benefit pension plan maintained by the Employer, the Participant’s designated Normal Retirement Age may not be earlier than age 55.

2.153 Participant. An individual who (i) is currently deferring Compensation, or who (ii) is entitled to an Employer Contribution, or (iii) has previously deferred Compensation under the Plan by salary reduction or received an Employer Contribution, and who has not received a distribution of his or her entire benefit under the Plan.~~An individual who is currently deferring Compensation, or who has previously deferred Compensation under the Plan by salary reduction and who has not received a distribution of his or her entire benefit under the Plan.~~

2.164 Plan. The North Dakota Public Employees Retirement System Deferred Compensation 457(b) Companion Plan, as amended or restated from time to time.

2.17 Plan Contributions. Deferrals and Employer Contributions made to the Plan.

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2.158 Plan Year. The calendar year.

2.19 Qualified Health Insurance Premiums. Premiums for coverage for an Eligible Retired Public Safety Officer, his spouse, and/or his dependents, as defined in Code section 152, by an accident or health plan or qualified long-term care insurance contract, as defined in Code section 7702B(b).

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2.2016 Required Beginning Date. April 1 of the calendar year following the later of the calendar year in which the Participant ~~retires~~ incurs a Severance from Employment or reaches the required minimum distribution age under Code Section 401(a)(9).

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2.217 Severance from Employment. ~~The date 31~~Thirty-one days after the Employee dies, retires or otherwise has a severance from employment with the Employer, as determined by the Administrator (and taking into account guidance issued under the Code).

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2.221718 Trust Fund. –The trust fund created under and subject to the provisions in Article 9.

2.231819 Trustee. The Board, or such other trustee duly appointed and currently serving in accordance with the provisions of Article 9.

2.19240 Valuation Date. Each business day or such other valuation date as specified by the Investment Provider for a particular investment product, or as otherwise designated by the Board.

ARTICLE 3

PARTICIPATION AND CONTRIBUTIONS

3.1 Eligibility. Each Employee who works a minimum of 20 hours per week for 20 or more weeks per year, who is at least age 18 and who fills a permanent position that is regularly funded and not of limited duration shall be eligible to participate in the Plan and may defer Compensation hereunder immediately upon satisfying the eligibility requirements under this Section 3.1.

3.2 Election Required for Participation Deferrals. An Employee may elect to become a Participant by executing an election to defer a portion of his or her Compensation (and have that amount contributed as Deferrals on his or her behalf) and submitting it to the Administrator. This participation election shall be made pursuant to a deferral agreement under which the Employee agrees to be bound by all the terms and conditions of the Plan. The Administrator may establish a minimum deferral amount, and may change such minimums from time to time. Subject to the limits of Article 4, a Participant must currently defer a minimum of \$25 per month. The participation election shall include selection of an Investment Provider. Any such election shall remain in effect until a new election is submitted.

3.3 Commencement of Participation. ~~An Employee shall become a Participant as soon as administratively practicable following the date the Employee files a participation election pursuant to Section 3.2 or becomes eligible for Employer Contributions under Section 3.9. An election under Section 3.2 shall become effective no earlier than the calendar month~~

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~~following the month in which the election is made, or such other date as may be permitted under the Code. An Employee shall become a Participant as soon as administratively practicable following the date the Employee files a participation election pursuant to Section 3.2. Such election shall become effective no earlier than the calendar month following the month in which the election is made, or such other date as may be permitted under the Code.~~

- 3.4 Information Provided by the Participant.** Each Employee enrolling in the Plan should provide to the Administrator at the time of initial enrollment, and later if there are any changes, any information necessary or advisable for the Administrator to administer the Plan, including, without limitation, whether the Employee is a participant in any other eligible plan under Code section 457(b).
- 3.5 Contributions Made Promptly.** Deferrals by the Participant under the Plan shall be transferred to the Trust Fund within a period that is not longer than is reasonable for the proper administration of the Participant's Account Balance.
- 3.6 Amendment of Deferral Election.** Subject to other provisions of the Plan, a Participant may at any time revise his or her participation election, including a change of the amount of his or her Deferrals, as well as his or her investment direction and his or her designated Beneficiary through the Investment Provider(s). However, the Board retains the authority to limit the frequency of changes to the amount of Deferrals, applied uniformly to all Employees, as it deems appropriate. Unless the election specifies a later effective date, a change in the amount of Deferrals shall take effect as of the first day of the next following month or as soon as administratively practicable if later. A change in the investment direction shall take effect as of the date provided by the Administrator on a uniform basis for all Employees. A change in the Beneficiary designation shall take effect when the election is accepted by the Investment Provider.
- 3.7 Leave of Absence.** Unless an election is otherwise revised, if a Participant is absent from work by leave of absence, Deferrals under the Plan shall continue to the extent that Compensation continues. If a Severance from Employment is determined to have occurred, the Participant may elect to receive a distribution of benefits as provided for in Article 5.
- 3.8 Disability.** A disabled Participant may elect to make Deferrals during any portion of the period of his or her disability to the extent that he or she has actual Compensation (not imputed compensation and not disability benefits) from which to make contributions to the Plan and has not had a Severance from Employment.
- 3.9 Employer Contributions.** A Participant shall become entitled to Employer Contributions as elected by the Employer and communicated to the Plan Administrator in a form acceptable to the Administrator. An Employee who is not a Participant shall become a Participant immediately upon becoming entitled to an Employer Contribution pursuant to the Employer's election, regardless of whether such Employee elects to make Deferrals.

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ARTICLE 4

LIMITATIONS ON AMOUNTS DEFERRED

4.1 Basic Annual Limitation. ~~The maximum annual amount of Plan Contributions for any calendar year shall not exceed the lesser of (1) the Applicable Dollar Amount or (2) the Participant's Includible Compensation for the calendar year. The Applicable Dollar Amount is the amount set forth under Code Section 457(e)(15), as indexed in accordance with Code section 415(d). The maximum annual amount of Deferrals under the Plan for any calendar year shall not exceed the lesser of (1) the Applicable Dollar Amount or (2) the Participant's Includible Compensation for the calendar year. The Applicable Dollar Amount is the amount set forth under Code section 457(e)(15), as indexed in accordance with Code section 415(d).~~

4.2 Age 50 Catch-up Contributions. A Participant who will attain age 50 or more by the end of the calendar year is permitted to make an additional annual amount of Deferrals, up to the maximum age 50 catch-up Deferrals for the year. The maximum annual dollar amount of the age 50 catch-up Deferrals for a year is the amount set forth under Code section 414(v)(2), as indexed in accordance with Code section 414(v)(2)(C) and Code section 415(d).

4.3 Special Section 457 Catch-up Limitation. ~~If the applicable year is one of the Participant's last three consecutive calendar years ending before the year in which the Participant attains Normal Retirement Age and the amount determined under this Section 4.3 exceeds the amount computed under Section 4.1 and 4.2, then the annual limit on Deferrals under this Article 4 shall be the lesser of:~~

~~(a) An amount equal to two times the Applicable Dollar Amount under Section 4.1 for such year; or~~

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~~(b) The sum of:~~

~~(1) An amount equal to the aggregate limit under Section 4.1 for the current year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Employee under the Plan, minus the aggregate amount of Compensation that the Participant deferred under the Plan during such years, plus~~

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~~(2) An amount equal to the aggregate limit under Code section 457(b)(2) for each prior calendar year beginning after December 31, 1978 and before January 1, 2002 during which the Participant was an Employee (determined without regard to Sections 4.2 and 4.3), minus the aggregate contributions to Pre 2002 Coordination Plans (as defined in Section 4.4(e)) for such years.~~

~~However, in no event can the deferred amount be more than the Participant's Compensation for the year. If the applicable year is one of the Participant's last three consecutive calendar years ending before the year in which the Participant attains Normal Retirement Age and the amount determined under this Section 4.3 exceeds the amount computed under Section 4.1 and 4.2, then the annual limit on Plan Contributions under this Article 4 shall be the lesser of:~~

~~(a) An amount equal to two times the Applicable Dollar Amount under Section 4.1 for such year; or~~

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(b) The sum of:

- (1) An amount equal to the aggregate limit under Section 4.1 for the current year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Employee under the Plan, minus the aggregate amount of Plan Contributions under the Plan for the Participant during such years, plus
- (2) An amount equal to the aggregate limit under Code section 457(b)(2) for each prior calendar year beginning after December 31, 1978 and before January 1, 2002 during which the Participant was an Employee (determined without regard to Sections 4.2 and 4.3), minus the aggregate contributions to Pre-2002 Coordination Plans (as defined in Section 4.4(c)) for such years.

However, in no event can the deferred amount be more than the Participant's Compensation for the year.

4.4 Special Rules. For purposes of this Article 4, the following rules shall apply:

- (a) If the Participant is or has been a participant in one or more other eligible plans within the meaning of Code section 457(b), then the Plan and all such other plans shall be considered one plan for the purposes of applying the limitation in this Article 4. For this purpose, the Administrator shall take into account any other such eligible plan maintained by the Employer and shall also take into account any other such eligible plan for which the Administrator receives from the Participant sufficient information concerning his or her participation in such other plan.
- (b) In applying Section 4.3, a year shall be taken into account only if the Participant was eligible to participate in the Plan during all or a portion of the year and Compensation deferred, if any, under the Plan was subject to the maximum amount described in Section 4.1 or any other plan limit required by Code section 457(b).
- (c) For purposes of Section 4.3(b)(2), the term “contributions to Pre-2002 Coordination Plans” means any employer contribution, salary reduction or elective contribution under any other eligible Code section 457(b) plan, or a salary reduction or elective contribution under any other eligible Code section 401(k) qualified cash or deferred arrangement, Code section 402(h)(1)(B) simplified employee pension (SARSEP), Code section 403(b) annuity contract and Code section 408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in Code section 501(c)(18), including plans, arrangements or accounts maintained by the Employer or any employer for whom the Participant performed services. —However, the contributions for any calendar year are only taken into account for purposes of Section 4.3(b)(2) to the extent that the total of such contributions does not exceed the aggregate limit referred to in Code section 457(b)(2) for that year.

- (d) For purposes of Sections 4.1, 4.2 and 4.3, an individual is treated as not having deferred compensation under a plan for a prior taxable year to the extent Excess Deferrals (as defined in Section 4.5) under the plan are distributed. To the extent that the combined deferrals for pre-2002 years exceeded the maximum deferral limitations, the amount is treated as an Excess Deferral for those prior years.

4.5 Correction of Excess Deferrals. If the annual amount of Plan Contributions on behalf of a Participant for any calendar year exceeds the limitations described in this Article 4, or the annual amount of Plan Contributions on behalf of a Participant for any calendar year exceeds the limitations described in this Article 4 when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under Code section 457(b) for which the Participant provides information that is accepted by the Administrator, then the annual amount of Plan Contributions, to the extent in excess of the applicable limitation ("Excess Deferral"), and adjusted for any income or loss in value, if any, allocable thereto, shall be distributed to the Participant.~~If the annual amount of Deferrals on behalf of a Participant for any calendar year exceeds the limitations described in this Article 4, or the annual amount of Deferrals on behalf of a Participant for any calendar year exceeds the limitations described in this Article 4 when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under Code section 457(b) for which the Participant provides information that is accepted by the Administrator, then the annual amount of Deferrals, to the extent in excess of the applicable limitation ("Excess Deferral"), and adjusted for any income or loss in value, if any, allocable thereto, shall be distributed to the Participant.~~

4.6 Protection of Persons Who Serve in a Uniformed Service.~~An Employee whose employment is interrupted by qualified military service under Code section 414(u) or who is on a leave of absence for qualified military service under Code section 414(u) may elect to make additional Deferrals upon resumption of employment with the Employer equal to the maximum annual Deferrals that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for five years following the resumption of employment, or if sooner, for a period equal to three times the period of the interruption or leave.~~

~~In addition, effective for deaths occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Code section 414(u)(5)), this Plan shall provide all applicable benefits required in accordance with Code section 401(a)(37), but the provisions of Code section 414(u)(9) shall not apply to this Plan. An Employee whose employment is interrupted by qualified military service under Code section 414(u) or who is on a leave of absence for qualified military service under Code section 414(u) may elect to make additional Deferrals upon resumption of employment with the Employer equal to the maximum amount of annual Deferrals that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for five years following the resumption of employment, or if sooner, for a period equal to three times the period of the interruption or leave.~~

If such Participant elects to make such additional Deferrals, then the Employer shall make up the related matching Employer Contributions which would have been required had such Deferrals actually been made during the period of qualified military service. The make-up contributions by the Employer shall be made as soon as practicable after the Participant makes such make-up contributions.

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If the Participant timely resumes employment in accordance with USERRA after a qualified military leave, the Employer shall make any nonelective Employer Contributions that would have been made if the Participant had remained employed during the Participant's qualified military service. Such contributions must be made no later than ninety (90) days after the date of such reemployment or when contributions are normally due for the year in which the qualified military service was performed, if later.

In determining the amount of Deferrals and Employer Contributions, a Participant shall be treated as receiving compensation from the Employer during such period of qualified military service equal to: (i) the compensation the Participant would have received during such period if the Participant were not in qualified military service, determined based on the rate of pay the Participant would have received from the Employer but for the absence during the period of qualified military service; or (ii) if the compensation the Participant would have received during such period is not reasonably certain, the Participant's average compensation from the Employer during the twelve (12) month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

In addition, effective for deaths occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Code section 414(u)(5)), this Plan shall provide all applicable benefits required in accordance with Code section 401(a)(37), but the provisions of Code section 414(u)(9) shall not apply to this Plan.

ARTICLE 5

DISTRIBUTION OF BENEFITS

5.1 Benefit Distributions. A Participant's Account Balance may not be paid to the Participant (or, if applicable, the Participant's Beneficiary), until one of the following events has occurred:

- (a) the Participant's Severance from Employment;
- (b) the Participant's death;
- (c) an unforeseeable emergency, within the meaning of and subject to Section 5.4;
- (d) the Participant elects a small Account Balance distribution in accordance with Section 5.5(a).

(e) The Participant has a Severance from Employment and is subject to the mandatory distribution of his Account Balance under Section 5.5(b).

If a Participant has a separate account attributable to rollover contributions to the Plan pursuant to Section 7.1, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account.

5.2 **Benefit Distribution Election.**

- (a) A Participant may elect to commence distribution of his or her Account Balance any time after Severance of Employment by filing an application for a distribution with the Administrator. However, in no event may distribution of benefits to the Participant commence later than April 1st of the year following the later of the year in which the Participant attains the Required Beginning Date, 70 ½ or the year in which the Participant severs employment with the Employer. The amount of such required minimum distribution shall be determined in accordance with Code section 401(a)(9) and the regulations thereunder, as applicable to a governmental plan as defined in Code section 414(d).
- (b) A Participant (or, if applicable, the Participant's Beneficiary) may elect a distribution in the form of a lump sum or systematic distribution option as permitted under the terms of the investment product(s), or may elect a direct rollover to an Eligible Retirement Plan~~eligible retirement plan~~ as described in Section 5.6. ~~In addition, the Participant's entire interest in the Plan must be distributed over the life of the Participant or the lives of the Participant and designated Beneficiary over a period not extending beyond the life expectancy of the Participant or the life expectancy of the Participant and designated Beneficiary.~~ Notwithstanding any other provision of the Plan, the elected form of distribution shall comply with required distribution rules under Code section 401(a)(9) and the regulations thereunder, as applicable to a governmental plan as defined in Code section 414(d), including any minimum distribution incidental benefit requirements.
- (c) Effective in 2009, notwithstanding subsections (a) and (b) above, a Participant (or, if applicable, the Participant's Beneficiary) who would have been required to receive required minimum distributions for 2009 but for the enactment of Code section 401(a)(9)(H) ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's designated Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will receive those distributions for 2009 unless the Participant or Beneficiary chooses not to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence. In addition, notwithstanding Section 5.6(a)(3) of the Plan, and solely for the purpose of applying the direct rollover provisions of the Plan, the Board shall only offer direct rollover of 2009 RMDs and Extended 2009 RMDs that are

received by a Participant or Beneficiary to the extent such distributions that would be Eligible Rollover Distributions without regard to Code section 401(a)(9)(H).

(d) Effective 2020, notwithstanding any other provisions of this Plan, a Participant who would have been required to receive required minimum distributions in 2020 (or paid in 2021 for the 2020 calendar year for a recipient with a Required Beginning Date of April 1, 2021) but for the enactment of section 401(a)(9)(I) of the Code ("2020 RMD"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2020 RMDs, or (2) one or more payments (that include the 2020 RMDs) in a series of substantially equal periodic payments made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancies) of the Participant and the Participant's designated Beneficiary, or for a period of at least 10 years ("Extended 2020 RMDs"), will receive those 2020 distributions unless the Participant or Beneficiary elects not to receive such distribution. Notwithstanding the preceding sentence, a Participant or Beneficiary will be given an opportunity to make an election as to whether or not to receive such 2020 RMD distributions.

5.3 Death Benefit Distributions prior to January 1, 2022. For Participant deaths prior to January 1, 2022, this Section 5.3 shall apply. Upon the death of the Participant, the Participant's Beneficiary may elect to receive the Participant's Account Balance in any form permitted under Section 5.2. However, if the Beneficiary of the Participant is the Participant's estate, the benefit will be payable only in a single lump sum. Such Beneficiary may also designate his or her own beneficiary, or if none is designated, the Beneficiary's estate will receive any benefits payable upon the Beneficiary's death. Notwithstanding any other provision in the Plan to the contrary, distributions upon the death of a Participant shall be made in accordance with the following requirements and shall otherwise comply with Code section 401(a)(9) and the regulations thereunder, as applicable to a governmental plan as defined in Code section 414(d), including any minimum distribution incidental benefit requirements.

- (a) If the designated Beneficiary is not the Participant's surviving spouse, distributions after the Participant's death must either (1) begin to be distributed no later than December 31st of the calendar year immediately following the year of the Participant's death, payable over a period not to exceed the Beneficiary's life expectancy; or (2) be distributed no later than December 31st of the calendar year containing the fifth anniversary of the Participant's death.
- (b) If the designated Beneficiary is the Participant's surviving spouse, distributions after the Participant's death must begin to be distributed by the later of December 31st of the calendar year immediately following the year of the Participant's death or December 31st of the calendar year in which the Participant would have attained age seventy-two (72) (or age 70 ½ with respect to a Participant who was born before July 1, 1949), or other applicable age under Code section 401(a)(9). ~~RMD-age 70 ½.~~ Payments to a surviving spouse must be made over a period not to exceed the surviving spouse's life expectancy. Alternatively, the surviving spouse may elect to receive a total distribution of the Participant's Account Balance by no later than

December 31st of the calendar year containing the fifth anniversary of the Participant's death.

- (c) If required minimum distributions under Code section 401(a)(9) have RMD hasdistributions have begun prior to the death of the Participant, the remaining portion of the Participant's Account Balance shall be distributed to the Beneficiary at least as rapidly as under the method of distribution in effect prior to the Participant's death.

5.4 Death Benefit Distributions After December 31, 2021. Notwithstanding any contrary provisions, effective for Participant deaths after December 31, 2021, the following distribution provisions in this section 5.4 shall take effect; provided, however, that such provisions shall be subject to any regulations or other guidance issued under the SECURE Act.

a. Death with a Designated Beneficiary. If the Participant dies before the distribution of his or her entire account (regardless of whether any distributions had begun before the Participant's death) and the Participant has a designated Beneficiary:

1. The entire account shall be distributed to the designated Beneficiary by December 31 of the calendar year containing the tenth anniversary of the Participant's death.

2. Notwithstanding the paragraph above, if the designated Beneficiary is surviving spouse, then the surviving spouse may elect for the Participant's account(s) to be distributed (i) by December 31 of the calendar year containing the tenth (10th) anniversary of the Participant's death, or (ii) the later of December 31 of the calendar year immediately following the calendar year in which the Participant died or December 31 of the calendar year in which the Participant would have attained age seventy-two (72) (or age 70 ½ with respect to a Participant who was born before July 1, 1949), or other applicable age under Code section 401(a)(9).

3. For calendar years beginning after December 31, 2023, if the designated Beneficiary is the Participant's surviving spouse, the surviving spouse may elect to be treated as if he or she were the Participant, pursuant to Code Section 401(a)(9)(B)(iv).

b. Death without a Designated Beneficiary. If the Participant dies before distributions of his or her account begins and the Participant has no designated Beneficiary, the Participant's account under the Plan shall be distributed by December 31 of the calendar year containing the fifth (5th) anniversary of the Participant's death. If the Participant dies after distribution of his or her account begins and the Participant has no designated

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Beneficiary, any remaining portion of the account shall continue to be distributed at least as rapidly as under the method of distribution in effect at the time of the Participant's death.

5.54 Unforeseeable Emergency Distributions. If the Participant has an unforeseeable emergency before Severance from Employment, the Participant may elect to receive a lump sum distribution equal to an amount not to exceed the amount reasonably necessary to satisfy the emergency need, which may include amounts necessary to pay federal, state or local income taxes or penalties reasonably anticipated to result from the distribution, as determined by the Administrator.

For this purpose, an unforeseeable emergency is defined as a severe financial hardship of the Participant resulting from an illness or accident of the Participant, the Participant's spouse or dependents (as defined in Code section 152(a) without regard to Code section 152(b)(1), (b)(2) and (d)(1)(B)); loss of the Participant's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, e.g., as a result of natural disaster); the need to pay for the funeral expenses of the Participant's spouse or dependent (as defined in Code section 152(a) without regard to Code section 152(b)(1), (b)(2) and (d)(1)(B)); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant. For example, the imminent foreclosure of or eviction from the Participant's primary residence may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses, including nonrefundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. Except as otherwise specifically provided in this Section 5.4, neither the purchase of a home nor the payment of college tuition is an unforeseeable emergency.

A distribution on account of unforeseeable emergency may not be made to the extent that such emergency is or may be relieved through reimbursement of compensation from insurance or otherwise, by liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship, or by cessation of deferrals under the Plan.

~~If the unforeseeable emergency distribution is approved, the participant must cease participating in the 457 deferred compensation plan for at least six (6) months from the date your hardship application is approved and in effect.~~

5.65 Distribution of Small Account Balances. ~~Upon proper written request to the Administrator, a Participant may elect to receive a distribution of his or her total Account Balance in a lump sum if the Account Balance does not exceed \$5,000 (or the dollar limit under Code section 411(a)(11), if greater) without regard to amounts attributable to rollover contributions under Section 7.1, no Deferrals have been made for the Participant during the two year period immediately prior to the date of distribution, and the Participant has not previously received a distribution of his or her Account Balance under this Section 5.5.~~

~~(a) Upon proper written request to the Administrator, a Participant may elect to receive a distribution of his or her total Account Balance in a lump sum if the Account Balance does not exceed \$7,000 (or the dollar limit under Code section 411(a)(11), if greater) without regard to amounts attributable to~~

rollover contributions under Section 7.1, no Plan Contributions have been made for the Participant during the two-year period immediately prior to the date of distribution, and the Participant has not previously received a distribution of his or her Account Balance under this Section 5.6.

(b) Notwithstanding any other provision of the Plan, in the event a Participant has a Severance from Employment with an Account Balance that does not exceed \$1,000, including amounts attributable to rollover contributions under Section 7.1, the following small account balance automatic distribution rules will apply:

(1) Subject to any procedures adopted by the Administrator, including but limited to any advance notice of the application of the provisions of this Section 5.6(b) as may be prescribed by the Administrator, if the Participant shall not have elected, in accordance with Sections 5.2(b) and 5.7 and related procedures, to have such Account Balance paid directly to an Eligible Retirement Plan (as defined in Section 5.7(b)) specified by the Participant in a direct rollover or otherwise distributed from the Plan, then the Administrator will distribute such benefit in a lump sum, without the written consent of the Participant.

(2) The provisions of this Section 5.6(b) shall apply to any Account Balance of a Participant who has had a Severance from Employment prior to the effective date of this Section 5.6(b).

5.76 Direct Rollovers. Notwithstanding any provision of the Plan to the contrary, a Distributee shall be permitted to elect to have an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan in a direct rollover, at the time and in the manner prescribed by the Administrator.

(a) An “Eligible Rollover Distribution” means any distribution of all or a portion of a Participant’s Account Balance, except that an Eligible Rollover Distribution does not include:

- (1) any distribution that is one of series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and a designated Beneficiary, or for a specified period of 10 years or more;
- (2) any distribution made under Section 5.4 as a result of an unforeseeable emergency; or
- (3) any distribution to the extent such distribution is a required minimum distribution under Code section 401(a)(9).

- (b) An “Eligible Retirement Plan” means an individual retirement account described in Code section 408(a), an individual retirement annuity described in Code section 408(b), an annuity plan described in Code section 403(a), a qualified trust described in Code section 401(a), an eligible deferred compensation plan described in Code section 457(b) that is maintained by a governmental entity described in Code section 457(e)(1)(A), an annuity contract described in Code section 403(b), ~~or a~~ Roth IRA described in Code section 408A, and effective December 18, 2015, a SIMPLE IRA as described in Code section 408(p), provided that the rollover contribution is made after the two-year period beginning on the date the Distributee first participated in any qualified salary reduction arrangement maintained by the Distributee’s employer under Code Section 408(p)(2), as described in Code Section 72(t)(6) that accepts the Distributee’s Eligible Rollover Distribution. However, for an Eligible Rollover Distribution to a designated Beneficiary other than the surviving spouse, an Eligible Retirement Plan is only an individual retirement account described in Code section 408(a) or an individual retirement annuity described in Code section 408(b) that is treated as an inherited IRA in accordance with Code section 402(c)(11).
- (c) A “Distributee” includes a Participant or former Participant or the Participant’s or former Participant’s designated Beneficiary. In addition, the Participant’s or former Participant’s spouse or former spouse are Distributions with regard to the interest of the spouse or former spouse.

5.87 **Amount of Account Balance.** ~~For all purposes under the Plan, the amount of any payment under this Article 5 shall be based on the amount of the Account Balance on the preceding Valuation Date, plus Deferrals made to the Plan from the Valuation Date to the date of distribution. For all purposes under the Plan, the amount of any payment under this Article 5 shall be based on the amount of the Account Balance on the preceding Valuation Date, plus Plan Contributions made to the Plan from the Valuation Date to the date of distribution.~~

5.9 **Retired Public Safety Officer Health Premiums.** Pursuant to Code section 457(a)(3), Eligible Retired Public Safety Officers may elect an annual distribution of the lesser of the amount paid by such Eligible Retired Public Safety Officer, or \$3,000, for the payment of Qualified Health Insurance Premiums.

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ARTICLE 6

LOANS

This Plan does not permit loans from the Account Balances of Participants.

ARTICLE 7

ROLLOVERS AND TRANSFERS

7.1 Rollover Contributions to the Plan. A Participant who ~~is~~ has enrolled an actively currently and is currently eligible to deferring Compensation under this Plan ~~contributing Employee~~ and who is entitled to receive an Eligible Rollover Distribution (as defined in Section 5.6(a) but excluding any after-tax employee contributions) from another Eligible Retirement Plan~~eligible retirement plan~~ (as defined in Code section 402(c)(8)) may request to have all or a portion of such Eligible Rollover Distribution paid to the Plan. The Administrator may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Code section 402 and to confirm that such plan is an Eligible Retirement Plan~~eligible retirement plan~~ within the meaning of Code section 402(c)(8).

The Plan shall establish and maintain for the Participant a separate account for any Eligible Rollover Distribution~~eligible rollover distribution~~ paid to the Plan from any Eligible Retirement Plan~~eligible retirement plan~~ that is not an eligible governmental plan under Code section 457(b). In addition, the Plan shall establish and maintain for the Participant a separate account for any Eligible Rollover Distribution~~eligible rollover distribution~~ paid to the Plan from any Eligible Retirement Plan~~eligible retirement plan~~ that is an eligible governmental plan under Code section 457(b).

7.2 Plan-to-Plan Transfers to the Plan. ~~Participants who are participants in another eligible governmental plan under Code section 457(b) may transfer assets to this Plan as provided in this Section 7.2, but only if the other plan provides for the direct transfer of each Participant's interest therein to the Plan. The Administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with Code section 457(e)(10) and Treas. Reg. section 1.457-10(b) and to confirm that the other plan is an eligible governmental plan as defined in Treas. Reg. section 1.457-2(f). The amount so transferred shall be credited to the Participant's Account Balance and shall be held, accounted for, administered and otherwise treated in the same manner as Deferrals by the Participant under the Plan, except that transferred amounts shall not be considered a Deferral under the Plan in determining the maximum deferral under Article 4.~~ Participants who are participants in another eligible governmental plan under Code section 457(b) may transfer assets to this Plan as provided in this Section 7.2, but only if the other plan provides for the direct transfer of each Participant's interest therein to the Plan. The Administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with Code section 457(e)(10) and Treas. Reg. section 1.457-10(b) and to confirm that the other plan is an eligible governmental plan as defined in Treas. Reg. section 1.457-2(f). The amount so transferred shall be credited to the Participant's Account Balance and shall be held, accounted for, administered and otherwise treated in the same manner as Plan Contributions under the Plan, except that transferred amounts shall not be considered a Plan Contribution under the Plan in determining the maximum deferral under Article 4.

7.3 Plan-to-Plan Transfers from the Plan. Participants and Beneficiaries may elect to have all or any portion of their Account Balance transferred to another eligible governmental plan within the meaning of Code section 457(b) and Treas. Reg. section 1.457-2(f). A transfer is permitted for a Participant under this Section 7.3 only if the Participant has had a Severance from Employment with the Employer and is an employee of the entity that

maintains the other eligible governmental plan. Further, a transfer is permitted only if the other eligible governmental plan provides for the acceptance of plan-to-plan transfers with respect to Participants and Beneficiaries and for each Participant or Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred.

Upon the transfer of assets under this Section 7.3, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 7.3 (e.g., to confirm that the receiving plan is an eligible governmental plan and to assure that the transfer is permitted under the receiving plan) or to effectuate the transfer pursuant to Treas. Reg. section 1.457-10(b).

- 7.4 Permissive Service Credit Transfers.** A Participant may elect to have any portion of his or her Account Balance transferred to a tax-qualified, governmental defined benefit plan (as defined in Code section 414(d)) that provides for the acceptance of plan-to-plan transfers for the purchase of permissive service credit (as defined in Code section 415(n)(3)(A)) under the receiving governmental defined benefit plan or a repayment to which Code section 415 does not apply by reason of Code section 415(k)(3). A transfer for such purpose may be made before the Participant has had a Severance from Employment.

ARTICLE 8

ADMINISTRATION

This Plan shall be administered by the Administrator, as directed by the Board, in accordance with Code section 457 and applicable regulations thereunder. The Board shall have the authority to make all discretionary decisions affecting the rights or benefits of the Participants which may be required in administration of this Plan. The Board's decisions shall be afforded the maximum deference permitted by applicable law. The Board shall exercise all rights, powers and duties granted to it by law and as necessary to administer the Plan. The Board shall approve or disapprove Investment Providers and may contract with Investment Providers to offer investment products under the Plan and provide services to the Plan as the Board deems appropriate.

The Board may delegate specific duties and responsibilities under the Plan, including by contracting with an administrative service provider to perform specific, nondiscretionary administrative functions under the Plan, including the maintenance of Participants' Account Balances, the provision of periodic reports on the status of each Account Balance, the disbursement of benefits on behalf of the Board in accordance with the terms of this Plan, and the maintenance of Beneficiary designations. The Board shall supervise the operation of the Plan, maintain records and supply information to the Participants or other parties.

ARTICLE 9

TRUST FUND

- 9.1 Establishment of Trust.** ~~The assets of the Plan, including all Employee deferred Compensation contributions, property, rights purchased with deferred Compensation, and all income attributable to such assets, are held in trust by the Board for the exclusive benefit of participating Employees and their Beneficiaries. The terms of the Trust Fund under this Section 9.1 must make it impossible, prior to the satisfaction of all liabilities with respect to the Accounts of Participants and Beneficiaries, for any part of the assets or income of the contracts to be used for, or diverted to, any purpose other than for the exclusive benefit of the Participants and Beneficiaries of the Plan and Trust. The Trust Fund shall be established pursuant to a written agreement that constitutes a valid trust under the laws of the State of North Dakota. The trust is intended to be exempt from taxation under Code sections 457(g) and 501(a).~~The assets of the Plan, including all Plan Contributions, property, rights purchased with Plan Contributions, and all income attributable to such assets, are held in insurance annuity contracts or custodial account contracts that have been entered into with one or more investment Providers by the Board that meet the exclusive benefit and other requirements of Code sections 457(g) and 401(f). Under the terms of the insurance annuity and custodial account contracts under this Section 9.1 it shall be impossible, prior to the satisfaction of all liabilities with respect to the Accounts of Participants and Beneficiaries, for any part of the assets or income of the contracts to be used for, or diverted to, any purpose other than for the exclusive benefit of the Participants and Beneficiaries of the Plan and Trust. For purposes of this Article 9, custodial accounts and annuity contracts shall be treated as held in trust so long as such custodial accounts and annuity contracts satisfy the requirements set forth in Treas. Reg. section 1.457-8(a)(3).
- 9.2 Trustee.** The Board shall be the Trustee for the Plan, unless the Board duly appoints another individual or entity to serve as trustee and such individual or entity agrees to act in that capacity hereunder. The Trustee shall ensure that all investments, amounts, property and rights held under the Trust Fund are held for the exclusive benefit of Participants and their Beneficiaries. The Trust Fund shall be liable to pay benefits under this Plan only to the extent of amounts that are available under the investment products selected by Participants and Beneficiaries, and neither the Board nor Employers shall be responsible for the investment or performance results of such investment products.
- 9.3 Specific Powers and Duties.** The Board shall:
- (a) Exercise exclusive authority to invest and manage assets of the Plan. However, the Board may permit Participants to direct and control the investment of their

contributions, together with accumulated earnings, among the investment options established by the Board.

- (b) Establish and adopt a statement of investment objectives and policies setting forth the manner and parameters of the investment of the assets of the Plan. The statement of investment objectives and policies shall be established in a manner consistent with the purposes of the Plan. The Board shall monitor the performance of the investments of the Plan to ensure such remain consistent with the investment policy established by the Board.
- (c) Establish an administrative budget sufficient to perform the duties under the Plan and to draw upon authorized sources to fund the budget.
- (d) Pay Plan benefits and related taxes from the assets of the Plan.
- (e) Obtain by employment or contract all the services necessary or appropriate to administer the Plan, including actuarial, auditing, custodial, investment, legal and recordkeeping services.
- (f) Procure and dispose of the goods and property of the Plan necessary for its proper administration.
- (g) Represent the Employers in all matters concerning the administration of the Plan.
- (h) Have full power and authority to adopt rules and regulations for the administration of the Plan and to interpret, alter, amend, or revoke any rules and rules and regulations so adopted.

9.4 **Accounting.** For accounting purposes, the Board will maintain a summary of the individual Account Balances of all Participants of the Plan whose benefits have not been annuitized. The accounting summary shall be identified as the general account of the North Dakota Section 457 Companion Plan and Trust and will reflect from time to time the total deferred liability of the Plan as well as the individual balances for all Participants of the Plan.

ARTICLE 10

MISCELLANEOUS

10.1 **Nonassignability.** Except as provided in Sections 10.2 and 10.3, the interests of each Participant or Beneficiary under this Plan are not subject to the claims of creditors. Participants and Beneficiaries shall not have any right to sell, assign, transfer or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be nonassignable and nontransferable. Nor shall any unpaid benefits be subject to attachment, garnishment or execution for the payment of any debts or judgments or be transferable by operation of law in the event of bankruptcy or insolvency of the Participant or any other person.

10.2 Domestic Relations Orders. A Participant's benefit may be subject to division under a domestic relations orders between the Participant and the alternate payee (as defined in Code section 414(p)(8)) if the order is determined to be a qualified domestic relations order (as defined in Code section 414(p)(1) and modified by Code section 414(p)(11)). The Administrator shall establish reasonable procedures for determining the qualified status of a domestic relations order and for effectuating distribution pursuant to a qualified domestic relations order. Distribution shall be made to an alternate payee in a single lump sum pursuant to a domestic relations order within 21 days after the later of the date the order is deemed to be qualified pursuant to the Plan policies and procedures or the date the order is entered by the court, without regard to whether the Participant is eligible for a distribution of benefits under the Plan.

10.3 IRS Levy. Notwithstanding Section 10.1, the Administrator may pay from a Participant's or Beneficiary's Account Balance the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

10.4 Mistaken Contributions. If any contribution is made to the Plan by a good faith mistake of fact, then within one year after payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, to the Employer.

10.5 Payments to Minors and Incompetents. If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Investment Provider, benefits will be paid to such person as the Investment Provider may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

10.6 Distributee Cannot be Located. ~~The Investment Provider shall make all reasonable attempts to determine the identity and address of a Participant or Participant's Beneficiary entitled to benefits under the Plan. If the Investment Provider is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Trust Fund shall continue to hold the benefits due such person. If the Administrator does not have current contact information for or is unable to identify a Participant or Beneficiary, the Administrator shall make reasonable attempts to determine the address and identity of the Participant or Beneficiary entitled to benefits under the Plan. A reasonable attempt to locate a missing or lost Participant or Beneficiary shall include (a) providing notice to the Participant at the Participant's last known address via certified mail; (b) determining whether the Employer's records or the records of another plan maintained by the Employer has a more current address for the Participant; (c) attempting to contact any named Beneficiary of the Participant; and (d) searching for the missing Participant via free electronic search tools, such as internet search engines, public record databases, obituaries, and social media. If such search methods are unsuccessful, based on the facts and circumstances,~~

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the Administrator may use other search methods, including using internet search tools, commercial locator services, credit reporting agencies, information brokers, investigation databases, and analogous services that may involve charges. The Administrator may charge missing Participants and Beneficiaries reasonable expenses for efforts to find them. In the event that the Administrator is unable to locate a Participant or Beneficiary entitled to benefits under the Plan, the Trustee shall continue to hold the benefits due to such person under the Plan in the Participant's Account.

- 10.7 Applicable Law.** This Plan and Trust shall be construed under the laws of the State of North Dakota with the intent that it meets the requirements of an eligible deferred compensation plan under Code section 457(b), as amended. The provisions of this Plan and Trust shall be interpreted whenever possible in conformity with the requirements of that Code section.
- 10.8 Gender and Number.**—The masculine pronoun, whenever used herein, shall include the feminine pronoun, and the singular shall include the plural, except where context requires otherwise.

ARTICLE 11

AMENDMENT OR TERMINATION

- 11.1 Amendment or Termination of the Plan.** The Board may terminate (with 60 days notice to the Employer and the Participants and Beneficiaries) or amend the provisions of this Plan at any time; provided, however, no termination or amendment shall affect the rights of a Participant or a Beneficiary to the receipt of benefits with respect to any Compensation deferred before termination or amendment, as adjusted for the investment experience of the Participant's or Beneficiary's Account Balance prior to or subsequent to the termination or amendment of the Plan. An Employer who has entered into agreement with the Board to participate in this Plan may, with 60 days notice to the Board and their Participants and Beneficiaries, terminate their participation agreement in a manner consistent with and in the same manner as described in the preceding sentence.
- 11.2 Distribution Upon Termination.**—Upon termination of the Plan, the Board shall direct distribution of the assets of the Plan and Trust Fund to Participants and Beneficiaries in a manner that is consistent with and satisfies the provisions of Section 5.2 as soon as administratively practicable after a resolution to terminate the Plan is adopted.

5380863v1/01640.083

July 10, 2018

**Amendment to the
North Dakota Section 457 Companion Plan and Trust**

~~WHEREAS, the North Dakota Section 457 Companion Plan and Trust (the "Plan") was established by the North Dakota Public Employees Retirement System Board (the "Board"); and~~

~~WHEREAS, pursuant to Section 11.1 of the Plan, the Board may amend the Plan; and~~

~~WHEREAS, the Board has determined that an amendment to the Plan is required to permit the mandatory distribution of certain small account balances under the Plan.~~

NOW THEREFORE, BE IT RESOLVED, that the following amendments to the Plan are adopted effective as of [DATE]:

1. ~~Section 5.1(d) is amended to replace the reference to "Section 5.5" with a reference "Section 5.5(a)".~~
2. ~~Section 5.1 is amended to add a new Section 5.1(e) after Section 5.1(d) to read, in its entirety, as follows:

(e) ~~The Participant has a Severance from Employment and is subject to the mandatory distribution of his Account Balance under Section 5.5(b).~~~~
3. ~~Section 5.5 is amended, to read in its entirety, as follows:~~

~~**5.5 Distribution of Small Account Balances.**~~

- ~~(a) ~~Upon proper written request to the Administrator, a Participant may elect to receive a distribution of his or her total Account Balance in a lump sum if the Account Balance does not exceed \$5,000 (or the dollar limit under Code section 411(a)(11), if greater) without regard to amounts attributable to rollover contributions under Section 7.1, no Deferrals have been made for the Participant during the two year period immediately prior to the date of distribution, and the Participant has not previously received a distribution of his or her Account Balance under this Section 5.5.~~~~
- ~~(b) ~~Notwithstanding any other provision of the Plan, in the event a Participant has a Severance from Employment with an Account Balance that does not exceed \$1,000, including amounts attributable to rollover contributions under Section 7.1, the following small account balance automatic distribution rules will apply:

(1) ~~Subject to any procedures adopted by the Administrator, including but limited to any advance notice of the application of the provisions of this Section 5.5(b) as may be prescribed by the Administrator, if the Participant shall not have elected, in accordance with Sections 5.2(b) and 5.6 and related procedures, to have such Account Balance paid directly to an Eligible Retirement Plan (as defined in Section 5.6(b)) specified by the Participant in a direct rollover or otherwise distributed from the Plan, then the Administrator will distribute such benefit in a lump sum, without the written consent of the Participant.~~

(2) ~~The provisions of this Section 5.5(b) shall apply to any Account Balance of a Participant who has had a Severance from Employment prior to the effective date of this Section 5.5(b).~~~~~~

~~IN WITNESS WHEREOF, this instrument has been executed by a duly authorized individual on July 10, 2018.~~

NORTH DAKOTA PUBLIC EMPLOYEES
RETIREMENT SYSTEM BOARD

By: _____
Scott A. Miller
NDPERS Executive Director

**~~Amendment Two to the
North Dakota Section 457 Companion Plan and Trust~~**

~~WHEREAS, the North Dakota Section 457 Companion Plan and Trust (the "Plan") was established by the North Dakota Public Employees Retirement System Board (the "Board");~~

~~WHEREAS, pursuant to Section 11.1 of the Plan, the Board may amend the Plan; and~~

~~WHEREAS, the Board has determined that a retroactive amendment to the Plan is required to permit employer contributions to the Plan.~~

NOW, THEREFORE, BE IT RESOLVED, that the following amendments to the Plan are adopted effective as of January 1, 1988, except as otherwise provided herein:

Section 2.1 shall be amended to read as follows:

~~**Account Balance.** The bookkeeping account maintained with respect to each Participant which reflects the value of the deferred Compensation credited to the Participant, including the Participant's Deferrals, Employer Contributions, the earnings or losses of the Trust Fund (net of Trust Fund expenses) allocable to the Participant, and any distribution made to the Participant or the Participant's Beneficiary. The Account Balance also includes any account established under Article 7 for rollover contributions and plan to plan transfers made for a Participant, the account established for a Beneficiary after the Participant's death, and any account established for an alternate payee (as defined in Code section 414(p)(8)).~~

Section 2.13 shall be amended to read as follows:

~~**Participant.** An individual who (i) is currently deferring Compensation, or who (ii) is entitled to an Employer Contribution, or (iii) has previously deferred Compensation under the Plan by salary reduction or received an Employer Contribution, and who has not received a distribution of his or her entire benefit under the Plan.~~

A new Section 2.20 shall be added to read as follows:

~~**Employer Contribution.** Any nonelective contribution and/or matching contribution made pursuant to an election of the Employer accepted by the Plan Administrator.~~

A new Section 2.21 shall be added to read as follows:

~~**Plan Contributions.** Deferrals and Employer Contributions made to the Plan.~~

A new Section 2.22 shall be added to read as follows:

~~**Eligible Retired Public Safety Officer.** An individual who has had a Severance from Employment as a public safety officer, as defined in Code section 402(f)(4)(C), with an Employer, by reason of either disability or attainment of the age set forth in N.D.C.C. § 54-52-17 at which the Participant has the right to retire and receive unreduced retirement benefits under N.D.C.C. Chapter 54-52.~~

A new Section 2.23 shall be added to read as follows:

~~**Qualified Health Insurance Premiums.** Premiums for coverage for an Eligible Retired Public Safety Officer, his spouse, and/or his dependents, as defined in Code section 152, by an accident or health plan or qualified long term care insurance contract, as defined in Code section 7702B(b).~~

The title of Section 3.2 shall be amended to read as follows:

Election Required for Deferrals.

Section 3.3 shall be amended to read as follows:

Commencement of Participation. ~~An Employee shall become a Participant as soon as administratively practicable following the date the Employee files a participation election pursuant to Section 3.2 or becomes eligible for Employer Contributions under Section 3.9. An election under Section 3.2 shall become effective no earlier than the calendar month following the month in which the election is made, or such other date as may be permitted under the Code.~~

A new Section 3.9 shall be added to read as follows:

Employer Contributions. ~~A Participant shall become entitled to Employer Contributions as elected by the Employer and communicated to the Plan Administrator in a form acceptable to the Administrator. An Employee who is not a Participant shall become a Participant immediately upon becoming entitled to an Employer Contribution pursuant to the Employer's election, regardless of whether such Employee elects to make Deferrals.~~

Section 4.3 shall be revised to read as follows:

Basic Annual Limitation. ~~The maximum annual amount of Plan Contributions for any calendar year shall not exceed the lesser of (1) the Applicable Dollar Amount or (2) the Participant's Includible Compensation for the calendar year. The Applicable Dollar Amount is the amount set forth under Code Section 457(e)(15), as indexed in accordance with Code section 415(d).~~

Section 4.3 shall be revised to read as follows:

Special Section 457 Catch-up Limitation. ~~If the applicable year is one of the Participant's last three consecutive calendar years ending before the year in which the Participant attains Normal Retirement Age and the amount determined under this Section 4.3 exceeds the amount computed under Section 4.1 and 4.2, then the annual limit on Plan Contributions under this Article 4 shall be the lesser of:~~

(a) ~~An amount equal to two times the Applicable Dollar Amount under Section 4.1 for such year; or~~

(b) ~~The sum of:~~

(1) ~~An amount equal to the aggregate limit under Section 4.1 for the current year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Employee under the Plan, minus the aggregate amount of Plan Contributions under the Plan for the Participant during such years, plus~~

(2) ~~An amount equal to the aggregate limit under Code section 457(b)(2) for each prior calendar year beginning after December 31,~~

1978 and before January 1, 2002 during which the Participant was an Employee (determined without regard to Sections 4.2 and 4.3); minus the aggregate contributions to Pre-2002 Coordination Plans (as defined in Section 4.4(c)) for such years.

However, in no event can the deferred amount be more than the Participant's Compensation for the year.

Section 4.5 shall be revised to read as follows:

Correction of Excess Deferrals. If the annual amount of Plan Contributions on behalf of a Participant for any calendar year exceeds the limitations described in this Article 4, or the annual amount of Plan Contributions on behalf of a Participant for any calendar year exceeds the limitations described in this Article 4 when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under Code section 457(b) for which the Participant provides information that is accepted by the Administrator, then the annual amount of Plan Contributions, to the extent in excess of the applicable limitation ("Excess Deferral"), and adjusted for any income or loss in value, if any, allocable thereto, shall be distributed to the Participant.

Effective December 12, 1994 (except as otherwise set forth herein), Section 4.6 shall be revised to read as follows:

Protection of Persons Who Serve in a Uniformed Service. An Employee whose employment is interrupted by qualified military service under Code section 414(u) or who is on a leave of absence for qualified military service under Code section 414(u) may elect to make additional Deferrals upon resumption of employment with the Employer equal to the maximum amount of annual Deferrals that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for five years following the resumption of employment, or if sooner, for a period equal to three times the period of the interruption or leave.

If such Participant elects to make such additional Deferrals, then the Employer shall make up the related matching Employer Contributions which would have been required had such Deferrals actually been made during the period of qualified military service. The make up contributions by the Employer shall be made as soon as practicable after the Participant makes such make up contributions.

If the Participant timely resumes employment in accordance with USERRA after a qualified military leave, the Employer shall make any nonelective Employer Contributions that would have been made if the Participant had remained employed during the Participant's qualified military service. Such contributions must be made no later than ninety (90) days after the date of such reemployment or when contributions are normally due for the year in which the qualified military service was performed, if later.

~~In determining the amount of Deferrals and Employer Contributions, a Participant shall be treated as receiving compensation from the Employer during such period of qualified military service equal to: (i) the compensation the Participant would have received during such period if the Participant were not in qualified military service, determined based on the rate of pay the Participant would have received from the Employer but for the absence during the period of qualified military service; or (ii) if the compensation the Participant would have received during such period is not reasonably certain, the Participant's average compensation from the Employer during the twelve (12) month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).~~

~~In addition, effective for deaths occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Code section 414(u)(5)), this Plan shall provide all applicable benefits required in accordance with Code section 401(a)(37), but the provisions of Code section 414(u)(9) shall not apply to this Plan.~~

Section 5.5(a) shall be revised to read as follows:

~~Upon proper written request to the Administrator, a Participant may elect to receive a distribution of his or her total Account Balance in a lump sum if the Account Balance does not exceed \$5,000 (or the dollar limit under Code section 411(a)(11), if greater) without regard to amounts attributable to rollover contributions under Section 7.1, no Plan Contributions have been made for the Participant during the two year period immediately prior to the date of distribution, and the Participant has not previously received a distribution of his or her Account Balance under this Section 5.5.~~

Section 5.7 shall be revised to read as follows:

~~**Amount of Account Balance.** For all purposes under the Plan, the amount of any payment under this Article 5 shall be based on the amount of the Account Balance on the preceding Valuation Date, plus Plan Contributions made to the Plan from the Valuation Date to the date of distribution.~~

A new Section 5.8 shall be added to read as follows:

~~**Retired Public Safety Officer Health Premiums.** Pursuant to Code section 457(a)(3), Eligible Retired Public Safety Officers may elect an annual distribution of the lesser of the amount paid by such Eligible Retired Public Safety Officer, or \$3,000, for the payment of Qualified Health Insurance Premiums. The Plan must pay any such distribution directly to an insurer or to the administrator of a self-insured plan.~~

Section 7.2 shall be revised to read as follows:

~~**Plan to Plan Transfers to the Plan.** Participants who are participants in another eligible governmental plan under Code section 457(b) may transfer assets to this Plan as provided in this Section 7.2, but only if the other plan provides for the direct~~

~~transfer of each Participant's interest therein to the Plan. The Administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with Code section 457(e)(10) and Treas. Reg. section 1.457-10(b) and to confirm that the other plan is an eligible governmental plan as defined in Treas. Reg. section 1.457-2(f). The amount so transferred shall be credited to the Participant's Account Balance and shall be held, accounted for, administered and otherwise treated in the same manner as Plan Contributions under the Plan, except that transferred amounts shall not be considered a Plan Contribution under the Plan in determining the maximum deferral under Article 4.~~

Section 9.1 shall be revised to read as follows:

~~**Establishment of Trust.** The assets of the Plan, including all Plan Contributions, property, rights purchased with Plan Contributions, and all income attributable to such assets, are held in insurance annuity contracts or custodial account contracts that have been entered into with one or more investment Providers by the Board that meet the exclusive benefit and other requirements of Code sections 457(g) and 401(f). Under the terms of the insurance annuity and custodial account contracts under this Section 9.1 it shall be impossible, prior to the satisfaction of all liabilities with respect to the Accounts of Participants and Beneficiaries, for any part of the assets or income of the contracts to be used for, or diverted to, any purpose other than for the exclusive benefit of the Participants and Beneficiaries of the Plan and Trust. For purposes of this Article 9, custodial accounts and annuity contracts shall be treated as held in trust so long as such custodial accounts and annuity contracts satisfy the requirements set forth in Treas. Reg. section 1.457-8(a)(3).~~

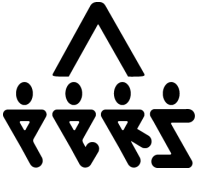
~~IN WITNESS WHEREOF, this instrument has been executed by a duly authorized individual on this _____ day of _____, 2019.~~

~~NORTH DAKOTA PUBLIC EMPLOYEES
RETIREMENT SYSTEM BOARD~~

~~By: _____

Scott A. Miller

NDPERS Executive Director~~



Memorandum

TO: NDPERS Board

FROM: Rebecca

DATE: September 10, 2024

SUBJECT: Life Insurance Plan Renewal

Effective July 1, 2023, Voya was awarded the bid for the group life insurance plan for the July 1, 2023 through June 30, 2025 contract period.

As you may recall as part of their bid in 2023, Voya made several plan enhancements, which included:

- Increased basic life coverage for active employees from \$7,000 to \$12,000 and for retirees from \$1,300 to \$1,500 at no additional cost.
- Increased employee supplemental maximum from \$400,000 to \$600,00 and spouse supplemental maximum from \$100,000 to \$300,000
- Implemented performance guarantees and included 2% of fees at risk for not meeting targets
- Reduced the rates for age bands where the premium was not divisible by 2, rounding down those that were not, which resulted in a decrease in cost of 1.7% to NDPERS members for employee supplemental life coverage.
- Offered to extend the rate guarantee period for 4 years.

Staff have asked Voya to confirm the 4-year rate guarantee and to also ask if experience would warrant a premium reduction for the upcoming 2-year renewal period (July 1, 2025 through June 30, 2027). Voya has indicated on Attachment 1 that the plan's experience does not warrant a reduction and has confirmed the initial guarantee for the first 4 years of the contract, which would cover the upcoming renewal period.

Voya has provided Attachment 2, the Life Client Experience Report – Paid Claims by Incurred Date for 2023 for your information.

Staff recommends that we amend the current contract to renew with Voya for the July 1, 2025 through June 30, 2027 contract period.

If the Board opts to not renew with Voya, staff will begin preparations of the Life Insurance Plan Request for Proposal and will bring it to the Board for approval at a future meeting.

Board Action Requested

Approve staff's recommendation to amend the current contract to renew with Voya for the July 1, 2025 through June 30, 2027 contract period.

Attachment 1

From: [Kutscheid, N. \(Nicholas\)](#)
To: [Fricke, Rebecca D.](#); [Machamer, L. \(Lisa\)](#)
Cc: [Schaf, Lindsay J.](#)
Subject: RE: July 1, 2025-June 30, 2027 Life Insurance Rate Guarantee/Renewal
Date: Friday, July 12, 2024 8:47:55 AM
Attachments: [image001.png](#)
[image002.png](#)

***** **CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *****

Hi Rebecca, Happy Friday!

You are correct, the current rates are in guarantee through 6/30/27.

I've met with the Underwriter and, unfortunately, she has confirmed that Voya is not able to make any additional rate concessions during the current rate guarantee period. We will be sure to re-review at the end of the current rate guarantee period, however.

Thank you for checking! We value our partnership with NDPERS very much.

Please let me know if you have any further questions.

Thank you,

Nicholas D. Kutscheid
National Account Executive
Voya Financial®
Tel: (612) 342-7849
Email: nicholas.kutscheid@voya.com
Voya.com

NYSE: VOYA

From: Fricke, Rebecca D. <rfricke@nd.gov>
Sent: Wednesday, July 10, 2024 8:12 AM
To: Kutscheid, N. (Nicholas) <nicholas.kutscheid@voya.com>; Machamer, L. (Lisa) <lisa.machamer@voya.com>
Cc: Fricke, Rebecca D. <rfricke@nd.gov>; Schaf, Lindsay J. <lschaf@nd.gov>
Subject: July 1, 2025-June 30, 2027 Life Insurance Rate Guarantee/Renewal

Good morning, Voya Team.

Per the terms of the RFP that was released in 2022 by NDPERS, of which Voya was the successful bidder, it is time for us to begin discussions on the renewal rates for the July 1, 2025 through June

30, 2027 renewal period. It appears that the Best and Final Offer provided by Voya (attached) guaranteed the rates for 4 years, thus through this upcoming contract period. I am reaching out to confirm this to be the case. However, as part of renewals, we also ask vendors to review whether the experience warrants a rate reduction for consideration by the NDPERS Board.

Please review and confirm the renewal premiums for the upcoming renewal period July 1, 2025 through June 30, 2027. I'll need confirmation no later than August 31, 2024.

SECTION I: INTRODUCTION

1. Background and Objectives

The North Dakota Public Employees Retirement System (NDPERS) desires to provide Basic and Supplemental Life and Accidental Death & Dismemberment (AD&D) benefits to all eligible active and retired state, university, and participating political subdivision employees and their eligible dependents. NDPERS is soliciting proposals for an initial coverage period to be effective July 1, 2023 to June 30, 2025. Additionally, NDPERS is requesting two additional renewal periods, each of two years in duration (07/01/2025 – 06/30/2027 and 07/01/2027 – 06/30/2029) for a potential total of six years. The rates for the renewal periods will be negotiated separately at least 10 months in advance of the respective renewal.

Please let me know if you have any questions.

Thanks.

Rebecca Fricke



North Dakota Public Employees Retirement System

Visit us at 1600 East Century Avenue | Suite 2 | Bismarck

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North Dakota Public Employees Retirement System

Group: 673897

Life Client Experience Report - Paid Claims by Incurred Date

Run Date: 08/15/2024

The information in this report is provided solely for business purposes you have with Voya[®] Employee Benefits. It may contain information on individuals. By accepting this report, you are agreeing not to disclose any private information on an individual to another party without a separate, written authorization from the individual.

PERSONAL AND CONFIDENTIAL

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya (TM) family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Basic Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|---------------------|----------------------------|---------------------------|--------------------|-----------------|--------------------|
| 01/2023 to 12/2023 | \$218,845.75 | \$419,670.54 | \$0.00 | \$32,800.00 | 22,210 | 139,582,225 |
| Totals | \$218,845.75 | \$419,670.54 | \$0.00 | \$32,800.00 | 22,210 | 139,582,225 |

Supplemental Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|-----------------------|----------------------------|---------------------------|---------------------|-----------------|----------------------|
| 01/2023 to 12/2023 | \$2,950,091.62 | \$1,781,728.96 | \$0.00 | \$679,200.00 | 10,844 | 1,408,311,458 |
| Totals | \$2,950,091.62 | \$1,781,728.96 | \$0.00 | \$679,200.00 | 10,844 | 1,408,311,458 |

Basic AD&D

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|-------------------|----------------------------|---------------------------|--------------------|-----------------|--------------------|
| 01/2023 to 12/2023 | \$9,181.25 | \$33,736.65 | \$0.00 | \$0.00 | 22,211 | 135,977,392 |
| Totals | \$9,181.25 | \$33,736.65 | \$0.00 | | 22,211 | 135,977,392 |

Supplemental AD&D

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|--------------------|----------------------------|---------------------------|--------------------|-----------------|--------------------|
| 01/2023 to 12/2023 | \$87,149.09 | \$8,003.94 | \$0.00 | \$0.00 | 5,411 | 717,722,083 |
| Totals | \$87,149.09 | \$8,003.94 | \$0.00 | | 5,411 | 717,722,083 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.
 Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Dependent Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|---------------------|----------------------------|---------------------------|--------------------|-----------------|--------------------|
| 01/2023 to 12/2023 | \$748,934.70 | \$951,758.19 | \$0.00 | \$0.00 | 15,174 | 355,110,667 |
| Totals | \$748,934.70 | \$951,758.19 | \$0.00 | | 15,174 | 355,110,667 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.
 Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 1 NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM

Basic AD&D

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|-------------------|----------------------------|---------------------------|--------------------|-----------------|--------------------|
| 01/2023 to 12/2023 | \$8,758.54 | \$21,730.75 | \$0.00 | \$0.00 | 22,187 | 135,890,308 |
| Totals | \$8,758.54 | \$21,730.75 | \$0.00 | | 22,187 | 135,890,308 |

Basic Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|---------------------|----------------------------|---------------------------|--------------------|-----------------|--------------------|
| 01/2023 to 12/2023 | \$216,448.91 | \$416,616.55 | \$0.00 | \$32,800.00 | 22,187 | 139,461,475 |
| Totals | \$216,448.91 | \$416,616.55 | \$0.00 | \$32,800.00 | 22,187 | 139,461,475 |

Dependent Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|---------------------|----------------------------|---------------------------|--------------------|-----------------|--------------------|
| 01/2023 to 12/2023 | \$743,645.80 | \$951,758.19 | \$0.00 | \$0.00 | 15,163 | 354,765,167 |
| Totals | \$743,645.80 | \$951,758.19 | \$0.00 | | 15,163 | 354,765,167 |

Supplemental AD&D

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|--------------------|----------------------------|---------------------------|--------------------|-----------------|----------------------|
| 01/2023 to 07/2023 | \$85,964.30 | \$8,003.94 | \$0.00 | \$0.00 | 10,797 | 1,432,733,833 |
| Totals | \$85,964.30 | \$8,003.94 | \$0.00 | | 10,797 | 1,432,733,833 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.
Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 1 NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM

Supplemental Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|-----------------------|----------------------------|---------------------------|---------------------|-----------------|----------------------|
| 01/2023 to 12/2023 | \$2,920,765.94 | \$1,773,723.82 | \$0.00 | \$679,200.00 | 10,825 | 1,406,527,042 |
| Totals | \$2,920,765.94 | \$1,773,723.82 | \$0.00 | \$679,200.00 | 10,825 | 1,406,527,042 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.
 Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 390 North Dakota Public Employees Retirement System

Basic AD&D

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|----------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 01/2023 to 12/2023 | \$13.96 | \$0.00 | \$0.00 | \$0.00 | 6 | 33,833 |
| Totals | \$13.96 | \$0.00 | \$0.00 | | 6 | 33,833 |

Basic Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|-----------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 01/2023 to 12/2023 | \$764.69 | \$0.00 | \$0.00 | \$0.00 | 10 | 54,333 |
| Totals | \$764.69 | \$0.00 | \$0.00 | | 10 | 54,333 |

Dependent Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|-----------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 01/2023 to 12/2023 | \$333.06 | \$0.00 | \$0.00 | \$0.00 | 3 | 85,583 |
| Totals | \$333.06 | \$0.00 | \$0.00 | | 3 | 85,583 |

Supplemental AD&D

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|-----------------|----------------------------|---------------------------|--------------------|-----------------|----------------|
| 01/2023 to 12/2023 | \$260.56 | \$0.00 | \$0.00 | \$0.00 | 5 | 620,833 |
| Totals | \$260.56 | \$0.00 | \$0.00 | | 5 | 620,833 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.
 Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 390 North Dakota Public Employees Retirement System

Supplemental Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|-------------------|----------------------------|---------------------------|--------------------|-----------------|----------------|
| 01/2023 to 12/2023 | \$8,068.77 | \$0.00 | \$0.00 | \$0.00 | 8 | 764,917 |
| Totals | \$8,068.77 | \$0.00 | \$0.00 | | 8 | 764,917 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.
 Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 391 North Dakota Public Employees Retirement System

Basic AD&D

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|-----------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 01/2023 to 12/2023 | \$399.93 | \$0.00 | \$0.00 | \$0.00 | 18 | 50,917 |
| Totals | \$399.93 | \$0.00 | \$0.00 | | 18 | 50,917 |

Basic Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|-------------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 01/2023 to 12/2023 | \$1,509.51 | \$0.00 | \$0.00 | \$0.00 | 13 | 64,083 |
| Totals | \$1,509.51 | \$0.00 | \$0.00 | | 13 | 64,083 |

Dependent Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|-------------------|----------------------------|---------------------------|--------------------|-----------------|----------------|
| 01/2023 to 12/2023 | \$4,496.84 | \$0.00 | \$0.00 | \$0.00 | 8 | 256,167 |
| Totals | \$4,496.84 | \$0.00 | \$0.00 | | 8 | 256,167 |

Supplemental AD&D

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|-----------------|----------------------------|---------------------------|--------------------|-----------------|----------------|
| 01/2023 to 12/2023 | \$870.05 | \$0.00 | \$0.00 | \$0.00 | 8 | 720,000 |
| Totals | \$870.05 | \$0.00 | \$0.00 | | 8 | 720,000 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.
Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 391 North Dakota Public Employees Retirement System

Supplemental Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|--------------------|----------------------------|---------------------------|--------------------|-----------------|------------------|
| 01/2023 to 12/2023 | \$20,503.55 | \$0.00 | \$0.00 | \$0.00 | 11 | 1,005,167 |
| Totals | \$20,503.55 | \$0.00 | \$0.00 | | 11 | 1,005,167 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.
 Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 396 North Dakota Public Employees Retirement System

Basic AD&D

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|---------------|----------------------------|---------------------------|--------------------|-----------------|--------------|
| 01/2023 to 07/2023 | \$2.94 | \$0.00 | \$0.00 | \$0.00 | 1 | 7,000 |
| Totals | \$2.94 | \$0.00 | \$0.00 | | 1 | 7,000 |

Basic Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|----------------|----------------------------|---------------------------|--------------------|-----------------|--------------|
| 01/2023 to 07/2023 | \$19.32 | \$0.00 | \$0.00 | \$0.00 | 1 | 7,000 |
| Totals | \$19.32 | \$0.00 | \$0.00 | | 1 | 7,000 |

Supplemental AD&D

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|----------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 01/2023 to 07/2023 | \$18.06 | \$0.00 | \$0.00 | \$0.00 | 1 | 43,000 |
| Totals | \$18.06 | \$0.00 | \$0.00 | | 1 | 43,000 |

Supplemental Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|-----------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 01/2023 to 07/2023 | \$118.68 | \$0.00 | \$0.00 | \$0.00 | 1 | 43,000 |
| Totals | \$118.68 | \$0.00 | \$0.00 | | 1 | 43,000 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.
Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.



Group: 673897 North Dakota Public Employees Retirement System

Account: 399 North Dakota Public Employees Retirement System

Basic AD&D

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|---------------|----------------------------|---------------------------|--------------------|-----------------|--------------|
| 02/2023 to 12/2023 | \$5.88 | \$0.00 | \$0.00 | \$0.00 | 1 | 7,000 |
| Totals | \$5.88 | \$0.00 | \$0.00 | | 1 | 7,000 |

Basic Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|-----------------|----------------------------|---------------------------|--------------------|-----------------|--------------|
| 02/2023 to 12/2023 | \$103.32 | \$0.00 | \$0.00 | \$0.00 | 1 | 7,000 |
| Totals | \$103.32 | \$0.00 | \$0.00 | | 1 | 7,000 |

Dependent Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|-----------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 02/2023 to 02/2023 | \$459.00 | \$0.00 | \$0.00 | \$0.00 | 1 | 45,000 |
| Totals | \$459.00 | \$0.00 | \$0.00 | | 1 | 45,000 |

Supplemental AD&D

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|----------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 02/2023 to 12/2023 | \$36.12 | \$0.00 | \$0.00 | \$0.00 | 1 | 43,000 |
| Totals | \$36.12 | \$0.00 | \$0.00 | | 1 | 43,000 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.
Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.



Group: 673897 North Dakota Public Employees Retirement System

Account: 399 North Dakota Public Employees Retirement System

Supplemental Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|-----------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 02/2023 to 12/2023 | \$634.68 | \$0.00 | \$0.00 | \$0.00 | 1 | 43,000 |
| Totals | \$634.68 | \$0.00 | \$0.00 | | 1 | 43,000 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.
 Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 9999

Basic AD&D

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|---------------|----------------------------|---------------------------|--------------------|-----------------|--------|
| 07/2023 to 07/2023 | \$0.00 | \$12,005.90 | | \$0.00 | | |
| Totals | \$0.00 | \$12,005.90 | | | | |

Basic Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|---------------|----------------------------|---------------------------|--------------------|-----------------|--------|
| 01/2023 to 08/2023 | \$0.00 | \$3,053.99 | | \$0.00 | | |
| Totals | \$0.00 | \$3,053.99 | | | | |

Supplemental Life

| Experience Period | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------|---------------|----------------------------|---------------------------|--------------------|-----------------|--------|
| 08/2023 to 08/2023 | \$0.00 | \$8,005.14 | | \$0.00 | | |
| Totals | \$0.00 | \$8,005.14 | | | | |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.
 Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Basic Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|---------------------------|-----------|---------------------|----------------------------|---------------------------|--------------------|-----------------|--------------------|
| 2023 | January | \$18,427.93 | \$34,040.41 | \$0.00 | \$46,800.00 | 22,163 | 136,371,700 |
| 2023 | February | \$18,239.69 | \$22,648.59 | \$0.00 | \$32,800.00 | 22,096 | 136,228,700 |
| 2023 | March | \$18,135.12 | \$10,431.51 | \$0.00 | \$39,800.00 | 22,115 | 136,228,700 |
| 2023 | April | \$18,412.90 | \$34,050.12 | \$0.00 | \$39,800.00 | 22,199 | 137,601,700 |
| 2023 | May | \$18,131.14 | \$26,528.01 | \$0.00 | \$32,800.00 | 22,130 | 174,591,000 |
| 2023 | June | \$17,993.64 | \$13,923.51 | \$0.00 | \$32,800.00 | 22,143 | 136,220,700 |
| 2023 | July | \$18,429.78 | \$55,577.84 | \$0.00 | \$32,800.00 | 22,191 | 136,368,700 |
| 2023 | August | \$18,160.44 | \$73,814.34 | \$0.00 | \$32,800.00 | 22,166 | 136,232,700 |
| 2023 | September | \$18,132.08 | \$27,023.12 | \$0.00 | \$32,800.00 | 22,251 | 136,242,700 |
| 2023 | October | \$18,440.56 | \$51,069.09 | \$0.00 | \$32,800.00 | 22,321 | 136,395,700 |
| 2023 | November | \$18,242.06 | \$55,545.32 | \$0.00 | \$32,800.00 | 22,340 | 136,254,700 |
| 2023 | December | \$18,100.41 | \$15,018.68 | \$0.00 | \$32,800.00 | 22,408 | 136,249,700 |
| Total: | | \$218,845.75 | \$419,670.54 | \$0.00 | \$32,800.00 | 22,210 | 139,582,225 |
| Basic Life Total : | | \$218,845.75 | \$419,670.54 | \$0.00 | \$32,800.00 | 22,210 | 139,582,225 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Supplemental Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|----------------------------------|-----------|-----------------------|----------------------------|---------------------------|---------------------|-----------------|----------------------|
| 2023 | January | \$260,004.63 | \$93,038.13 | \$0.00 | \$829,200.00 | 11,045 | 1,441,197,550 |
| 2023 | February | \$251,847.15 | \$196,923.80 | \$0.00 | \$636,200.00 | 10,972 | 1,438,554,400 |
| 2023 | March | \$249,940.51 | \$0.00 | \$0.00 | \$817,200.00 | 11,055 | 1,434,413,400 |
| 2023 | April | \$253,517.08 | \$336,436.04 | \$0.00 | \$822,200.00 | 10,936 | 1,433,766,850 |
| 2023 | May | \$246,912.29 | \$33,015.79 | \$0.00 | \$679,200.00 | 10,886 | 1,430,155,000 |
| 2023 | June | \$245,012.72 | \$25,203.19 | \$0.00 | \$679,200.00 | 10,856 | 1,428,077,300 |
| 2023 | July | \$248,178.13 | \$8,003.94 | \$0.00 | \$679,200.00 | 10,840 | 1,377,394,750 |
| 2023 | August | \$240,803.79 | \$464,217.27 | \$0.00 | \$679,200.00 | 10,764 | 1,374,808,500 |
| 2023 | September | \$238,558.81 | \$0.00 | \$0.00 | \$679,200.00 | 10,709 | 1,378,211,000 |
| 2023 | October | \$242,134.53 | \$238,244.89 | \$0.00 | \$679,200.00 | 10,718 | 1,386,307,250 |
| 2023 | November | \$236,855.69 | \$386,645.91 | \$0.00 | \$679,200.00 | 10,673 | 1,385,066,500 |
| 2023 | December | \$236,326.29 | \$0.00 | \$0.00 | \$679,200.00 | 10,679 | 1,391,785,000 |
| Total: | | \$2,950,091.62 | \$1,781,728.96 | \$0.00 | \$679,200.00 | 10,844 | 1,408,311,458 |
| Supplemental Life Total : | | \$2,950,091.62 | \$1,781,728.96 | \$0.00 | \$679,200.00 | 10,844 | 1,408,311,458 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Basic AD&D

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|-------------------------------|-----------|-------------------|----------------------------|---------------------------|--------------------|-----------------|--------------------|
| 2023 | January | \$822.50 | \$0.00 | \$0.00 | | 22,173 | 136,321,700 |
| 2023 | February | \$734.26 | \$0.00 | \$0.00 | | 22,091 | 136,205,700 |
| 2023 | March | \$732.78 | \$0.00 | \$0.00 | | 22,113 | 136,212,700 |
| 2023 | April | \$826.43 | \$7,019.83 | \$0.00 | | 22,210 | 136,308,700 |
| 2023 | May | \$728.95 | \$0.00 | \$0.00 | | 22,124 | 132,947,000 |
| 2023 | June | \$734.11 | \$0.00 | \$0.00 | | 22,139 | 136,198,700 |
| 2023 | July | \$824.21 | \$12,005.90 | \$0.00 | | 22,201 | 136,314,700 |
| 2023 | August | \$730.55 | \$0.00 | \$0.00 | | 22,161 | 136,203,700 |
| 2023 | September | \$738.29 | \$0.00 | \$0.00 | | 22,247 | 136,220,700 |
| 2023 | October | \$823.88 | \$1,500.82 | \$0.00 | | 22,331 | 136,341,700 |
| 2023 | November | \$738.27 | \$13,210.10 | \$0.00 | | 22,335 | 136,225,700 |
| 2023 | December | \$747.02 | \$0.00 | \$0.00 | | 22,404 | 136,227,700 |
| Total: | | \$9,181.25 | \$33,736.65 | \$0.00 | | 22,211 | 135,977,392 |
| Basic AD&D Total : | | \$9,181.25 | \$33,736.65 | \$0.00 | | 22,211 | 135,977,392 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Supplemental AD&D

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------------------------|-----------|--------------------|----------------------------|---------------------------|--------------------|-----------------|--------------------|
| 2023 | January | \$14,604.61 | \$0.00 | \$0.00 | | 11,034 | 1,440,409,800 |
| 2023 | February | \$14,415.58 | \$0.00 | \$0.00 | | 10,966 | 1,438,244,400 |
| 2023 | March | \$14,361.60 | \$0.00 | \$0.00 | | 10,200 | 1,434,296,400 |
| 2023 | April | \$14,536.02 | \$0.00 | \$0.00 | | 10,925 | 1,432,940,100 |
| 2023 | May | \$14,308.92 | \$0.00 | \$0.00 | | 10,881 | 1,429,795,000 |
| 2023 | June | \$14,294.35 | \$0.00 | \$0.00 | | 10,852 | 1,427,910,300 |
| 2023 | July | \$239.34 | \$8,003.94 | \$0.00 | | 25 | 2,490,000 |
| 2023 | August | \$20.35 | \$0.00 | \$0.00 | | 6 | 580,000 |
| 2023 | September | \$38.97 | \$0.00 | \$0.00 | | 7 | 992,000 |
| 2023 | October | \$237.87 | \$0.00 | \$0.00 | | 25 | 2,999,000 |
| 2023 | November | \$34.45 | \$0.00 | \$0.00 | | 8 | 973,000 |
| 2023 | December | \$57.03 | \$0.00 | \$0.00 | | 8 | 1,035,000 |
| Total: | | \$87,149.09 | \$8,003.94 | \$0.00 | | 5,411 | 717,722,083 |
| Supplemental AD&D Total : | | \$87,149.09 | \$8,003.94 | \$0.00 | | 5,411 | 717,722,083 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Dependent Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|-------------------------------|-----------|---------------------|----------------------------|---------------------------|--------------------|-----------------|--------------------|
| 2023 | January | \$64,171.63 | \$147,087.35 | \$0.00 | | 12,087 | 358,684,000 |
| 2023 | February | \$62,670.55 | \$2,002.68 | \$0.00 | | 12,053 | 357,154,000 |
| 2023 | March | \$61,992.25 | \$60,050.03 | \$0.00 | | 12,001 | 356,039,000 |
| 2023 | April | \$62,603.68 | \$60,082.04 | \$0.00 | | 11,972 | 355,857,000 |
| 2023 | May | \$61,412.89 | \$10,011.90 | \$0.00 | | 11,913 | 355,291,000 |
| 2023 | June | \$60,783.84 | \$20,085.93 | \$0.00 | | 11,914 | 351,757,000 |
| 2023 | July | \$64,150.15 | \$110,067.66 | \$0.00 | | 18,457 | 353,684,000 |
| 2023 | August | \$62,754.54 | \$95,098.58 | \$0.00 | | 18,406 | 352,932,000 |
| 2023 | September | \$62,148.84 | \$102,040.42 | \$0.00 | | 18,330 | 353,342,000 |
| 2023 | October | \$62,799.05 | \$175,061.50 | \$0.00 | | 18,341 | 355,019,000 |
| 2023 | November | \$61,734.64 | \$60,027.06 | \$0.00 | | 18,314 | 355,202,000 |
| 2023 | December | \$61,712.64 | \$110,143.04 | \$0.00 | | 18,302 | 356,367,000 |
| Total: | | \$748,934.70 | \$951,758.19 | \$0.00 | | 15,174 | 355,110,667 |
| Dependent Life Total : | | \$748,934.70 | \$951,758.19 | \$0.00 | | 15,174 | 355,110,667 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 1 NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM

Basic Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|---------------------------|-----------|---------------------|----------------------------|---------------------------|--------------------|-----------------|--------------------|
| 2023 | January | \$18,074.57 | \$32,738.36 | \$0.00 | \$46,800.00 | 22,118 | 136,160,700 |
| 2023 | February | \$18,073.86 | \$22,648.59 | \$0.00 | \$32,800.00 | 22,082 | 136,160,700 |
| 2023 | March | \$18,070.65 | \$10,431.51 | \$0.00 | \$39,800.00 | 22,102 | 136,160,700 |
| 2023 | April | \$18,063.60 | \$34,050.12 | \$0.00 | \$39,800.00 | 22,156 | 137,399,700 |
| 2023 | May | \$18,050.24 | \$26,528.01 | \$0.00 | \$32,800.00 | 22,118 | 174,531,000 |
| 2023 | June | \$17,927.72 | \$13,923.51 | \$0.00 | \$32,800.00 | 22,131 | 136,160,700 |
| 2023 | July | \$18,017.04 | \$55,577.84 | \$0.00 | \$32,800.00 | 22,148 | 136,160,700 |
| 2023 | August | \$18,054.76 | \$72,062.40 | \$0.00 | \$32,800.00 | 22,153 | 136,160,700 |
| 2023 | September | \$18,043.14 | \$27,023.12 | \$0.00 | \$32,800.00 | 22,238 | 136,160,700 |
| 2023 | October | \$18,036.48 | \$51,069.09 | \$0.00 | \$32,800.00 | 22,277 | 136,160,700 |
| 2023 | November | \$18,044.70 | \$55,545.32 | \$0.00 | \$32,800.00 | 22,325 | 136,160,700 |
| 2023 | December | \$17,992.15 | \$15,018.68 | \$0.00 | \$32,800.00 | 22,394 | 136,160,700 |
| Total: | | \$216,448.91 | \$416,616.55 | \$0.00 | \$32,800.00 | 22,187 | 139,461,475 |
| Basic Life Total : | | \$216,448.91 | \$416,616.55 | \$0.00 | \$32,800.00 | 22,187 | 139,461,475 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.
Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 1 NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM

Supplemental Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|----------------------------------|-----------|-----------------------|----------------------------|---------------------------|---------------------|-----------------|----------------------|
| 2023 | January | \$254,538.07 | \$93,038.13 | \$0.00 | \$829,200.00 | 11,008 | 1,437,912,800 |
| 2023 | February | \$250,580.05 | \$196,923.80 | \$0.00 | \$636,200.00 | 10,961 | 1,437,616,400 |
| 2023 | March | \$249,235.55 | \$0.00 | \$0.00 | \$817,200.00 | 11,044 | 1,433,520,400 |
| 2023 | April | \$247,907.78 | \$336,436.04 | \$0.00 | \$822,200.00 | 10,900 | 1,430,480,100 |
| 2023 | May | \$246,217.68 | \$33,015.79 | \$0.00 | \$679,200.00 | 10,876 | 1,429,403,000 |
| 2023 | June | \$244,426.83 | \$25,203.19 | \$0.00 | \$679,200.00 | 10,846 | 1,427,470,300 |
| 2023 | July | \$242,119.04 | \$8,003.94 | \$0.00 | \$679,200.00 | 10,804 | 1,374,078,000 |
| 2023 | August | \$240,025.08 | \$456,212.13 | \$0.00 | \$679,200.00 | 10,754 | 1,373,893,500 |
| 2023 | September | \$237,670.96 | \$0.00 | \$0.00 | \$679,200.00 | 10,699 | 1,377,077,000 |
| 2023 | October | \$236,842.98 | \$238,244.89 | \$0.00 | \$679,200.00 | 10,683 | 1,382,506,500 |
| 2023 | November | \$235,882.16 | \$386,645.91 | \$0.00 | \$679,200.00 | 10,661 | 1,383,758,500 |
| 2023 | December | \$235,319.76 | \$0.00 | \$0.00 | \$679,200.00 | 10,668 | 1,390,608,000 |
| Total: | | \$2,920,765.94 | \$1,773,723.82 | \$0.00 | \$679,200.00 | 10,825 | 1,406,527,042 |
| Supplemental Life Total : | | \$2,920,765.94 | \$1,773,723.82 | \$0.00 | \$679,200.00 | 10,825 | 1,406,527,042 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 1 NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM

Basic AD&D

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|-------------------------------|-----------|-------------------|----------------------------|---------------------------|--------------------|-----------------|--------------------|
| 2023 | January | \$727.31 | \$0.00 | \$0.00 | | 22,118 | 136,160,700 |
| 2023 | February | \$726.03 | \$0.00 | \$0.00 | | 22,082 | 136,160,700 |
| 2023 | March | \$726.76 | \$0.00 | \$0.00 | | 22,102 | 136,160,700 |
| 2023 | April | \$728.72 | \$7,019.83 | \$0.00 | | 22,156 | 136,160,700 |
| 2023 | May | \$727.40 | \$0.00 | \$0.00 | | 22,118 | 132,916,000 |
| 2023 | June | \$728.33 | \$0.00 | \$0.00 | | 22,131 | 136,160,700 |
| 2023 | July | \$728.60 | \$0.00 | \$0.00 | | 22,148 | 136,160,700 |
| 2023 | August | \$728.65 | \$0.00 | \$0.00 | | 22,153 | 136,160,700 |
| 2023 | September | \$731.74 | \$0.00 | \$0.00 | | 22,238 | 136,160,700 |
| 2023 | October | \$732.57 | \$1,500.82 | \$0.00 | | 22,276 | 136,160,700 |
| 2023 | November | \$734.90 | \$13,210.10 | \$0.00 | | 22,325 | 136,160,700 |
| 2023 | December | \$737.53 | \$0.00 | \$0.00 | | 22,394 | 136,160,700 |
| Total: | | \$8,758.54 | \$21,730.75 | \$0.00 | | 22,187 | 135,890,308 |
| Basic AD&D Total : | | \$8,758.54 | \$21,730.75 | \$0.00 | | 22,187 | 135,890,308 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 1 NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM

Supplemental AD&D

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------------------------|----------|--------------------|----------------------------|---------------------------|--------------------|-----------------|----------------------|
| 2023 | January | \$14,379.13 | \$0.00 | \$0.00 | | 11,008 | 1,437,912,800 |
| 2023 | February | \$14,376.16 | \$0.00 | \$0.00 | | 10,959 | 1,437,616,400 |
| 2023 | March | \$14,335.20 | \$0.00 | \$0.00 | | 10,192 | 1,433,520,400 |
| 2023 | April | \$14,304.80 | \$0.00 | \$0.00 | | 10,900 | 1,430,480,100 |
| 2023 | May | \$14,294.31 | \$0.00 | \$0.00 | | 10,876 | 1,429,403,000 |
| 2023 | June | \$14,274.70 | \$0.00 | \$0.00 | | 10,846 | 1,427,470,300 |
| 2023 | July | \$0.00 # | \$8,003.94 | \$0.00 | | | |
| Total: | | \$85,964.30 | \$8,003.94 | \$0.00 | | 10,797 | 1,432,733,833 |
| Supplemental AD&D Total : | | \$85,964.30 | \$8,003.94 | \$0.00 | | 9,254 | 1,228,057,571 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 1 NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM

Dependent Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|-------------------------------|-----------|---------------------|----------------------------|---------------------------|--------------------|-----------------|--------------------|
| 2023 | January | \$63,090.40 | \$147,087.35 | \$0.00 | | 12,062 | 357,939,000 |
| 2023 | February | \$62,167.75 | \$2,002.68 | \$0.00 | | 12,048 | 356,999,000 |
| 2023 | March | \$61,880.35 | \$60,050.03 | \$0.00 | | 11,996 | 355,874,000 |
| 2023 | April | \$61,550.35 | \$60,082.04 | \$0.00 | | 11,948 | 355,134,000 |
| 2023 | May | \$61,360.35 | \$10,011.90 | \$0.00 | | 11,908 | 355,143,000 |
| 2023 | June | \$60,663.20 | \$20,085.93 | \$0.00 | | 11,909 | 351,604,000 |
| 2023 | July | \$63,143.10 | \$110,067.66 | \$0.00 | | 18,435 | 352,969,000 |
| 2023 | August | \$62,700.80 | \$95,098.58 | \$0.00 | | 18,400 | 352,779,000 |
| 2023 | September | \$62,027.00 | \$102,040.42 | \$0.00 | | 18,324 | 353,184,000 |
| 2023 | October | \$61,790.80 | \$175,061.50 | \$0.00 | | 18,318 | 354,299,000 |
| 2023 | November | \$61,680.90 | \$60,027.06 | \$0.00 | | 18,308 | 355,049,000 |
| 2023 | December | \$61,590.80 | \$110,143.04 | \$0.00 | | 18,296 | 356,209,000 |
| Total: | | \$743,645.80 | \$951,758.19 | \$0.00 | | 15,163 | 354,765,167 |
| Dependent Life Total : | | \$743,645.80 | \$951,758.19 | \$0.00 | | 15,163 | 354,765,167 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 390 North Dakota Public Employees Retirement System

Basic Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|---------------|-----------|-----------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 2023 | January | \$53.67 | \$0.00 | \$0.00 | | 9 | 46,000 |
| 2023 | February | \$55.23 | \$0.00 | \$0.00 | | 10 | 47,000 |
| 2023 | March | \$55.23 | \$0.00 | \$0.00 | | 10 | 47,000 |
| 2023 | April | \$53.88 | \$0.00 | \$0.00 | | 10 | 46,000 |
| 2023 | May | \$53.88 | \$0.00 | \$0.00 | | 10 | 46,000 |
| 2023 | June | \$53.88 | \$0.00 | \$0.00 | | 10 | 46,000 |
| 2023 | July | \$66.10 | \$0.00 | \$0.00 | | 10 | 46,000 |
| 2023 | August | \$70.82 | \$0.00 | \$0.00 | | 10 | 56,000 |
| 2023 | September | \$75.50 | \$0.00 | \$0.00 | | 11 | 68,000 |
| 2023 | October | \$75.50 | \$0.00 | \$0.00 | | 11 | 68,000 |
| 2023 | November | \$75.50 | \$0.00 | \$0.00 | | 11 | 68,000 |
| 2023 | December | \$75.50 | \$0.00 | \$0.00 | | 11 | 68,000 |
| Total: | | \$764.69 | \$0.00 | \$0.00 | | 10 | 54,333 |

| | | | | | | | |
|---------------------------|--|-----------------|---------------|---------------|--|-----------|---------------|
| Basic Life Total : | | \$764.69 | \$0.00 | \$0.00 | | 10 | 54,333 |
|---------------------------|--|-----------------|---------------|---------------|--|-----------|---------------|

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 390 North Dakota Public Employees Retirement System

Supplemental Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|----------------------------------|-----------|-------------------|----------------------------|---------------------------|--------------------|-----------------|----------------|
| 2023 | January | \$577.76 | \$0.00 | \$0.00 | | 7 | 640,000 |
| 2023 | February | \$654.20 | \$0.00 | \$0.00 | | 8 | 689,000 |
| 2023 | March | \$654.20 | \$0.00 | \$0.00 | | 8 | 689,000 |
| 2023 | April | \$590.43 | \$0.00 | \$0.00 | | 8 | 546,000 |
| 2023 | May | \$590.43 | \$0.00 | \$0.00 | | 8 | 546,000 |
| 2023 | June | \$517.93 | \$0.00 | \$0.00 | | 8 | 546,000 |
| 2023 | July | \$578.69 | \$0.00 | \$0.00 | | 8 | 546,000 |
| 2023 | August | \$659.97 | \$0.00 | \$0.00 | | 7 | 685,000 |
| 2023 | September | \$811.29 | \$0.00 | \$0.00 | | 8 | 1,073,000 |
| 2023 | October | \$811.29 | \$0.00 | \$0.00 | | 8 | 1,073,000 |
| 2023 | November | \$811.29 | \$0.00 | \$0.00 | | 8 | 1,073,000 |
| 2023 | December | \$811.29 | \$0.00 | \$0.00 | | 8 | 1,073,000 |
| Total: | | \$8,068.77 | \$0.00 | \$0.00 | | 8 | 764,917 |
| Supplemental Life Total : | | \$8,068.77 | \$0.00 | \$0.00 | | 8 | 764,917 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 390 North Dakota Public Employees Retirement System

Basic AD&D

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|-------------------------------|-----------|----------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 2023 | January | \$1.03 | \$0.00 | \$0.00 | | 5 | 30,000 |
| 2023 | February | \$1.06 | \$0.00 | \$0.00 | | 6 | 31,000 |
| 2023 | March | \$1.06 | \$0.00 | \$0.00 | | 6 | 31,000 |
| 2023 | April | \$0.82 | \$0.00 | \$0.00 | | 5 | 24,000 |
| 2023 | May | \$0.82 | \$0.00 | \$0.00 | | 5 | 24,000 |
| 2023 | June | \$0.82 | \$0.00 | \$0.00 | | 5 | 24,000 |
| 2023 | July | \$0.82 | \$0.00 | \$0.00 | | 5 | 24,000 |
| 2023 | August | \$1.17 | \$0.00 | \$0.00 | | 5 | 34,000 |
| 2023 | September | \$1.59 | \$0.00 | \$0.00 | | 6 | 46,000 |
| 2023 | October | \$1.59 | \$0.00 | \$0.00 | | 6 | 46,000 |
| 2023 | November | \$1.59 | \$0.00 | \$0.00 | | 6 | 46,000 |
| 2023 | December | \$1.59 | \$0.00 | \$0.00 | | 6 | 46,000 |
| Total: | | \$13.96 | \$0.00 | \$0.00 | | 6 | 33,833 |
| Basic AD&D Total : | | \$13.96 | \$0.00 | \$0.00 | | 6 | 33,833 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

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Group: 673897 North Dakota Public Employees Retirement System

Account: 390 North Dakota Public Employees Retirement System

Supplemental AD&D

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------------------------|-----------|-----------------|----------------------------|---------------------------|--------------------|-----------------|----------------|
| 2023 | January | \$18.29 | \$0.00 | \$0.00 | | 4 | 523,000 |
| 2023 | February | \$20.00 | \$0.00 | \$0.00 | | 5 | 572,000 |
| 2023 | March | \$20.00 | \$0.00 | \$0.00 | | 5 | 572,000 |
| 2023 | April | \$13.25 | \$0.00 | \$0.00 | | 4 | 379,000 |
| 2023 | May | \$13.25 | \$0.00 | \$0.00 | | 4 | 379,000 |
| 2023 | June | \$13.25 | \$0.00 | \$0.00 | | 4 | 379,000 |
| 2023 | July | \$13.25 | \$0.00 | \$0.00 | | 4 | 379,000 |
| 2023 | August | \$18.99 | \$0.00 | \$0.00 | | 4 | 543,000 |
| 2023 | September | \$32.57 | \$0.00 | \$0.00 | | 5 | 931,000 |
| 2023 | October | \$32.57 | \$0.00 | \$0.00 | | 5 | 931,000 |
| 2023 | November | \$32.57 | \$0.00 | \$0.00 | | 5 | 931,000 |
| 2023 | December | \$32.57 | \$0.00 | \$0.00 | | 5 | 931,000 |
| Total: | | \$260.56 | \$0.00 | \$0.00 | | 5 | 620,833 |
| Supplemental AD&D Total : | | \$260.56 | \$0.00 | \$0.00 | | 5 | 620,833 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 390 North Dakota Public Employees Retirement System

Dependent Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|-------------------------------|-----------|-----------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 2023 | January | \$20.70 | \$0.00 | \$0.00 | | 2 | 55,000 |
| 2023 | February | \$20.70 | \$0.00 | \$0.00 | | 2 | 55,000 |
| 2023 | March | \$20.70 | \$0.00 | \$0.00 | | 2 | 55,000 |
| 2023 | April | \$29.44 | \$0.00 | \$0.00 | | 3 | 93,000 |
| 2023 | May | \$29.44 | \$0.00 | \$0.00 | | 3 | 93,000 |
| 2023 | June | \$29.44 | \$0.00 | \$0.00 | | 3 | 93,000 |
| 2023 | July | \$29.44 | \$0.00 | \$0.00 | | 3 | 93,000 |
| 2023 | August | \$30.64 | \$0.00 | \$0.00 | | 4 | 98,000 |
| 2023 | September | \$30.64 | \$0.00 | \$0.00 | | 4 | 98,000 |
| 2023 | October | \$30.64 | \$0.00 | \$0.00 | | 4 | 98,000 |
| 2023 | November | \$30.64 | \$0.00 | \$0.00 | | 4 | 98,000 |
| 2023 | December | \$30.64 | \$0.00 | \$0.00 | | 4 | 98,000 |
| Total: | | \$333.06 | \$0.00 | \$0.00 | | 3 | 85,583 |
| Dependent Life Total : | | \$333.06 | \$0.00 | \$0.00 | | 3 | 85,583 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 391 North Dakota Public Employees Retirement System

Basic Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|---------------------------|-----------|-------------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 2023 | January | \$290.03 | \$0.00 | \$0.00 | | 35 | 158,000 |
| 2023 | February | \$26.60 | \$0.00 | \$0.00 | | 3 | 14,000 |
| 2023 | March | \$9.24 | \$0.00 | \$0.00 | | 3 | 21,000 |
| 2023 | April | \$295.42 | \$0.00 | \$0.00 | | 33 | 156,000 |
| 2023 | May | \$27.02 | \$0.00 | \$0.00 | | 2 | 14,000 |
| 2023 | June | \$12.04 | \$0.00 | \$0.00 | | 2 | 14,000 |
| 2023 | July | \$336.98 | \$0.00 | \$0.00 | | 32 | 155,000 |
| 2023 | August | \$34.86 | \$0.00 | \$0.00 | | 3 | 16,000 |
| 2023 | September | \$13.44 | \$0.00 | \$0.00 | | 2 | 14,000 |
| 2023 | October | \$328.58 | \$0.00 | \$0.00 | | 33 | 167,000 |
| 2023 | November | \$121.86 | \$0.00 | \$0.00 | | 4 | 26,000 |
| 2023 | December | \$13.44 | \$0.00 | \$0.00 | | 2 | 14,000 |
| Total: | | \$1,509.51 | \$0.00 | \$0.00 | | 13 | 64,083 |
| Basic Life Total : | | \$1,509.51 | \$0.00 | \$0.00 | | 13 | 64,083 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 391 North Dakota Public Employees Retirement System

Supplemental Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|----------------------------------|-----------|--------------------|----------------------------|---------------------------|--------------------|-----------------|------------------|
| 2023 | January | \$4,829.46 | \$0.00 | \$0.00 | | 29 | 2,601,750 |
| 2023 | February | \$96.90 | \$0.00 | \$0.00 | | 2 | 206,000 |
| 2023 | March | \$50.76 | \$0.00 | \$0.00 | | 3 | 204,000 |
| 2023 | April | \$5,018.87 | \$0.00 | \$0.00 | | 28 | 2,740,750 |
| 2023 | May | \$104.18 | \$0.00 | \$0.00 | | 2 | 206,000 |
| 2023 | June | \$67.96 | \$0.00 | \$0.00 | | 2 | 61,000 |
| 2023 | July | \$5,421.06 | \$0.00 | \$0.00 | | 27 | 2,727,750 |
| 2023 | August | \$118.74 | \$0.00 | \$0.00 | | 3 | 230,000 |
| 2023 | September | \$76.56 | \$0.00 | \$0.00 | | 2 | 61,000 |
| 2023 | October | \$4,480.26 | \$0.00 | \$0.00 | | 27 | 2,727,750 |
| 2023 | November | \$162.24 | \$0.00 | \$0.00 | | 4 | 235,000 |
| 2023 | December | \$76.56 | \$0.00 | \$0.00 | | 2 | 61,000 |
| Total: | | \$20,503.55 | \$0.00 | \$0.00 | | 11 | 1,005,167 |
| Supplemental Life Total : | | \$20,503.55 | \$0.00 | \$0.00 | | 11 | 1,005,167 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 391 North Dakota Public Employees Retirement System

Basic AD&D

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|-------------------------------|-----------|-----------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 2023 | January | \$92.69 | \$0.00 | \$0.00 | | 49 | 124,000 |
| 2023 | February | \$4.23 | \$0.00 | \$0.00 | | 2 | 7,000 |
| 2023 | March | \$4.96 | \$0.00 | \$0.00 | | 5 | 21,000 |
| 2023 | April | \$96.89 | \$0.00 | \$0.00 | | 49 | 124,000 |
| 2023 | May | \$0.73 | \$0.00 | \$0.00 | | 1 | 7,000 |
| 2023 | June | \$4.96 | \$0.00 | \$0.00 | | 3 | 14,000 |
| 2023 | July | \$93.32 | \$0.00 | \$0.00 | | 47 | 123,000 |
| 2023 | August | \$0.73 | \$0.00 | \$0.00 | | 3 | 9,000 |
| 2023 | September | \$4.96 | \$0.00 | \$0.00 | | 3 | 14,000 |
| 2023 | October | \$89.72 | \$0.00 | \$0.00 | | 49 | 135,000 |
| 2023 | November | \$1.78 | \$0.00 | \$0.00 | | 4 | 19,000 |
| 2023 | December | \$4.96 | \$0.00 | \$0.00 | | 3 | 14,000 |
| Total: | | \$399.93 | \$0.00 | \$0.00 | | 18 | 50,917 |
| Basic AD&D Total : | | \$399.93 | \$0.00 | \$0.00 | | 18 | 50,917 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 391 North Dakota Public Employees Retirement System

Supplemental AD&D

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|--------------------------------------|-----------|-----------------|----------------------------|---------------------------|--------------------|-----------------|----------------|
| 2023 | January | \$198.16 | \$0.00 | \$0.00 | | 21 | 1,931,000 |
| 2023 | February | \$1.36 | \$0.00 | \$0.00 | | 1 | 13,000 |
| 2023 | March | \$6.40 | \$0.00 | \$0.00 | | 3 | 204,000 |
| 2023 | April | \$217.97 | \$0.00 | \$0.00 | | 21 | 2,081,000 |
| 2023 | May | \$1.36 | \$0.00 | \$0.00 | | 1 | 13,000 |
| 2023 | June | \$6.40 | \$0.00 | \$0.00 | | 2 | 61,000 |
| 2023 | July | \$217.06 | \$0.00 | \$0.00 | | 20 | 2,068,000 |
| 2023 | August | \$1.36 | \$0.00 | \$0.00 | | 2 | 37,000 |
| 2023 | September | \$6.40 | \$0.00 | \$0.00 | | 2 | 61,000 |
| 2023 | October | \$205.30 | \$0.00 | \$0.00 | | 20 | 2,068,000 |
| 2023 | November | \$1.88 | \$0.00 | \$0.00 | | 3 | 42,000 |
| 2023 | December | \$6.40 | \$0.00 | \$0.00 | | 2 | 61,000 |
| Total: | | \$870.05 | \$0.00 | \$0.00 | | 8 | 720,000 |
| Supplemental AD&D Total : | | \$870.05 | \$0.00 | \$0.00 | | 8 | 720,000 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 391 North Dakota Public Employees Retirement System

Dependent Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|-------------------------------|-----------|-------------------|----------------------------|---------------------------|--------------------|-----------------|----------------|
| 2023 | January | \$1,060.53 | \$0.00 | \$0.00 | | 23 | 690,000 |
| 2023 | February | \$23.10 | \$0.00 | \$0.00 | | 2 | 55,000 |
| 2023 | March | \$91.20 | \$0.00 | \$0.00 | | 3 | 110,000 |
| 2023 | April | \$1,023.89 | \$0.00 | \$0.00 | | 21 | 630,000 |
| 2023 | May | \$23.10 | \$0.00 | \$0.00 | | 2 | 55,000 |
| 2023 | June | \$91.20 | \$0.00 | \$0.00 | | 2 | 60,000 |
| 2023 | July | \$977.61 | \$0.00 | \$0.00 | | 19 | 622,000 |
| 2023 | August | \$23.10 | \$0.00 | \$0.00 | | 2 | 55,000 |
| 2023 | September | \$91.20 | \$0.00 | \$0.00 | | 2 | 60,000 |
| 2023 | October | \$977.61 | \$0.00 | \$0.00 | | 19 | 622,000 |
| 2023 | November | \$23.10 | \$0.00 | \$0.00 | | 2 | 55,000 |
| 2023 | December | \$91.20 | \$0.00 | \$0.00 | | 2 | 60,000 |
| Total: | | \$4,496.84 | \$0.00 | \$0.00 | | 8 | 256,167 |
| Dependent Life Total : | | \$4,496.84 | \$0.00 | \$0.00 | | 8 | 256,167 |

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 396 North Dakota Public Employees Retirement System

Basic Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|---------------|---------|----------------|----------------------------|---------------------------|--------------------|-----------------|--------------|
| 2023 | January | \$9.66 | \$0.00 | \$0.00 | | 1 | 7,000 |
| 2023 | July | \$9.66 | \$0.00 | \$0.00 | | 1 | 7,000 |
| Total: | | \$19.32 | \$0.00 | \$0.00 | | 1 | 7,000 |

| | | | | | | | |
|---------------------------|--|----------------|---------------|---------------|--|----------|--------------|
| Basic Life Total : | | \$19.32 | \$0.00 | \$0.00 | | 1 | 7,000 |
|---------------------------|--|----------------|---------------|---------------|--|----------|--------------|

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 396 North Dakota Public Employees Retirement System

Supplemental Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|---------------|---------|-----------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 2023 | January | \$59.34 | \$0.00 | \$0.00 | | 1 | 43,000 |
| 2023 | July | \$59.34 | \$0.00 | \$0.00 | | 1 | 43,000 |
| Total: | | \$118.68 | \$0.00 | \$0.00 | | 1 | 43,000 |

| | | | | | | | |
|----------------------------------|--|-----------------|---------------|---------------|--|----------|---------------|
| Supplemental Life Total : | | \$118.68 | \$0.00 | \$0.00 | | 1 | 43,000 |
|----------------------------------|--|-----------------|---------------|---------------|--|----------|---------------|

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 396 North Dakota Public Employees Retirement System

Basic AD&D

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|---------------|---------|---------------|----------------------------|---------------------------|--------------------|-----------------|--------------|
| 2023 | January | \$1.47 | \$0.00 | \$0.00 | | 1 | 7,000 |
| 2023 | July | \$1.47 | \$0.00 | \$0.00 | | 1 | 7,000 |
| Total: | | \$2.94 | \$0.00 | \$0.00 | | 1 | 7,000 |

| | | | | | | | |
|-------------------------------|--|---------------|---------------|---------------|--|----------|--------------|
| Basic AD&D Total : | | \$2.94 | \$0.00 | \$0.00 | | 1 | 7,000 |
|-------------------------------|--|---------------|---------------|---------------|--|----------|--------------|

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 396 North Dakota Public Employees Retirement System

Supplemental AD&D

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|---------------|---------|----------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 2023 | January | \$9.03 | \$0.00 | \$0.00 | | 1 | 43,000 |
| 2023 | July | \$9.03 | \$0.00 | \$0.00 | | 1 | 43,000 |
| Total: | | \$18.06 | \$0.00 | \$0.00 | | 1 | 43,000 |

| | | | | | | | |
|--------------------------------------|--|----------------|---------------|---------------|--|----------|---------------|
| Supplemental AD&D Total : | | \$18.06 | \$0.00 | \$0.00 | | 1 | 43,000 |
|--------------------------------------|--|----------------|---------------|---------------|--|----------|---------------|

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 399 North Dakota Public Employees Retirement System

Basic Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|---------------|----------|-----------------|----------------------------|---------------------------|--------------------|-----------------|--------------|
| 2023 | February | \$84.00 | \$0.00 | \$0.00 | | 1 | 7,000 |
| 2023 | December | \$19.32 | \$0.00 | \$0.00 | | 1 | 7,000 |
| Total: | | \$103.32 | \$0.00 | \$0.00 | | 1 | 7,000 |

| | | | | | | | |
|---------------------------|--|-----------------|---------------|---------------|--|----------|--------------|
| Basic Life Total : | | \$103.32 | \$0.00 | \$0.00 | | 1 | 7,000 |
|---------------------------|--|-----------------|---------------|---------------|--|----------|--------------|

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 399 North Dakota Public Employees Retirement System

Supplemental Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|---------------|----------|-----------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 2023 | February | \$516.00 | \$0.00 | \$0.00 | | 1 | 43,000 |
| 2023 | December | \$118.68 | \$0.00 | \$0.00 | | 1 | 43,000 |
| Total: | | \$634.68 | \$0.00 | \$0.00 | | 1 | 43,000 |

| | | | | | | | |
|----------------------------------|--|-----------------|---------------|---------------|--|----------|---------------|
| Supplemental Life Total : | | \$634.68 | \$0.00 | \$0.00 | | 1 | 43,000 |
|----------------------------------|--|-----------------|---------------|---------------|--|----------|---------------|

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 399 North Dakota Public Employees Retirement System

Basic AD&D

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|---------------|----------|---------------|----------------------------|---------------------------|--------------------|-----------------|--------------|
| 2023 | February | \$2.94 | \$0.00 | \$0.00 | | 1 | 7,000 |
| 2023 | December | \$2.94 | \$0.00 | \$0.00 | | 1 | 7,000 |
| Total: | | \$5.88 | \$0.00 | \$0.00 | | 1 | 7,000 |

| | | | | | | | |
|-------------------------------|--|---------------|---------------|---------------|--|----------|--------------|
| Basic AD&D Total : | | \$5.88 | \$0.00 | \$0.00 | | 1 | 7,000 |
|-------------------------------|--|---------------|---------------|---------------|--|----------|--------------|

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 399 North Dakota Public Employees Retirement System

Supplemental AD&D

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|---------------|----------|----------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 2023 | February | \$18.06 | \$0.00 | \$0.00 | | 1 | 43,000 |
| 2023 | December | \$18.06 | \$0.00 | \$0.00 | | 1 | 43,000 |
| Total: | | \$36.12 | \$0.00 | \$0.00 | | 1 | 43,000 |

| | | | | | | | |
|--------------------------------------|--|----------------|---------------|---------------|--|----------|---------------|
| Supplemental AD&D Total : | | \$36.12 | \$0.00 | \$0.00 | | 1 | 43,000 |
|--------------------------------------|--|----------------|---------------|---------------|--|----------|---------------|

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 399 North Dakota Public Employees Retirement System

Dependent Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|---------------|----------|-----------------|----------------------------|---------------------------|--------------------|-----------------|---------------|
| 2023 | February | \$459.00 | \$0.00 | \$0.00 | | 1 | 45,000 |
| Total: | | \$459.00 | \$0.00 | \$0.00 | | 1 | 45,000 |

| | | | | | | | |
|-------------------------------|--|-----------------|---------------|---------------|--|----------|---------------|
| Dependent Life Total : | | \$459.00 | \$0.00 | \$0.00 | | 1 | 45,000 |
|-------------------------------|--|-----------------|---------------|---------------|--|----------|---------------|

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 9999

Basic Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|---------------|---------|--------------|----------------------------|---------------------------|--------------------|-----------------|--------|
| 2023 | January | \$0.00 # | \$1,302.05 | \$0.00 | | | |
| 2023 | August | # | \$1,751.94 | \$0.00 | | | |
| Total: | | | \$3,053.99 | \$0.00 | | | |

Basic Life Total : \$3,053.99

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.
 Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 9999

Supplemental Life

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|---------------|--------|--------------|----------------------------|---------------------------|--------------------|-----------------|--------|
| 2023 | August | \$0.00 # | \$8,005.14 | \$0.00 | | | |
| Total: | | | \$8,005.14 | \$0.00 | | | |

Supplemental Life Total : \$8,005.14

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.
 Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

Group: 673897 North Dakota Public Employees Retirement System

Account: 9999

Basic AD&D

| Year | Month | Premium Paid | Claims by Incurred Date ** | Conversion & Port Charges | Waiver Face Amount | Number of Lives | Volume |
|---------------|-------|--------------|----------------------------|---------------------------|--------------------|-----------------|--------|
| 2023 | July | \$0.00 # | \$12,005.90 | \$0.00 | | | |
| Total: | | | \$12,005.90 | \$0.00 | | | |

Basic AD&D Total : \$12,005.90

Premium includes partially due and partially paid premium, * Premium is all due, ** Includes all paid claims plus interest as well as pending claim amounts.

The 'Totals' for Waiver Face Amount represents the total Waiver Face Amount in the most recent Experience Period. Number of Lives and Volume represent averages.
Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

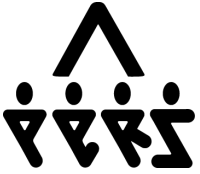
Group: 673897 North Dakota Public Employees Retirement System

| Account | Activity Date | Claimant Name | Claimant DOB | Claim ID | Incurred Date | Status | Coverage Type | Waiver Face Amount |
|---------------|---------------|-------------------|--------------|-----------------|---------------|----------|-------------------|--------------------|
| 1 | 12/31/23 | BAUER, NANCY | 10/18/1971 | BC-2018-296107 | 12/05/2017 | Approved | Basic Life | 7,000.00 |
| 1 | 12/31/23 | GEYER, DAMIAN | 05/02/1966 | BC-2022-1609013 | 01/01/2022 | Approved | Basic Life | 7,000.00 |
| 1 | 12/31/23 | GEYER, DAMIAN | 05/02/1966 | BC-2022-1609020 | 01/01/2022 | Approved | Supplemental Life | 193,000.00 |
| 1 | 12/31/23 | GRAYBILL, GORDON | 08/23/1968 | BC-2021-1045965 | 11/19/2020 | Approved | Basic Life | 7,000.00 |
| 1 | 12/31/23 | GRAYBILL, GORDON | 08/23/1968 | BC-2021-1045983 | 11/19/2020 | Approved | Supplemental Life | 193,000.00 |
| 1 | 12/31/23 | KVASAGER, PATRECE | 05/07/1970 | BC-2019-488710 | 12/29/2018 | Approved | Basic Life | 7,000.00 |
| 1 | 12/31/23 | KVASAGER, PATRECE | 05/07/1970 | BC-2019-488713 | 12/29/2018 | Approved | Supplemental Life | 48,000.00 |
| 1 | 12/31/23 | MCCLINTOCK, JOHN | 02/11/1961 | BC-2018-192667 | 04/15/2017 | Approved | Basic Life | 1,300.00 |
| 1 | 12/31/23 | MCCLINTOCK, JOHN | 02/11/1961 | BC-2018-201797 | 04/15/2017 | Approved | Supplemental Life | 198,700.00 |
| 1 | 12/31/23 | MOSER, STEVEN | 04/16/1963 | BC-2018-192906 | 01/09/2013 | Approved | Basic Life | 3,500.00 |
| 1 | 12/31/23 | MOSER, STEVEN | 04/16/1963 | BC-2018-200057 | 01/09/2013 | Approved | Supplemental Life | 46,500.00 |
| Total: | | | | | | | | 712,000.00 |

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya® family of companies. For self-funded disability plans, we provide only administrative services.

| Report Field | Definition |
|--------------------------|--|
| Account | Account number assigned to the employer by Voya Employee Benefits. |
| Activity Date | Date of activity for a process. |
| Claimant DOB | Date of birth of the claimant. |
| Claimant Name | Identifies the name of the individual claimant for which the payment is being made. |
| Claim ID | A unique number assigned to the claim by Voya Employee Benefits. |
| Conversion Charges | The total amount of conversion charges that have been charged to a specific EA date. |
| Coverage Type | Type of coverage the applicant is applying for. |
| Group | Policy/Plan number assigned to the employer by Voya Employee Benefits. |
| Incurred Date | Actual date of death or disability. |
| Number of Lives | Number of covered participants. |
| Paid Claims by Paid Date | Benefit amount plus interest based on claim paid date. This amount does NOT include pending benefit amounts. |
| Port Charges | The total amount of port charges that have been charged to a specific EA date. |
| Premium Paid | Premium payment or fee payment made to Voya Employee Benefits for a group or account. |
| Status | The current status of the file. |
| Volume | Amount of coverage assigned to specific individuals. |
| Waiver Face Amount | Amount stated as payable to the insured. |

Insured plans are underwritten by ReliaStar Life Insurance Company, a member of the Voya (TM) family of companies. For self-funded disability plans, we provide only administrative services.



**North Dakota
Public Employees Retirement System**
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Rebecca Fricke
Executive Director
(701) 328-3900
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Fax (701) 328-3920 Email ndpers-info@nd.gov Website www.ndpers.nd.gov

Memorandum

TO: NDPERS Board

FROM: Katheryne Korom

DATE: September 10, 2024

SUBJECT: Medicare Part D Plan Contract Amendment

At the August meeting, the Board approved renewing the NDPERS Medicare Part D Plan with Humana for the 2025 plan year. Attached is the contract amendment prepared by NDPERS legal counsel and signed by Humana.

Board Action Requested: Approve the contract amendment for the NDPERS Medicare Part D Plan for the 2025 plan year for signature by Chairman Seminary.

Attachment

Attachment

Third Amendment to Medicare Part D Employer Sponsored Group Waiver Plan Prescription Drug Services Agreement

This Third Amendment is between the State of North Dakota, acting through its North Dakota Public Employees Retirement System (Group), and Humana Medical Advantage Organization (MAO).

GROUP and MAO entered into an Agreement for Medicare Part D Employer Sponsored Group Waiver Plan Prescription Drug Services (Agreement) on September 21, 2021. The initial plan year was from January 1, 2022, until December 31, 2022. The Agreement provides Group may renew the Agreement for successive January 1 to December 31 periods (renewal plan years).

GROUP and MAO renewed the Agreement for the January 1, 2023, to December 31, 2023, and January 1, 2024, to December 31, 2024, renewal plan years.

In August 2024, MAO proposed renewal terms for the January 1, 2025, to December 31, 2025, plan year, incorporated into this Amendment as Attachments 4, 3, and 5. Group reviewed the renewal terms, considered the matter, and passed a motion to renew the Agreement for the January 1, 2025, to December 31, 2025, plan year.

Group and MAO therefore agree:

- 1) Pursuant to Article IV, Section 4.2 of the Agreement, to renew the Agreement for one year. The amended renewal plan year is January 1, 2025, until December 31, 2025.
- 2) To incorporate the amended terms in Attachments 4, 3, and 5 into the Agreement.

Attachment 4 – Humana Medicare Employer PDP Plan - 2025 PDP for NDPERS
Plan 037 Option 161

Attachment 3 – Humana Medicare Employer Plan – Premium Information (2025)

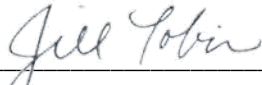
Attachment 5 – 2025 Group Medicare Performance Standards for PDP Only

- 3) All other terms of the Agreement remain in effect.

This Third Amendment is effective, on the date of the most recent signature, when executed by both Parties.

HUMANA

State of North Dakota through NDPERS

Signature: 
Printed: Jill Tobin
Title: SVP - Group Medicare
Date: 8/29/2024

Signature: _____
Printed: _____
Title: _____
Date: _____

HUMANA MEDICARE EMPLOYER PDP PLAN

2025 PDP for North Dakota Public Employees Retirement System (NDPERS) Plan 037 Option 161

Group Plus Formulary - PDG 50

With Package(s): 2 (Cough/Cold), 7 (Erectile Dysfunction)

Effective Date: 01/01/2025 - 12/31/2025

30 day Supplies

| PDP Option Number | 30 day Standard Retail from \$0 to Catastrophic (1) | | | | 30 day Standard Retail from Catastrophic to Unlimited | MOOP (2) |
|-------------------|--|---|---|---|---|----------|
| | Tier 1* | Tier 2 | Tier 3 | Tier 4 | | |
| PDP 157 | \$5 copayment; 15% coinsurance of remaining cost share | \$15 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 50% coinsurance of remaining cost share | \$25 copayment; 50% coinsurance of remaining cost share | \$0 copay | \$2,000 |

| PDP Option Number | 30 day Standard Mail Order from \$0 to Catastrophic (1) | | | | 30 day Standard Mail Order from Catastrophic to Unlimited | MOOP (2) |
|-------------------|---|---|---|---|---|----------|
| | Tier 1* | Tier 2 | Tier 3 | Tier 4 | | |
| PDP 157 | \$5 copayment; 15% coinsurance of remaining cost share | \$15 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 50% coinsurance of remaining cost share | \$25 copayment; 50% coinsurance of remaining cost share | \$0 copay | \$2,000 |

Note: Part D vaccines recommended by the Advisory Committee on Immunization Practices (ACIP) for adults may be available at no cost.

Note: Plan covered insulin products will not exceed \$35 for a one-month supply no matter what cost-sharing tier it's on.

*Tier 1: Generic or Preferred Generic - Generic or brand drugs that are available at the lowest cost share for this plan.

Tier 2: Preferred Brand - Generic or brand drugs that Humana offers at a lower cost than Tier 3 Non-Preferred Drug.

Tier 3: Non-Preferred Drug - Generic or brand drugs that Humana offers at a higher cost than Tier 2 Preferred Brand drugs.

Tier 4: Specialty Tier - Some injectables and other higher-cost drugs.

90 day Supplies

| PDP Option Number | 90 day Standard Retail (3) from \$0 to Catastrophic (1) | | | | 90 day Standard Retail (3) from Catastrophic to Unlimited | MOOP (2) |
|-------------------|---|---|---|--------|---|----------|
| | Tier 1* | Tier 2 | Tier 3 | Tier 4 | | |
| PDP 157 | \$5 copayment; 15% coinsurance of remaining cost share | \$15 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 50% coinsurance of remaining cost share | N/A | \$0 copay | \$2,000 |

| PDP Option Number | 90 day Standard Mail Order (3) from \$0 to Catastrophic (1) | | | | 90 day Standard Mail Order (3) from Catastrophic to Unlimited | MOOP (2) |
|-------------------|---|---|---|--------|---|----------|
| | Tier 1* | Tier 2 | Tier 3 | Tier 4 | | |
| PDP 157 | \$5 copayment; 15% coinsurance of remaining cost share | \$15 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 50% coinsurance of remaining cost share | N/A | \$0 copay | \$2,000 |

Note: Part D vaccines recommended by the Advisory Committee on Immunization Practices (ACIP) for adults may be available at no cost.

Footnotes

- 1 Catastrophic: When a member's Maximum Out-of-Pocket (MOOP) cost reaches \$2,000.
- 2 Plan MOOP (Maximum Out-of-Pocket): After a member's Plan Maximum Out-of-Pocket cost reaches \$0 Humana pays 100%.
- 3 Retail and Mail Order: The benefit for a 90-day supply is limited to Rx formulary Tiers 1-2 and most drugs on Tier 3. Regardless of tier placement, Specialty drugs are limited to a 30-day supply.

Out of Network: Emergency Situations

- When a member purchases a drug at an out-of-network pharmacy in an emergency situation:
- a. the member will pay the same coinsurance as would have applied at a network pharmacy, but at the out-of-network pharmacy price, and/or,
 - b. the member will pay the same copayment as would have applied at a network pharmacy, plus the difference between the out-of-network pharmacy price and the network pharmacy price.

This information is not a complete description of benefits. Contact the plan for more information. Limitations, copayments and restrictions may apply. Benefits, premiums and/or member cost-share may change each year. The formulary and pharmacy network may change at any time. You will receive notice when necessary. Please refer to the Evidence of Coverage for additional information regarding covered services and limitations or any other contractual conditions. For a complete description of benefits, exclusions and limitations please refer to the actual Evidence of Coverage. If a discrepancy arises between this information and the actual Evidence of Coverage, the Evidence of Coverage will prevail in all instances.

Humana is a Medicare Employer Prescription Drug plan with a Medicare contract. Enrollment in this Humana plan depends on contract renewal.

Group Medicare Renewal - BAFO

August 15, 2024

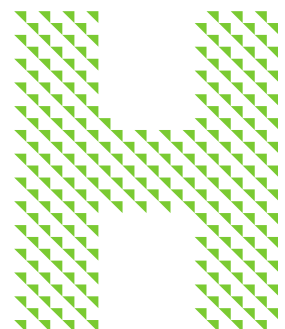
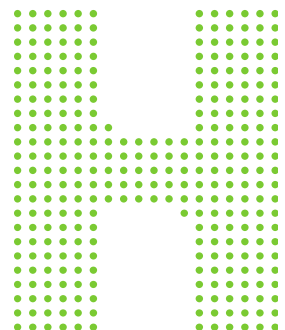
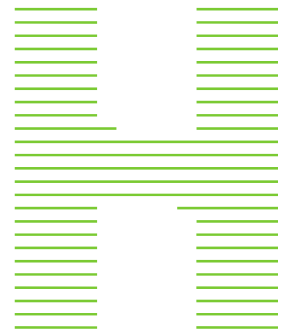
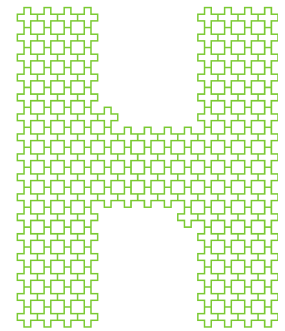
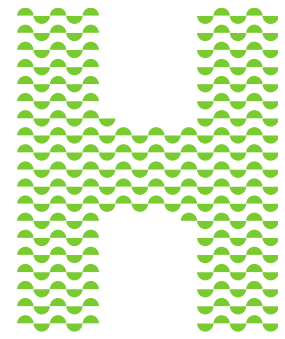
Humana is pleased to deliver the 2025 Group Medicare Advantage Plan final renewal (BAFO) for North Dakota Public Employee Retirement system (NDPERS). Attached you will find the final 2025 rate, 2025 Performance Guarantee Agreement, and the pharmacy plan design for your review.

As far as the pharmacy component, the dollar limits have changed. These limits are set by CMS and are listed below for your reference.

As you review the final 2025 renewal, please let me know if you have any questions. If there are no questions, please provide the contract amendment for signature, and sign the included Performance Guarantee Agreement. We can then begin processing the renewal for 2025.

Thank you!

| Stage | 2024 | 2025 |
|------------------------------|---------|---------------------------|
| Deductible | \$545 | \$590 |
| Initial Coverage Limit (ICL) | \$5,030 | \$2,000 |
| Out-of-pocket threshold | \$8,000 | \$2,000 (required by IRA) |





Humana Medicare Group Plan – Premium Information

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM - PDP

BAFO

Date: 8/15/2024
 Humana Medicare Group Plan
 Plan Names: Custom PDP
 Rx Formulary: Group Plus Formulary - 25800
 Additional Medication Buy-Ups: Coughs and Colds, EDs Enhanced

| Plan Year | Final Billed Premium (Per Member Per Month) |
|-----------------------|--|
| 1/1/2025 - 12/31/2025 | \$60.74 |

PDP 037 161 Rx Benefit Overview

Prescription Drugs (Retail 30 day supply)

Custom PDP \$5 copay plus 15% coinsurance/\$15 copay plus
 25% coinsurance/\$25 copay plus 50% coinsurance/\$25 copay
 plus 50% coinsurance from \$0 to Catastrophic

See attached sheet for rating assumptions and stipulations. The benefits presented above are a high-level summary. Please consult the Plan Design Exhibit for a more detailed list of covered services, member cost shares, services subject to deductibles and any plan limitations.

North Dakota Public Employees Retirement Systems



2025 Group Medicare Performance Standards for PDP Only

Effective January 1, 2025 through December 31, 2025

Minimum Annual Average Membership Requirement: None

| PG# | Category | Target | Standard & Measurement Criteria | Amount at Risk |
|-----|---|--|--|--|
| 1 | Plan Performance Review | Measurement methodology shall be measured from date of delivery of the plan performance review in calendar days | Within ten (10) calendar days following delivery of performance reviews to NDPERS, vendor shall develop and submit a corrective action plan (CAP) of issues identified for approval by NDPERS, and implement such plan within the time prescribed in the approved CAP. | Semi- annually \$1,000 per calendar day beyond the due date |
| 2.1 | Customer Satisfaction Surveys | Vendor will provide annual survey results to confirm compliance with performance standard | Member satisfaction surveys will be designed by the vendor and approved by NDPERS. Vendor will invite a random sample of members to participate in the survey to collect a statistically significant number of completed surveys. Member satisfaction rate will meet 90% or higher using a 1-5 scale of Completely Satisfied, Very Satisfied, Satisfied, Dissatisfied, Very Dissatisfied. Final survey questions and methodology will be agreed upon by vendor and NDPERS. | Annually \$25,000 per year |
| 2.2 | Customer Satisfaction Surveys - Illustrative Only | Illustrative Group Specific Results Only - see 2.1 | Illustrative Group Specific Results Only - see 2.1 | Illustrative Group Specific Results Only - see 2.1 |
| 3 | Team Meetings | Compliance to be monitored and assessed by NDPERS | NDPERS requires monthly team meetings to address all planning / implementation, business, financial, clinical / formulary (including new drug review) and operational needs | Monthly \$5,000 for each meeting missed |
| 4 | NDPERS board meetings | Compliance to be monitored and assessed by NDPERS | Vendor will participate in quarterly performance reviews to examine operational and financial performance | Quarterly \$5,000 for each quarter missed |
| 5 | Electronic Eligibility | Vendor will provide quarterly reports to confirm compliance with performance standard | Eligibility files will be installed in an electronic medium, logged within eight (8) hours and status will be effective within vendor's system within eighteen (18) hours from date of receipt, seven (7) days per week. | Quarterly \$500 for each missed file deadline |
| 6 | Manual Eligibility | Vendor will provide quarterly reports to confirm compliance with performance standard | Manual eligibility will be loaded within eight (8) hours upon receipt or notification and must be applied and active in the vendor's system within one (1) business day. | Quarterly \$500 for each missed file deadline |
| 7 | Error Reports | Vendor will provide quarterly reports to confirm compliance with performance standard | An error report on all eligibility file updates will be produced within eighteen (18) hours from the update. | Quarterly \$500 for each missed file deadline |
| 8 | Data Files | Will be available to NDPERS on request | Monthly data files (membership, medical, pharmacy) will be available by the 15th of the following month. | Monthly \$1,000 for each month not met |
| 9 | Claims Financial Accuracy | Claims Financial Accuracy will be 99% or greater, each year of the biennium. Measured as the absolute value of financial errors divided by the total paid value of audited dollars paid based on quarterly internal audit of statistically valid sample. | Vendor will provide annual reports to confirm compliance with performance standard | Annually \$12,500 per year |
| 10 | Claims Payment Accuracy | Vendor will provide annual reports to confirm compliance with performance standard | Claims Payment incidence Accuracy will be 98% or greater, each year of the biennium. Measured as the percent of Claims processed without financial payment error. | Annually \$12,500 per year |

North Dakota Public Employees Retirement Systems



2025 Group Medicare Performance Standards for PDP Only

Effective January 1, 2025 through December 31, 2025

Minimum Annual Average Membership Requirement: None

| PG# | Category | Target | Standard & Measurement Criteria | Amount at Risk |
|------|---|--|---|---|
| 11 | Claims Processing Accuracy | Claims Procedural Accuracy will be 95% or greater, each year of the biennium. Measured as the percent of Claims processed without non-financial error. | Vendor will provide annual reports to confirm compliance with performance standard | Annually \$12,500 per year |
| 12 | Claim Timeliness | Clean claims processing within 14 calendar days will be 95% or greater, each year of the biennium. Measured from the date the claim is received to the date claim is processed | Vendor will provide annual reports to confirm compliance with performance standard | Annually \$12,500 per year |
| 13 | Average Speed to Answer (ASA) | Vendor will provide semi-annual reports to confirm compliance with performance standard | Average Speed of Answer will be 30 seconds or less, each year of the biennium. Vendor will have an established measurement process that shall be reviewed with NDPERS | Semi-annually \$10,000 per year |
| 14 | Call Abandonment | Vendor will provide annual reports to confirm compliance with performance standard | Call Abandonment rate will be 5% or less, each year of the biennium | Annually \$10,000 per year |
| 15 a | Accuracy and Timelines/ | Vendor must evaluate a statistically valid sample of inquiries with reports provided. | a.) 95% percent of callers receive accurate information. Calls requiring additional research is excluded from the computation of this metric. | 15a, 15b, and 15c Annually \$12,500 per year |
| 15 b | First Call Resolution | Vendor must evaluate a statistically valid sample of inquiries with reports provided. | b.) 95% percent of inquiries must be resolved during the initial call (excluding appeals, billing, errors and escalations). | 15a, 15b, and 15c Annually \$12,500 per year |
| 15 c | Written Inquiry Response Time | Vendor must evaluate a statistically valid sample of inquiries with reports provided. | c.) ≥ 90% response to written inquiries within 30 calendar days | 15a, 15b, and 15c Annually \$12,500 per year |
| 16 | Prescription drug turnaround time – clean prescriptions | Vendor will provide quarterly reports to confirm compliance with performance standard | 98% within two (2) business days if no intervention required | Quarterly \$1,000 for each point below standard- |
| 17 | Prescription drug mail dispensing accuracy | Vendor will provide annual reports to confirm compliance with performance standard | 99.9% Mail service dispensing accuracy rate. Fields measured include member name, drug strength, directions, quantity and prescriber name. | Annually \$12,500 per year |
| 18 | Prescription drug home delivery member notifications | Vendor will provide annual reports to confirm compliance with performance standard | Vendor is required to notify a member when a mail service prescription is changed or there is any expected shipping delay and provide reporting details to NDPERS capturing all occurrences by member/DOS/Issue | Annually \$12,500 per year |

North Dakota Public Employees Retirement Systems



2025 Group Medicare Performance Standards for PDP Only

Effective January 1, 2025 through December 31, 2025

Minimum Annual Average Membership Requirement: None

| PG# | Category | Target | Standard & Measurement Criteria | Amount at Risk |
|-----|---|--|--|-------------------------------|
| 19 | Prescription drug specialty pharmacy delivery | Vendor will provide annual reports to confirm compliance with performance standard | 98% of prescriptions will be delivered and received by patients on the specified date of delivery | Annually \$12,500 per year |
| 20 | Network Pharmacy Access | Vendor will provide annual reports to confirm compliance with performance standard | Pharmacy network composition will not be reduced by more than 5% in North Dakota compared to the network submitted in the RFP | Annually \$12,500 per year |
| 21 | Data Systems Availability and Adjudication | Book of business level | Guarantees an annual average 99% system availability of the point-of-sale adjudication system on a book of business basis. This standard excludes downtime attributed to regularly scheduled systems maintenance or systems downtime | Annually \$12,500 per year |

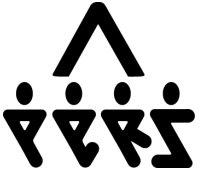
Humana agrees to meet the performance standards as outlined above in providing administrative services for North Dakota Public Employees Retirement Systems. This agreement is contingent upon Humana being the only Part D Prescription Drug option for Medicare eligible retirees. The agreement will be for the contract period beginning January 1, 2025. This Performance Guarantee offering is based on a PDP Only plan offering. Performance results will be reported quarterly based upon center results for the member and claims services categories, not client specific results (except where otherwise stated) within 60 days after the end of the reporting period. Results will be assessed based on the annual results with payment of any penalties due following the end of the plan year. Please note that the performance standards are influenced by key market indicators (including changes in rules and standards from CMS) which could impact our performance standard metrics.

During implementation if significant changes to the Client's Plan, or in the event a benefit change notification is not received from the Client on a timely basis, Humana will not be responsible for performance results or penalty amounts as described within this Agreement.

ACCEPTED AND AGREED:

By: _____ Date: _____

In order for this contract to be binding, signatures are required from the client. This signed exhibit must be returned to the Humana Account Executive prior to implementation and no later than 30 days post effective date.



**North Dakota
Public Employees Retirement System**
1600 East Century Avenue, Suite 2 • PO Box 1657
Bismarck, North Dakota 58502-1657

Rebecca Fricke
Executive Director
(701) 328-3900
1-800-803-7377

Fax (701) 328-3920 Email ndpers-info@nd.gov Website www.ndpers.nd.gov

Memorandum

TO: NDPERS Board

FROM: Rebecca

DATE: September 10, 2024

SUBJECT: Health Insurance Plan Renewal

Representatives from the Sanford Health Plan (SHP) presented SHP's proposed premium increases at the August Board meeting. Their presentation is provided as Attachment 1. After discussing the proposal with Deloitte and the Board negotiating strategy in closed session, the Board directed staff on next steps. Staff and Deloitte will provide an update.

We do have this noticed for executive session to discuss negotiation strategy with staff and Deloitte.

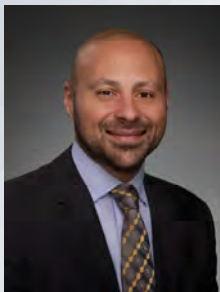
Board Action Requested: Determine whether to renew the health insurance plan with Sanford Health Plan for the 2025-2027 biennium.

North Dakota Public Employees Retirement System

2025-2027 RENEWAL



Sanford Health Plan Key Officers



**Tommy Ibrahim,
MD**

President



**Emily
Griese, PhD**

Chief Growth and
Transformation
Officer



**Kevin
Faber, MD**

Chief Medical
Officer



**Brian
Maude**

Chief Financial
Officer



**Rob
Lafrentz,
JD**

VP, Legal



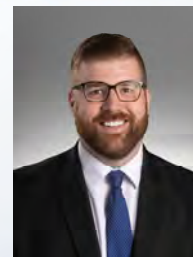
**Courtney
Meyer**

Senior Director,
Development &
Distribution



**Gretchen
Schilling,
PharmD**

Director,
Pharmacy



**Dylan
Wheeler,
JD**

Head of
Government
Affairs



**Kim
Haug**

Account
Executive,
NDPERS

Agenda

- Our Value Proposition
- Cost Containment & Performance
- Renewal
- Closing Remarks
- Q & A Session

Our Approach

- Continue to be a valued partner with NDPERS
- Recognize other challenges facing NDPERS board and leadership
- Committed to transparency
- Approaching price renewal with a focus on long-term, not just this biennium



It's a Privilege to be Your Partner

Financial Security



- The Hybrid Financial Model – No Downside Risk
- A+ Standard & Poor's Rating, AA- Fitch Rating
- Strength and Stability of \$7 Billion Sanford Health System (and growing)

Trusted Partner



- Transparent – Reliable – Proactive – Engaged
- Your Priorities Matter to Us
- We Do the Right Thing
- Dedicated Client Management Team

Integrated Approach to Health Management

$$\begin{array}{c} \mathbf{V} \\ \text{(Value)} \end{array} = \frac{\begin{array}{c} \mathbf{Q} \\ \text{(Quality)} \end{array} + \begin{array}{c} \mathbf{E} \\ \text{(Experience)} \end{array}}{\begin{array}{c} \mathbf{\$} \\ \text{(Cost)} \end{array}}$$

Approach to Health Management



Targeted Care Management

- Focus on improved member outreach and engagement
- Delivering consistent outcomes
- 53% reduction in ER visits; 42% reduction in hospital admission; 30% reduction in PMPM of participating members



Population Health

- Focused on Managing Medical Loss Ratio (MLR)
- Consistent data insights and tactics to manage our value equation



Strong Provider Partnerships

- Strong commitment to quality
- Trust in provider-led care plans



Wellness

- Diabetes Prevention Program
- Exercise is Medicine
- Center for Lifestyle Medicine Coaching

Cost Containment

Top Levers to Mitigate Medical, Rx and Administrative Cost



Medical Management

- Enhanced Care Management; proven outcomes
- Evolving CM to match membership trends
- Digital Health Solutions to supplement CM
- Health Guides
- Specialized Wellness Solutions
- Prior Authorization



Provider Partnerships and Contracting

- Expand value-based arrangements
- Extracted deeper discounts from wrap network vendor
- No Surprises Act Implementation



Pharmacy Management

- Formulary Management
- PBM Management
- Prior Authorization
- High Generic Rates
- Specialty Drug Management

Investing to Drive Outcomes & Satisfaction

DRIVING BETTER OUTCOMES WITH INNOVATIVE NEW +OSCAR MEMBER ENGAGEMENT PLATFORM

- Ability to connect with members across multiple methods (email, text, mailers, etc) to get them to engage in their health
- Strong early results from engagement campaigns:
- Living Well Newsletter
- Wellness Benefits and Programs
- Preventive Screenings
 - Diabetic Eye Exams
 - A1C Screenings
 - Colorectal Cancer
 - Breast Cancer
 - Cervical Cancer
- Annual Wellness Visits

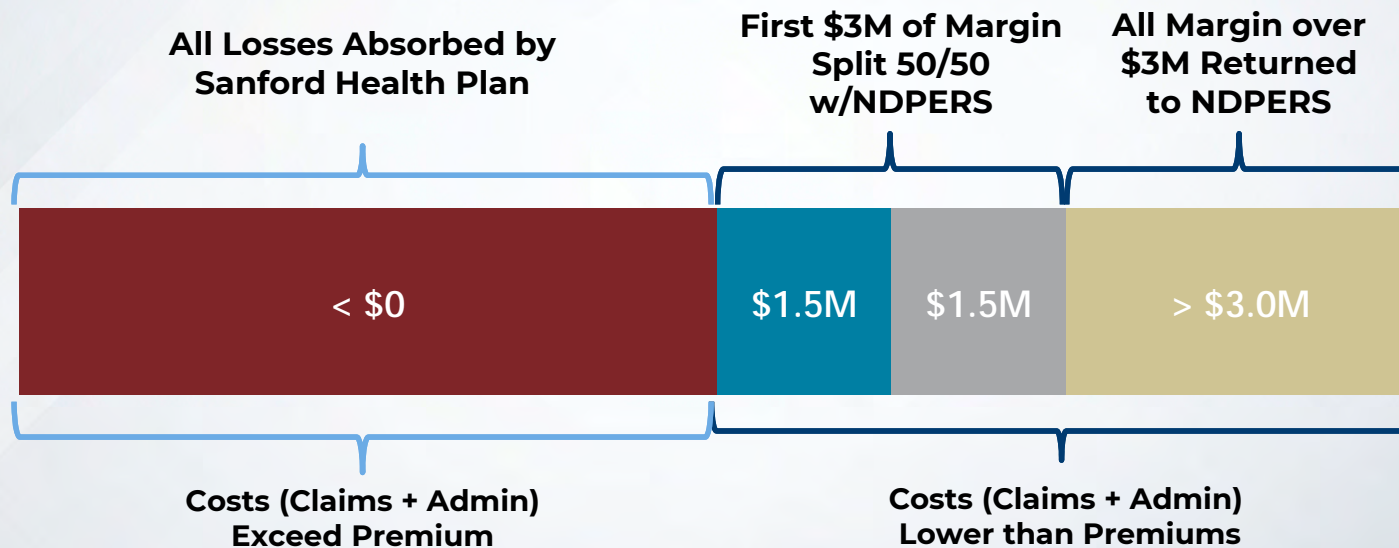


RESPONDING TO MEMBER FEEDBACK BY ADDING SILVER&FIT FITNESS BENEFITS

- Medicare Retirees' member feedback continues to indicate interest in additional fitness benefits
- SHP's entrance into Medicare Advantage has driven us to invest in additional supplemental benefits including Silver&Fit
- SHP will add Silver&Fit membership at no additional cost for Medicare Retirees
- Offers access at 66 facilities in 23 North Dakota cities



Contractually NDPERS Has No Financial Risk



What is included in Premium?

- Anticipated claims costs
- + Anticipated non-claims costs
- + Administrative costs
- + Premium taxes
- + Margin (\$0)

PREMIUM

Trend

Rate at which utilization is expected to increase



factors expected to increase costs in the future

TREND



Trend

Composite Trend in Pricing

7.8%

overall

- **5.7%** Medical
- **14.6%** Pharmacy

*Annual trend rate

Trend impacting factors:

- Changes in coverage requirements
- Medical & pharmacy inflation
- Advancements in medical technology
- New specialty drugs

Rate Build Assumptions

Claims Trend Assumptions

| LINE OF BUSINESS | TREND APPLIED | | HISTORICAL TREND* |
|---------------------|---------------|-------------------------|-------------------|
| State Employees | Medical | 4.5% | 6.3% |
| | RX | 14.7% | 11.3% |
| Political Subs | Medical | 8.3% | 13.3% |
| | RX | 14.7% | 11.4% |
| Early Retirees | Medical | Not credible do to size | |
| | RX | | |
| Medicare Supplement | Medical | 9.5% | 9.5% |

- Separate Cross-Year claims used (July-June)
 - Credibility applied
 - 2021-2022 (10%)
 - 2022-2023 (30%)
 - 2023-2024 (60%)

*Historical trend is from 2021-2024

Other Assumptions:

- No expected membership changes
- \$5M in expenses outside of claims system expenses over the biennium
 - \$3.5M - Network access fees (Multiplan out-of-area)
 - \$1M - Value based payments to providers
 - \$0.25M - Diabetes program vendor
 - \$0.25M - Subrogation fee payments
- Administrative rate - 5.7% of claims

Renewal Rates

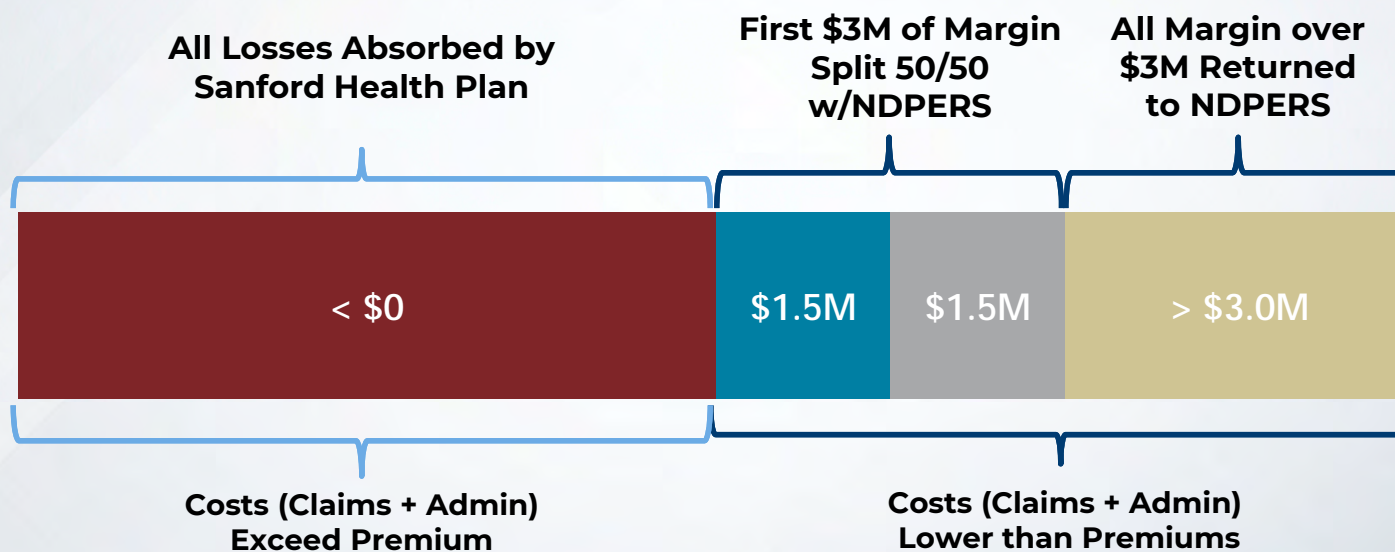
Focus on Financial Stability and Partnership

Renewal Rates by Program

| | NDPERS COMMERCIAL | MEDICARE SUPPLEMENT |
|-----------------------|----------------------|------------------------|
| BIENNIUM RENEWAL RATE | 16.9% | 8% |

| GROWTH RATES | NDPERS COMMERCIAL | MEDICARE SUPPLEMENT |
|--|-------------------|------------------------|
| COMPOUND ANNUAL GROWTH RATE (CAGR) – Next 2 years | 8.1% | 3.9% |

NDPERS Has No Financial Risk



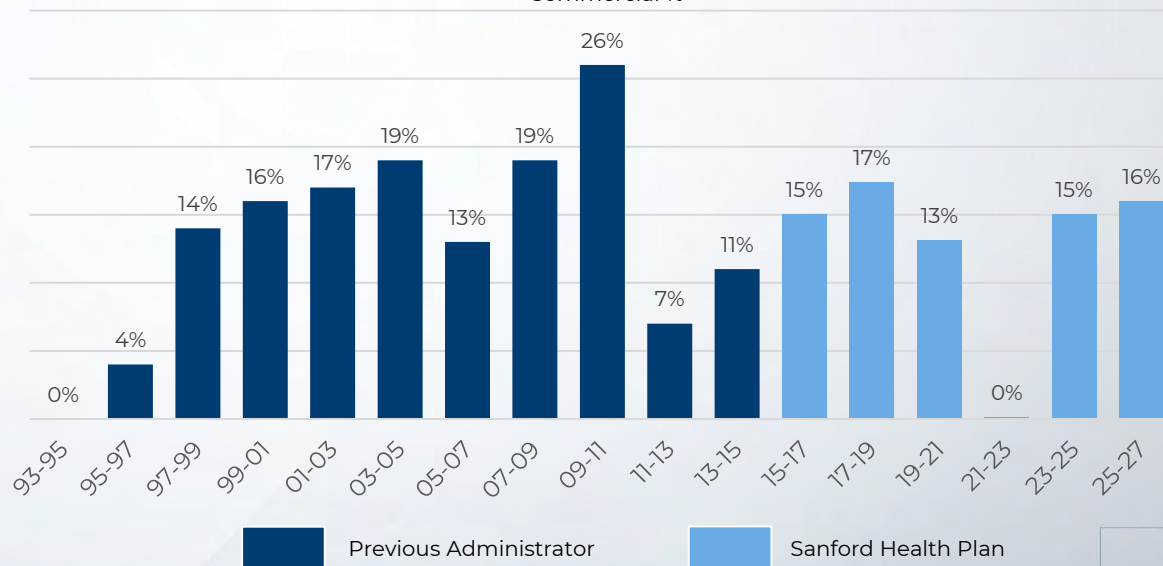
Premium Rate Increase History

- Rate increase is within historical trends
- Sanford Health Plan made a strategic business decision to take a 0% increase in '21-'23
- State of North Dakota benefitted from this decision – saving \$26.8M to date
- SHP cannot, and will not, attempt to make this money back
- Intent is only to break even on the next biennium

NDPERS PREMIUM PERCENTAGE INCREASE FROM PREVIOUS BIENNIUM

(Excludes Plan Design Changes)

*Commercial %



Alternatives to Reduce Rate

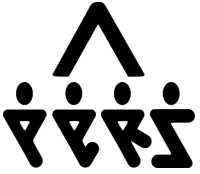
- Plan design changes are levers to adjust cost while maintaining Grandfathered status
- Suggestions could include:
 - Cost share differentials
 - Prior authorization for referrals to out-of-state providers where in-state providers may be available
 - *60% of high dollar claims are going outside State of ND (Mayo, Children's Healthcare, Fairview)
- Will explore options at the direction of NDPERS staff

Next Steps

- Discussions and assumption alignment with Deloitte
- Sanford Health Plan available to answer any questions that the Board or NDPERS may have
- Follow-up information or questions from the Board
- Work with Rebecca and NDPERS staff regarding renewal rate
- Present at next NDPERS Board meeting – September 10th
 - Include any additional information, adjustments, or answers from August 20 Board meeting and discussions with NDPERS

QUESTIONS?





Memorandum

TO: NDERS Board

FROM: Katheryne Korom

DATE: September 10, 2024

SUBJECT: Health Insurance Plan Request for Proposal (RFP)

Attached is an updated Health Plan RFP in the event the Board decides not to renew with Sanford Health Plan. The documents have been reviewed by Deloitte consultants and NDERS staff. The RFP document and some of the Appendices (including question documents) are attached for your review.

Following is the proposed timeline:

| Activity | Date/Time |
|---|------------------------------|
| NDERS publishes Request for Proposal (RFP) | September 16, 2024 |
| Bidder questions (in writing) due | September 30, 2024 (5pm CST) |
| Proposals due | November 22, 2024 (5 pm CST) |
| Finalist presentations (if requested) | January 2025 |
| NDERS notifies finalist of intent to negotiate | January/February 2025 |
| Bidder and NDERS begin implementation | March 2025 |
| Bidder begins providing services | July 1, 2025 |

If you have any questions, we will be available at the NDERS Board Meeting.

Board Action Requested:

Determine whether to approve the RFP to be published for the Health Plan.

Attachments

Attachment A



**NORTH DAKOTA
PUBLIC EMPLOYEES
RETIREMENT SYSTEM**

Request for Proposal

Group Medical and
Prescription Drug Coverage

Release Date: TBD

**Proposals Due:
By 5:00 p.m. CST
TBD**

Key Information

Objective

North Dakota Public Employees Retirement System (“NDPERS”) is soliciting proposals for the insurance and/or administration of its employee/retiree medical and prescription drug insurance plan. Proposals will be accepted from administrative/insurance companies (“Bidders”) that are capable of offering a statewide provider network, utilization management, disease management, wellness program and pharmacy benefit manager services along with other related services. The contract to be awarded is a multi-year arrangement beginning July 1, 2025 and ending June 30, 2027.

This RFP is requesting proposals for both fully-insured and self-insured arrangements. The NDPERS Board will determine which funding approach it will implement based on the results of the RFP (See Section II of this RFP for further detail). See also Appendix C1 (Fully-Insured Questionnaire), Appendix C2 (Self-Insured Questionnaire Medical), and Appendix C3 (Self-Insured Questionnaire Prescription Drug). Prospective bidders may choose to bid on both the fully-insured and self-insured arrangements, or can choose to bid on parts of the business, as described later in this RFP document.

Background

NDPERS is responsible for the administration of the State of North Dakota’s Retirement, Health, Life, Deferred Compensation, FlexComp, Employee Assistance Program (EAP), Retiree Health Insurance Credit, voluntary Dental and voluntary Vision programs. In addition, cities, counties, schools, and other political subdivisions of the state may participate at their option. Approximately 23,000 active employees and 11,000 retirees are eligible to participate in these plans.

NDPERS reserves the right to select the health plan proposals that best fit its needs and the needs of its eligible employees/retirees. NDPERS has retained Deloitte Consulting LLP (“Deloitte Consulting”) to assist with the RFP process.

Sanford Health Plan (SHP) currently insures the medical and prescription drug plan under a fully-insured arrangement. OptumRx is Sanford’s pharmacy benefits manager (PBM) partner for the active and pre-Medicare population. The retiree Medicare population’s PBM for the Medicare Part D product is Humana and is not part of this RFP.

In determining which bid, if any, will best serve the interests of eligible employees/retirees and the state, the NDPERS and its Board will assess the following factors:

1. The economy to be effected [sic].
2. The ease of administration.
3. The adequacy of the coverages.
4. The financial position and experience of the carrier, with special emphasis as to its solvency.
5. The reputation of the carrier and any other information that is available to show past experience with the carrier in matters of claim settlement, underwriting, and services.
6. Multi-year guaranteed premium/fees.
7. The value proposition of different insurance arrangements including self-insurance to determine if it is in the best interest of the State and the State’s eligible employees.

The successful bidder of this RFP for fully-insured coverage is eligible to have the initial term of this contract extended for two additional two-year periods (2027-2029 and 2029-2031) at the option of the NDPERS Board (see Section III in this RFP for renewal conditions).

A self-insured contract (bundled or unbundled with PBM for pharmacy benefits administration) may be awarded for two years with a renewal option for two additional two-year periods at the option of the NDPERS Board.

Proposed Timetable

The timeline is provided below for informational purposes. NDPERS reserves the right to change the dates. Every effort will be made to notify Bidders of changes to the proposed timeline.

| Activity | Date/Time |
|--|------------------|
| NDPERS publishes Request for Proposal (RFP)* | TBD |
| Bidder questions (in writing) due | TBD |
| Proposals due | TBD |
| Finalist presentations (if requested) | TBD |
| NDPERS notifies finalist of intent to negotiate | TBD |
| Bidder and NDPERS begin implementation | TBD |
| Bidder begins providing services | TBD |

RFP Coordinator Contact

Ford Edgerton
 Deloitte Consulting LLP
 213.553.1428
 fedgerton@deloitte.com

Note:

From the date of issuance until the announcement of the finalist(s), Bidders may contact only the RFP Coordinator. All correspondence and questions must be submitted in writing via e-mail to the RFP Coordinator in accordance with the timeline set forth in this RFP. NDPERS personnel are not authorized to discuss this RFP with Bidders; doing so may result in disqualification. Bidders may continue to communicate with NDPERS staff regarding other relevant business matters.

*Password to access protected files may be requested from the RFP Coordinator via email.

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I. Overview of the NDPERS Program

NDPERS

The North Dakota Public Employees Retirement System is responsible for the administration of the State's retirement, health, life, dental, vision, deferred compensation, flex comp, retiree health insurance credit, and EAP programs.

Pursuant to 54-52-03, <https://www.ndlegis.gov/cencode/t54c52.pdf>, NDPERS is managed by a Board of Trustees.

NDPERS is a separate agency created under North Dakota state statute and, while subject to state budgetary controls and procedures as are all state agencies, is not a state agency subject to direct executive control.

Dakota Plan

NDPERS contracts with Sanford Health Plan ("Sanford" or "SHP") to provide fully-insured health care coverage with a risk sharing agreement. The plans provided pursuant to this fully funded arrangement are:

- PPO/Basic – Grandfathered plan
[PPO/Basic Grandfathered Certificate of Insurance](#)
[PPO/Basic Grandfathered Certificate of Insurance - 2023 Amendment](#)
- PPO/Basic – Non-grandfathered plan
[PPO/Basic Non-Grandfathered Certificate of Insurance](#)
[PPO/Basic Non-Grandfathered Certificate of Insurance - 2023 Amendment](#)
- HDHP/HSA Plan – Non-grandfathered plan
[HDHP Certificate of Insurance](#)
[HDHP Certificate of Insurance - 2023 Amendment](#)
- Dakota Retiree Plan
[Dakota Retiree Plan \(Medicare\) Certificate of Insurance](#)

PPO

NDPERS offers a Preferred Provider Organization ("PPO") plan through Sanford. The PPO plan offers broad access to members with in-network and out-of-network benefits.

Basic Plan

If a PPO health care provider is not available in the member's area, or if the member chooses or is referred to a health care provider not participating in the Preferred Provider Organization, the member will receive the Basic Plan benefits.

High Deductible Health Plan (HDHP)

In addition to the PPO and Basic Plans, NDPERS offers state employees the option to enroll in a High-Deductible Health Plan (HDHP) with a Health Savings Account (HSA). The HDHP/HSA option has a higher annual deductible and coinsurance costs for medical

services. However, the higher out-of-pocket costs are partially offset by an employer contribution to the HSA. For the 7/1/23-6/30/25 contract period the NDPERS monthly HSA contributions are: \$101.74 for single coverage and \$246.16 for family coverage.

The NDPERS Board has approved the option for large political subdivisions to offer the HDHP and for the plan to be the only choice for their employees. However, NDPERS does not administer a HSA on behalf of the political subdivisions. The election to participate must be made by November 15 prior to the January 1 effective date and must be for the full calendar year. As of the date of RFP issuance, there are currently no large political subdivisions participating in the HDHP.

Value-Based Health Care Overlay

NDPERS started a value-based health care arrangement with several large health care providers in North Dakota. See Exhibit 27 for more information on the program.

Coverage Rules: When Coverage Begins & Eligibility

An eligible employee is entitled to coverage the first of the month following the month of employment, provided the employee submits an application for coverage within the first 31 days of employment. Each eligible employee may elect to enroll his/her eligible dependents.

Eligible employees include:

- State employees or employees of participating political subdivisions first employed prior to August 1, 2013 who are at least 18 years of age and whose services are not limited in duration, who are filling an approved and regularly funded position, and who are employed at least 17.5 hours per week and at least five months each year;
- State employees or employees of participating political subdivisions first employed after August 1, 2013, who are employed at least 20 hours per week and at least 20 weeks each year of employment are eligible to receive benefits; and
- A temporary employee employed before August 1, 2007, may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program if such election is made before January 1, 2015, and if the temporary employee is participating in the uniform group insurance program on January 1, 2015. In order for a temporary employee employed after July 31, 2007, to qualify to participate in the uniform group insurance program, the employee must be employed at least twenty hours per week; must be employed at least twenty weeks each year of employment; must make the election to participate before January 1, 2015; and must be participating in the uniform group insurance program as of January 1, 2015. To be eligible to participate in the uniform group insurance program, a temporary employee first employed after December 31, 2014, or any temporary employee not participating in the uniform group insurance program as of January 1, 2015, must meet the definition of a full-time employee under section 4980H(c)(4) of the Internal Revenue Code [26 U.S.C. 4980H(c)(4)].

An Eligible Dependent includes:

- The Spouse of the Subscriber;

- A Dependent Child who is related to the Subscriber as a natural child, a child placed for adoption, a legally adopted child, a child for whom the Subscriber has legal guardianship, a stepchild, or a foster child; and is one of the following: (a) under the age of 26, (b) incapable of self-sustaining employment by reason of a disabling condition and chiefly dependent upon the Certificate holder/Subscriber for support and maintenance. If the Plan so requests, the Subscriber must provide proof of the child's disability within 31 days of the Plan's request. If a person has a disabled dependent that is over the limiting age but was never previously covered by the Plan, they are eligible for coverage if the disability occurred prior to reaching the limiting age of 26. If for any reason, Subscriber drops coverage for a disabled dependent prior to age 26, then wishes to cover the child again, coverage must be added prior to the child turning age 26. If the disabled child has reached age 26, the child must be continuously covered under the Plan in order to maintain eligibility; and
- A Dependent of Dependent (a) Is the natural child of the Subscriber's Dependent child, a child placed with the Subscriber's Dependent Child for adoption, a legally adopted child by the Subscriber's Dependent child, a child for whom the Subscriber's Dependent Child has legal guardianship, a stepchild of the Subscriber's Dependent child, or foster child of the Subscriber's Dependent child. These same definitions apply to dependents of the Dependent child(ren) of the Subscriber's living, covered Spouse; and (b) the Subscriber's Dependent Child must be a Covered Dependent under this Certificate of Coverage for the dependent of the Dependent Child to be eligible; and (c) The Dependent Child must be chiefly dependent on the Subscriber for support [N.D.C.C. §26.1-36-22 (3)(4)].
- Survivors of a first responder who died in the line of duty on or after January 1, 2010 will receive the option to enroll in the NDPERS health insurance without having to pay premium towards the coverage.

Detailed information regarding current eligibility for dependents for the Dakota Plan can be found in the 2023-2025 Certificate of Insurance at:

<https://www.ndpers.nd.gov/sites/www/files/documents/members-additional-information/all-health/shp-coi-gf.pdf>

Pre-Medicare Retiree Eligibility

Prior to July 1, 2015, retirees or surviving spouses who are under age 65 and are receiving a retirement allowance from the Public Employees Retirement System, the Highway Patrol Retirement System, the Teachers Insurance and Annuity Association College Retirement Equities Fund (TIAA), the Job Service Retirement Plan, the Teachers' Fund for Retirement (TFFR), or retirees who have accepted a retirement allowance from a participating political subdivision's retirement plan were eligible for benefits. In addition, former legislators are also eligible for this coverage.

Effective July 1, 2015, all new pre-Medicare retirees after that date are eligible for COBRA coverage as long as the retiree was participating in the health plan as an active employee prior to retirement. The pre-Medicare plan is no longer available to retirees who received their first retirement payment on or after July 1, 2015. Pre-Medicare retirees who retired before that date will continue to be eligible and may participate. Former legislators continue to remain eligible.

The pre-Medicare retiree single rate is 150% of the active member single rate; the rate for a pre-Medicare retiree plus one is twice the pre-Medicare single rate, and the rate for a pre-Medicare retiree plus two or more dependents is two and one-half times the pre-Medicare retiree single rate.

The NDPERS Board can elect to open the Pre-Medicare Retiree eligibility to retirees after July 1, 2015. However, ND law requires that the premium to be charged must be based on the experience of the population and not based on the rates outlined above. At this time, the Board has opted not to re-open the Pre-Medicare Retiree plan.

Dakota Retiree Plan

The Dakota Retiree Plan provides health care coverage as a secondary payer to Medicare. Coverage for Medicare retirees is different than the coverage for Pre-Medicare retirees. The NDPERS Medicare retiree plan mirrors Medicare supplement Plan F. Each eligible retiree may elect to enroll his/her eligible dependents as described in the *Eligibility* section above. The prescription drug benefit for retirees is provided through a group Prescription Drug Plan (PDP/EGWP) on a calendar year basis and is not part of this RFP.

Detailed information regarding current eligibility for dependents for the Dakota Retiree Plan can be found in the Certificate of Insurance at:

<https://www.ndpers.nd.gov/sites/www/files/documents/members-additional-information/all-health/shp-coi-retiree.pdf>

Employer Eligibility Criteria

According to [North Dakota Century Code \(NDCC\) 54-52.1-03.1](#), political subdivisions may offer the benefits of the NDPERS group health plan to its eligible employees subject to the criteria provided in the Employer Participation Agreement. However, according to the Affordable Care Act (ACA), small employers, defined as 50 employees or less, will not be eligible to participate in the NDPERS group health plan because the plan does not meet the ACA requirements. For employers eligible to join NDPERS, it requires 60-90 days to enroll a new group. Political subdivisions joining the NDPERS health plan at this time will be offered the choice of joining the NDPERS Non-Grandfathered PPO/Basic Plan or the High Deductible Health Plan (HDHP). However, the employer may only select one plan and all eligible employees that elect to participate will be members of that one plan.

Please review the eligibility and coverage information carefully as it explains the rights and responsibilities of both the employer and employee.

<https://ndpers.nd.gov/employers/join-ndpers-plans/health-plan/>

Participating political subdivisions may elect to terminate their participation in the NDPERS group health plan by providing written notice at least 60 days prior to the date of termination and per the provisions of NDCC 54-52.1-03.1 and NDAC 71-03-07-07.

54-52.1-03.1. Certain political subdivisions authorized to join uniform group insurance program - Employer contribution.

If eligible under federal law, a political subdivision may extend the benefits of the uniform group insurance program under this chapter to its permanent employees, subject to minimum requirements established by the board and a minimum period of participation of sixty months. If

the political subdivision withdraws from participation in the uniform group insurance program, before completing sixty months of participation, unless federal or state laws or rules are modified or interpreted in a way that makes participation by the political subdivision in the uniform group insurance program no longer allowable or appropriate, the political subdivision shall make payment to the board in an amount equal to any expenses incurred in the uniform group insurance program that exceed income received on behalf of the political subdivision's employees as determined under rules adopted by the board. The Garrison Diversion Conservancy District, and district health units required to participate in the public employees retirement system under section 54-52-02, shall participate in the uniform group insurance program under the same terms and conditions as state agencies. A retiree who has accepted a retirement allowance from a participating political subdivision's retirement plan may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the employee's spouse reaches age sixty-five, upon the receipt of a benefit, when the political subdivision joins the uniform group insurance plan if the retiree was a member of the former plan, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this section, the retiree or surviving spouse must meet the minimum requirements established by the board. Each retiree or surviving spouse shall pay directly to the board the premiums in effect for the coverage then being provided. The board may require documentation that the retiree has accepted a retirement allowance from an eligible retirement plan other than the public employees retirement system.

71-03-07-07. Minimum requirements for political subdivisions.

An enrolled political subdivision must extend the benefits of the group insurance program to its eligible employees and paid members of its board, commission, or association subject to minimum requirements established by the retirement board and a minimum period of participation of sixty months. If the political subdivision withdraws from participation before completing sixty months of participation, unless federal or state laws or rules are modified or interpreted in a way that makes participation by the political subdivision in the uniform group insurance program no longer allowable or appropriate, the political subdivision must make payment to the retirement board equal to the expenses incurred on behalf of that political subdivision's employees which exceed the income received by the retirement board on behalf of that political subdivision's employees during the time of participation. For purposes of this section:

1. "Expenses incurred" means:
 - a. Claims incurred by the political subdivision during the enrolled period and paid during or within three months after the enrolled period and includes capitated payments to providers;
 - b. Reasonable administrative expenses as incurred by the public employees retirement system and the claims administrator as set forth in the master contract; and
 - c. The cost of any premium buydown provided.
2. "Income received" means all premiums paid by the political subdivision to the retirement board.

Full payment is due within three months after receipt of notice from the executive director, unless an alternative payment schedule has been approved by the retirement board. A late payment charge must be assessed on all money due on an account at a rate of one and three-fourths percent per month.

Pharmacy Benefit Manager

The prescription drug plan coverage for active and pre-Medicare retirees is bundled with the medical plan provided by Sanford Health Plan. In responding to this RFP, Pharmacy Benefit Manager (PBM) services may be offered as a bundled proposal with the medical insurance for fully-insured or self-insured, or it may be offered as an unbundled (“carve-out”), fully-insured or self-insured option directly by the PBM. This RFP does not include PBM services for the Medicare Part D Plan.

Data Warehouse

The medical records and related data of the employees, retirees, and dependents, obtained as the result of enrollment in the uniform group insurance program, are the property of NDPERS (North Dakota Century Code § 54-52.1-12). Currently, the health plan provides raw data, including detailed claims and enrollment data sets, based on a mutually agreed upon format no less than monthly for the data warehouse repository. All vendors are required to submit claims and enrollment data in an agreed upon format.

Reporting Requirements

All monthly reports should be prepared for each plan offered (e.g., Grandfathered PPO, Non-Grandfathered PPO, HDHP, etc.) and should also roll up to quarterly and annual aggregate reports. The selected vendor must provide NDPERS with data by secure download or other agreed upon medium in an acceptable format to NDPERS and subject to all federal and state laws on confidentiality and open records. NDPERS requires vendors to provide reporting which includes, but is not limited to, the following:

1. Monthly experience report by plan including enrollment, paid claims, administration fees, etc.
2. Quarterly and annual reporting to include financial/trend analysis, membership and health utilization summary, high dollar claims, prescription drug spending and payment trend, health management and wellness program key indicators, performance standards and guarantee measures and accounting of completed and other ongoing activities such as smoking cessation, the about the patient program, and healthy pregnancy program.
3. Annual policy accounting statement including claim reserves.
4. Provide biennial close-out report.
5. Annual ACA-required reporting.
6. Other reporting in accordance with regulatory requirements (e.g., CAA, etc.).

In addition to the above plan-wide reporting, the successful Bidder will provide plan-specific reporting as requested for the following:

- PPO/Basic – Grandfathered plan
- PPO/Basic – Non-grandfathered plan
- HDHP/HSA Plan – Non-grandfathered plan
- Dakota Retiree Plan

- Also please note NDCC § 54-52.1-12, which applies to all information the successful Bidder acquires relating to NDPERS.

Funding/ Risk Sharing

Currently NDPERS contracts with Sanford Health Plan to provide its health care coverage on a fully-insured basis with a risk sharing arrangement. Sanford Health Plan maintains full liability for incurred claims in excess of paid premium (no deficit carryover). If incurred claims plus expenses are less than premiums paid plus interest, NDPERS and the carrier share 50/50 in the first \$3 million in gains and thereafter all gains are returned to NDPERS. All funds in the account get interest paid each month equal to the rate based on US Treasury Notes quoted by the Wall Street Journal. NDPERS recognizes that different funding arrangements will be necessary to implement a self-insured program.

Performance Standards and Guarantees

The current health plan administrator adheres to agreed-upon performance standards and guarantees with a financial incentive/forfeiture component that is negotiated each biennium as part of the renewal process. The settlement/payment for such incentive/forfeiture is included in the annual settlement process. See Appendix H for performance standards and guarantees. NDPERS is interested in replicating or enhancing these standards in a future contract. It is a priority for the Board to have a comprehensive set of standards and guarantees relating to this plan.

Current Annual Settlement and Reconciliation

Within 31 days of 12 months after the end of the biennium, NDPERS requires an accounting summary which will result in an initial settlement of the biennium agreement. Within 31 days of 24 months after the end of the biennium a final accounting summary is required, which will result in a final settlement of the biennium agreement. NDPERS recognizes that different settlement arrangements will be necessary to implement a self-insured program.

Current and Desired Plan Designs

In addition to matching the current coverage provisions, as noted below, the successful Bidder shall include adding any federally required coverage provisions on or after July 1, 2025. The successful Bidder will also need to carry over all accumulator totals from January 1 through June 30 (if applicable). For additional details, refer to the following:

Dakota Plan:

- PPO/Basic – Grandfathered plan [PPO/Basic Grandfathered | NDPERS](#)
- PPO/Basic – Non-grandfathered plan [PPO/Basic Non-Grandfathered | NDPERS](#)
- HDHP/HSA – Non-grandfathered plan [High Deductible Health Plan \(HDHP\) | NDPERS](#)

Please note NDPERS is requesting that the proposer also provide a HSA product as part of this proposal for the HDHP product.

Dakota Retiree Plan: [Dakota Retiree Plan \(Medicare\) | NDPERS](#)

Member Access

PPO benefits are currently available with a PPO-participating provider within North Dakota or its contiguous counties. If a PPO health care provider is not available in the member's area, or if

the member chooses or is referred to a health care provider not participating in the PPO, the member will receive the Basic Plan benefits. The copayments, annual deductibles and coinsurance amounts vary between the PPO Plan and Basic Plan.

Directory

The current provider directory is available through the Sanford Health Plan website at: <https://www3.viiad.com/shp/public/>. Bidders must be able to provide a comparable network to the existing provider networks to provide appropriate access on a statewide basis.

Disease and Other Health Management Programs

Sanford Health Plan provides disease management and health improvement programs for eligible members. The list below includes examples of programs currently offered:

- Coronary Heart Disease
- Diabetes
- Hypertension
- Immunizations
- ADHD
- Colorectal Cancer
- Asthma

Bidders are expected to offer comprehensive, high-quality case/disease management programs, including rare and chronic diseases, for the plans offered to both actives and retirees.

Wellness Programs

NDPERS offers a variety of wellness programs for eligible members and employers. The list below provides more details on some of the programs currently offered:

Wellness Program Employee Incentives:

- Covered employees and/or spouses are each eligible to receive up to \$250 in incentives per year through participation. All covered retirees and/or spouses are also eligible for this incentive. Each participant must complete an annual health risk assessment through the vendor's online wellness tool. Two programs are currently available to achieve the \$250 benefit (See Exhibit 17). The programs are:
 - 1) Online Wellness Tool (Platform used by current vendor is WebMD) – participants utilize the online wellness tool to take steps towards better health goals, including tracking activity and performing challenges to receive points for their participation. The points are then redeemed towards various gift cards or fitness related prizes - see Exhibit 1.
 - 2) Fitness Center Reimbursement – participants who utilize a qualified health club facility 12 days per month will be reimbursed \$20 per month towards their membership fee - see Exhibit 2.
- The successful Bidder will be required to carry-over wellness incentive balances (if applicable).

Employer Based Wellness Program:

- The employer-based wellness program provides that employers who do not have an onsite wellness program pay premiums to NDPERS that are 1% higher. These funds are retained by NDPERS for administration. The program is given its authority in NDCC § 54-52.1-14. The goals for the program are to:
 - ✓ have 100% of participating employers supporting a wellness message at their worksite
 - ✓ help NDPERS members gain a greater understanding of wellness
 - ✓ create a better quality of life for NDPERS membership
 - ✓ contain health care costs
- Employers that participate in the NDPERS Group Health Insurance Plan have the opportunity to enroll in the employer-based wellness program on an annual basis. For the wellness year July 1, 2023 to June 30, 2024, there are 168 of 217 employers participating. The wellness plan year is from July 1 to June 30. See the following for more details:

<https://ndpers.nd.gov/employers/employer-resources/employer-based-wellness/>

Employer Based Wellness Benefit Funding Program:

The NDPERS Wellness Benefit Funding Program is available to employer groups that participate in the NDPERS group health plan and have been approved for the Employer Based Wellness Discount Program. The Wellness Funding Program, in conjunction with the Wellness Discount Program, encourages employers to commit to promoting wellness planning and programming at their work sites. The funding program provides funding assistance to employers that develop and sponsor onsite wellness programs for their employees. Benefits are available to eligible employers once each fiscal year of the biennium. For details, visit <https://ndpers.nd.gov/employers/employer-resources/employer-based-wellness/>. The successful Bidder will administer the reimbursement program to employers. NDPERS will deposit with the vendor necessary funds for paying such reimbursements as approved by NDPERS. In addition, one member of the vendor's wellness team will serve on the funding program committee that reviews employer applications for funding and determines their approval/denial based upon Board approved provisions.

Additional Wellness Related Services & Programs:

- **Wellness Consultants** – the successful Bidder must provide a dedicated staff member(s) to assist employees and employers with their wellness initiatives. Examples of services provided include:

To members:

- ✓ Assist with online wellness tool issues and questions.
- ✓ Assist with Fitness Center Reimbursement issues.
- ✓ Develop various challenges for participants to do through online wellness tool.
- ✓ Prepare monthly wellness newsletter for employees –See Exhibit 13

- ✓ Health coaching.
- ✓ Offer supplemental programs as available (current programs include “Exercise is Medicine” and “Center for Lifestyle Medicine”)
- ✓ Annual notice to retirees regarding amount of taxable benefits.

To employers:

- ✓ Conduct monthly coordinator calls/webinars with employer wellness coordinators. – see Exhibit 15
- ✓ Prepare and distribute a monthly wellness newsletter for coordinators. – see Exhibit 14
- ✓ Conduct coordinator workshops each summer across state for wellness coordinators to attend, including virtual options and recorded version for later viewing. – see Exhibit 19
- ✓ Coordinate the awarding of up to 12,000 points (towards \$250 maximum) on the online tool for an employee’s participation in the employer sponsored wellness program activities. – see Exhibit 11
- ✓ Coordinate and promote Walk at Work Day/Month – see Exhibit 12
- ✓ Report monthly on employee wellness redemptions for tax reporting purposes.

Member Education Presentations on Wellness Topics – The current vendor provides member education consultants that travel statewide to worksites and conduct presentations for employees on various wellness related topics. These presentations are also provided through virtual options. In addition, this team is available to assist with member and/or employer issues related to the online wellness tool and employer funding request evaluations. There are currently 20 different topics provided. See Exhibit 16 for an example.

Other Added Value Programs:

- Healthy Pregnancy Program – a program designed to provide support to pregnant members. See <https://www.sanfordhealthplan.org/ndpers/healthy-pregnancy-program> for details.
- Diabetes Management – The About the Patient diabetes program is offered to covered members with a diabetes diagnosis to support drug adherence. The program is coordinated with the ND Pharmacy Association. See <https://www.aboutthepatient.net/patients/diabetes-info/ndpers-program-info/> for details.
- Diabetes Prevention Program (DPP) – NDPERS members have access to group and individual diabetes prevention programs. Change Your Weigh is an evidence-based program where participants meet in a group with a trained coach to focus on strategies to lose weight, increase physical activity and decrease their risk of developing type 2 diabetes. Positively Me is individual health coaching focused on reducing risk of developing type 2 diabetes and is offered through our online wellness partnership with WebMD Health Services. Sanford Health Plan also provides the CDC Diabetes Prevention Program virtually to all members

The successful Bidder will also need to perform the following administrative services in support of these added value programs:

- Healthy Pregnancy Program
 - ✓ Enrollment services (telephonic and online options)
 - ✓ Host website with details of the program
 - ✓ Provider member communications
 - ✓ Administer a deductible waiver for participants
 - ✓ Administer free prenatal vitamins for participants
 - ✓ Provide RN Case Managers for periodic calls to participants
 - ✓ RN Case Manager to administer risk assessment upon initial enrollment
 - ✓ Send pregnancy information/tips to participants via text
 - ✓ Provide pregnancy and childbirth information online
 - ✓ Integrate the program with the broader Dakota Wellness Benefit program
 - ✓ Send a welcome "gift" to each participant (e.g. baby book, bib)
 - ✓ Provide quarterly participation reporting to NDPERS

- Diabetes Management – The About the Patient diabetes program
 - ✓ Provide a monthly file to PERS of members with diabetes related claims.
 - ✓ Intake a file of members with reimbursable claims on a regular basis.
 - ✓ Work with Pharmacy Association to coordinate payments to members.
 - ✓ Provide guidance to PERS on allowable reimbursements/eligible expenses

- At the direction of NDPERS, make payments for the NDPERS Wellness Funding Program. – see <https://ndpers.nd.gov/employers/employer-resources/employer-based-wellness/wellness-benefit-funding-program/> for details.

Infertility Benefit

NDPERS provides infertility benefits with a \$500 deductible and a \$20,000 lifetime maximum. The successful Bidder will be required to accept transition files for members who have accumulated benefits towards the deductible and lifetime maximum to carryover the benefits without interruption or restarting the lifetime maximum.

Employee Assistance Program (EAP)

The mission of the Employee Assistance Program (EAP) is to provide confidential, accessible counseling and referral services to individual employees in order to restore and strengthen the health and productivity of employees and the workplace. The EAP is available to employees and their immediate family members. For more information regarding the current EAP, refer to the website: <https://www.ndpers.nd.gov/active-members/insurance-plans/ndpers-employee-assistance-program-eap>

The successful Bidder is expected to cooperate as needed and as requested by NDPERS. NDPERS is not seeking proposals for this service as part of this RFP.

Enrollment/Premium Administration

NDPERS will submit enrollments, billing and/or premium remittance via a centralized electronic system. NDPERS will collect enrollment/eligibility information which will be provided to the successful Bidder on a data file that follows the HIPAA 834 file specifications. The indicative

data provided on the 834 enrollment/eligibility file is to be loaded onto the successful Bidder's data base and used for ID cards and all transactions/communications related to the member's participation in the plan. Premium payment information will be provided on a data file that follows the HIPAA 820 file specifications. Files will be transmitted using a secure file transmission process. The successful Bidder must be able to receive this data in that format and media.

COBRA Administration

NDPERS provides COBRA continuation for terminated/retired employees in compliance with federal regulations. NDPERS administers this program. The successful Bidder is expected to cooperate as needed to ensure seamless administration and member service. NDPERS is not seeking proposals for this service as part of this RFP.

Workers' Compensation Program

If benefits or compensation are available, in whole or in part, under provisions of a state workers' compensation act, laws of the United States or any state or political subdivision thereof, the benefits under the Dakota Plan will be reduced by and coordinated with such benefits or compensation available.

COBRA Notification

Upon enrollment under the NDPERS Benefit Plan, the successful Bidder will provide written notice to covered employees and their covered spouses of their applicable continuation rights pursuant to the Consolidated Omnibus Budget Reconciliation Act ("COBRA") or under State law pursuant to NDCC §26.1-36-23, if applicable.

Out-of-Area Coverage

If a member receives care from a non-participating health care provider within the state of North Dakota, benefit payments are reduced by a certain percentage and the member is responsible for the payment reduction. If a member receives care from a non-participating health care provider outside the state of North Dakota, the allowance for covered services will be an amount within a general range of payments made and judged to be reasonable by the vendor if the plan is fully insured. If the plan is self-insured the allowance for covered services will be an amount determined by the board. The benefits available under the Dakota Plan and Dakota Retiree Plan are also available to members traveling or living outside of the United States (subject to certain requirements such as preauthorization and prior approval). Detailed information regarding eligibility and out of area benefit levels can be found in the 2023-2025 Certificate of Insurance at <https://www.ndpers.nd.gov/sites/www/files/documents/members-additional-information/all-health/shp-coi-gf.pdf>

Annual Enrollment

Dakota Plan annual open enrollment typically takes place in October/November of each year. Employees may enroll in coverage or make changes in coverage during this period. Annual open enrollment is not applicable to pre-Medicare or Medicare retirees.

Current and Historical Monthly Rates and Employee Contributions

The contributions for single or family coverage for state employees are currently paid at 100% by the State, although this practice may change in the future. Please note that for the state, a

single composite rate is used instead of the single/family rate. The contributions for employees of participating political subdivisions are at the discretion of the subdivision and subject to the minimum contribution requirements of NDPERS. The contributions for temporary employees are either at their own expense or their employer may pay any portion of the premium subject to its budget authority.

In the case of a temporary employee who is an applicable taxpayer as defined in section 36B(c)(1)(A) of the Internal Revenue Code [26 U.S.C. 36B(c)(1)(A)], the temporary employee's required contribution for medical and hospital benefits self-only coverage may not exceed the maximum employee required contribution specified under section 36B(c)(2)(C) of the Internal Revenue Code [26 U.S.C. 36B(c)(2)(C)], and the employer shall pay any difference between the maximum employee required contribution for medical and hospital benefits for self-only coverage and the cost of the premiums in effect for this coverage.

The chart in Exhibit E20 shows the current total monthly rates for NDPERS members.

II. RFP Objectives and Bidder Responsibilities

RFP Objectives

North Dakota Public Employees Retirement System (“NDPERS”) is soliciting proposals for the insurance and/or administration of its employee/retiree medical and prescription drug insurance plan. Proposals will be accepted from administrative/insurance companies (“Bidders”) that are capable of offering a statewide provider network, utilization management, disease management, wellness program, and pharmacy benefit manager services along with other related services. The contract to be awarded is a multi-year arrangement beginning July 1, 2025 and ending June 30, 2027.

The board may establish a self-insured plan only if it is determined to be in the best interest of the state and the state’s eligible employees.

Successful Bidder Responsibilities

The successful Bidder must demonstrate the ability to develop and manage a health care provider network, provide claims processing services, utilization management, medical management, disease management, wellness program, dedicated account service and support, dedicated member/customer service, data/management reporting, billing, appeals process, and other administrative services. Additionally, the successful bidder should be able to proactively manage any implications and potential changes to the plan as a result of legislative or regulatory requirements. The successful Bidder should also adjudicate and resolve Medicare Secondary Payer demands (see Exhibit E8).

In addition, the successful Bidder is expected to conduct ongoing performance review meetings with NDPERS regarding plan financial performance, provider contracting issues, progress related to network goals and new network development, patient satisfaction, new or emerging legal issues, and other relevant and timely operational issues that may affect the plan.

Additional details regarding expected health plan administrator duties can be found in Appendix G. Bidders must review these sections carefully to confirm the ability to replicate the current contract benefits. A redlined contract must be included with the proposal (see Appendix A1, A2, and A3). Specific responses are needed for the analysis of “equivalent contract benefits”.

The proposed effective date of the program is July 1, 2025. Bidders will have the opportunity to demonstrate capabilities in these areas by responding to the questionnaires provided in this RFP and potentially with additional finalist questions and presentations.

Request for Proposal (RFP) Requested Scope

This RFP includes seven (7) options to respond:

1. Fully-insured medical and pharmacy proposal
2. Self-insured medical and pharmacy proposal
3. Fully-insured medical proposal only
4. Self-insured medical proposal only
5. Fully-insured pharmacy proposal only
6. Self-insured pharmacy proposal only
7. Stop loss insurance for all self-insured options

Bidders may choose the option(s) they will submit proposals for.

Special Self-Insurance Requirements for a Self-Insured Plan

The following provisions relate to oversight of the North Dakota Insurance Commissioner over PERS and its vendors under a self-insured arrangement:

26.1-36.6-03. Self-insurance health plans - Requirements.

The following policy provisions apply to a self-insurance health plan or to the administrative services only or third-party administrator, and are subject to the jurisdiction of the commissioner: 26.1-36-03, 26.1-36 -03.1, 26.1-3 -05, 26.1- 36-10, 26.1-36 12, 26.1-36-12.4, 26.1-36-12.6, 26.1-13, 26.1-36-14, 26.1-36-17, 26.1-36-18, 26.1-36-19, 26.1-36-23, 26.1-36 -29, 26.1-36-37.1, 26.1-36-38, 26.1- 36-39, 26.1-36-41, 26.1-36 44, and 26.1- 36 -46

All self-insured arrangements must comply with the above and other applicable direction from the North Dakota Insurance Commissioner.

Pharmacy Benefit Manager (PBM) Requirement

North Dakota Century Code chapter 54-52.1 includes specific provisions for pharmacy benefits disclosures. Proposals are expected to comply with the law.

If you are unable to comply with the provisions described in North Dakota Century Code chapter 54-52.1, you may still submit a proposal that specifies which provisions you are unable to comply with, why you are unable to comply, additional costs associated with compliance, and a recommended approach to meeting the intent of the law.

The requirements are:

54-52.1-04.16. Prescription drug coverage - Performance audits.

1. *Except for Medicare part D, prescription drug coverage, the board may not enter or renew a contract for prescription drug coverage unless the contract authorizes the board during the term of the contract to conduct a performance audit of the prescription drug coverage and any related pharmacy benefits management services. The contract must provide:*

- a. *The board must have full access to data regarding: (1) The total dollars paid to the pharmacy benefits manager by the carrier and the board; (2) The total amount of dollars paid to the pharmacy benefits manager by the carrier which were not subsequently paid to a licensed pharmacy in the state; and (3) Payments made to all pharmacy providers.*
 - b. *The board must have full access to data regarding the average reimbursement, by drug ingredient cost, dispensing fee, and any other fee paid by a pharmacy benefits manager to licensed pharmacies with which the pharmacy benefits manager shares common ownership or control or is affiliated.*
 - c. *The board must have full access to data regarding the average reimbursement, by drug ingredient cost, dispensing fee, and any other fee paid by a pharmacy benefits manager to pharmacies licensed in the state.*
 - d. *The board must have full access to data regarding any direct and indirect fees, charges, or recoupment, or any kind of assessments imposed by the pharmacy benefits manager on pharmacies licensed with which the pharmacy benefits manager shares common ownership or control or is affiliated.*
 - e. *The board must have full access to data regarding any direct and indirect fees, charges, or recoupment, or any kind of assessments imposed by the pharmacy benefits manager, on pharmacies licensed in the state.*
 - f. *The contract must provide that all drug rebates, financial incentives, fees, and discounts must be disclosed to the board.*
2. *The board shall use an independent auditor who has no conflict of interest with the carrier, pharmacy benefits manager, or board. The board's auditor, the insurance department, and the employee benefits programs committee may access any information the board may access under this section. All information accessed by the board, board's auditor, insurance department, or employee benefits programs committee which is trade secret is a confidential record. This subsection does not limit the information required to be disclosed to the board under subsection 1.*
 3. *Except for Medicare part D, if the board contracts directly with a pharmacy benefits manager or provides prescription drug coverage through a self-insurance plan, the contract must provide the pharmacy benefits manager shall disclose to the board and the board's auditor all rebates and any other fees that provide the pharmacy benefits manager with sources of income under the contract, including under related contracts the pharmacy benefits manager has with third parties, such as drug manufacturers.*
 4. *Anything the board has access to under this section, the insurance department and employee benefits programs committee has access to.*

PBM Transparency Preference

North Dakota statutes provide a preference for proposals with PBM efforts that meet the following requirements:

54-52.1-04.15. Health insurance benefits coverage – Prescription drug coverage - Transparency - Audits - Confidentiality.

1. *If the prescription drug coverage component of a health insurance benefits coverage contract received in response to a request for bids under section 54-52.1-04 utilizes the services of a pharmacy benefits manager, either contracted directly with a pharmacy benefits manager or indirectly through the health insurer, in addition to the factors set forth under section 54-52.1-04 the board shall consider and give preference to an insurer's contract that:*
 - a. *Provides the board or the board's auditor with a copy of the insurer's current contract with the pharmacy benefits management company which controls the prescriptions drug coverage offered as part of the health insurance benefits coverage, and if the contract is revised or a new contract is entered, requires the insurer to provide the board with the revision or new contract within thirty days of the change.*
 - b. *Provides the board with monthly claims data and information on all programs being implemented or modified, including prior authorization, step therapy, mandatory use of generic drugs, or quantity limits.*
 - c. *Describes the extent to which the board may customize the benefit plan design, including copayments, coinsurance, deductibles, and out-of-pocket limits; the drugs that are covered; the formulary; and the member programs implemented.*
 - d. *Describes the audit rights of the board.*
2. *The board may conduct annual audits to the extent permitted under the contract terms agreed to under subsection 1. The audits must include:*
 - a. *A review of a complete set of electronic prescription coverage claims data reflecting all submitted claims, including information fields identified by the board.*
 - b. *A review of a list of all programs that have been implemented or modified during the audit period under subsection 1, and in connection with each program the auditor shall report on the cost, the cost savings or avoidance, member disruption, the process for and number of overrides or approvals and disapprovals, and clinical outcomes.*
 - c. *Recommendations for proposed changes to the prescription drug benefit programs to decrease costs and improve plan beneficiaries' health care treatment.*
3. *Information provided to the board under the contract provisions required under this section are confidential; however, the board may disclose the information to retained experts and the information retains its confidential status in the possession of these experts.*
4. *The board may retain an auditor of the board's choice which is not a competitor of the pharmacy benefits manager; a pharmaceutical manufacturer representative; or any retail, mail, or specialty drug pharmacy representative or vendor.*

III. Proposal Content

Proposal Contents

By submission of a proposal, Bidder warrants that the information provided is true, correct, and reliable for purposes of evaluation for potential contract award. The submission of inaccurate or misleading information may be grounds for disqualification from the award. The contents of the proposal and any subsequent clarifications submitted by the successful proposers will become part of the contractual obligation and incorporated by reference into the ensuing contract.

By submitting your proposal, you agree:

- Proposals submitted in response to this request will be considered the only submission; revised proposals will not be allowed after the proposal return date and time, unless requested by NDPERS or approved by the NDPERS Board.
- All proposals answer all applicable questions fully in the attached questionnaire(s).
- All proposals become the property of NDPERS and will not be returned to the offering Bidder. Also, all information provided is an open record under North Dakota law unless specifically exempted by law.
- You are prepared to make finalist presentations and allow site visits.

Term of Contract

The North Dakota Public Employees Retirement System is governed by North Dakota State statutes, which includes a requirement to solicit bids for medical benefits coverage for a specified term for a fully-insured arrangement and every other biennium for an Administrative Services arrangement. NDPERS has determined that the specified term for providing such hospital and medical/prescription drug benefits under a self-insured arrangement shall be for a two-year period with the option to renew for an additional two two-year periods.

For the fully-insured bid it is the intent of NDPERS to contract for a two-year period with the option to renew for an additional two two-year periods.

Pursuant to North Dakota law a renewal of a self-insured or fully insured contract(s) will be subject to the following:

54-52.1-05. Provisions of contract - Term of contract.

1. *Each uniform group insurance contract entered by the board must be consistent with the provisions of this chapter, must be signed for the state of North Dakota by the chairman of the board, and must include the following:*
 - a. *As many optional coverages as deemed feasible and advantageous by the board.*

5. Fully-insured pharmacy proposal
6. Self-insured pharmacy proposal
7. Stop loss insurance for all self-insured options

The following table indicates the submission requirements based on the proposal type.

| Required Proposal Content: | Proposed Services: | | | | | | |
|---|-------------------------------|------------------------------|-------------------------------|------------------------------|---------------------|--------------------|--------------|
| | 1. Fully Insured Medical & Rx | 2. Self-insured Medical & Rx | 3. Fully-Insured Medical Only | 4. Self-insured Medical Only | 5. Fully-Insured Rx | 6. Self-Insured Rx | 7. Stop Loss |
| Transmittal Letter | x | x | x | x | x | x | x |
| Executive Summary | x | x | x | x | x | x | x |
| Appendix A1 – Model Fully-Insured Contract | x | | x | | | | |
| Appendix A2 – Model Self-Insured Prescription Drug Contract | | x | | | | x | |
| Appendix A3 – Model Self-Insured Medical Contract | | x | | x | | | x |
| B-Response Template | x | x | x | x | x | x | x |
| C1 – Fully-Insured Questionnaire | x | | x | | x | | |
| C2 - Self-insured Questionnaire (Medical) | | x | | x | | | |
| C3 – Self-insured Questionnaire (Pharmacy) | | x | | | | x | |
| D1 - Fully-Insured Cost Proposal | x | | x | | x | | |
| D2 - Self-insured Medical Cost Proposal | | x | | x | | | |
| D3 – Self-Insured Pharmacy Cost Proposal | | x | | | | x | |
| D4 – Stop Loss Cost Proposal | | x | | x | | | x |
| D5 – Cost Proposal – Plan Design Changes | x | x | x | x | | | |
| E1 – Medical Network Access | x | x | x | x | | | |
| E2 – Prescription Drug Network & Formulary Match | x | x | | | x | x | |
| F - Deviations | x | x | x | x | x | x | x |
| G - Services to be performed | x | x | x | x | x | x | |
| H – Performance Guarantees | x | x | x | x | x | x | |
| I - Suggested changes (optional) | x | x | x | x | x | x | |
| J - Confidential Information | x | x | x | x | x | x | x |

Submission Instructions for Multiple Proposal Options

Bidders electing to submit multiple proposal options are only required to submit one copy of the completed proposal forms and are not required to duplicate submissions under each proposal option.

Please note that the self-insured questionnaires are not identical to the fully-insured questionnaires. Completing only a fully-insured questionnaire or only a self-insured questionnaire is insufficient to be considered for both options.

IV. Proposal Review and Evaluation

Rights of NDPERS

This RFP does not obligate NDPERS to complete the proposed project. NDPERS reserves the right to cancel the solicitation if it is considered to be in its best interest. Costs incurred for developing a proposal are the sole responsibility of the Bidder. NDPERS also reserves the right to:

1. Reject any and all proposals received in response to this RFP.
2. Amend and re-issue this RFP.
3. Select proposals for contract award or for negotiations other than those with the lowest cost.
4. Select proposals for contract award or for negotiations with more than one Bidder.
5. Consider a late modification of a proposal if the proposal itself was submitted on time, if the modifications were requested by the State, and if the modifications make the terms of the proposal more favorable to the State.
6. Determine that a deficiency is not substantive and waive the deficiency as immaterial. However, waiver of the deficiency shall in no way modify the RFP documents or relieve the Bidder from full compliance with the terms of the contract if the Bidder is awarded the contract.
7. Negotiate any aspect of the proposal with any Bidder and negotiate with more than one Bidder at the same time.
8. Use any or all ideas presented in any proposal received in response to this RFP, unless the Bidder presents a positive statement of objection in the proposal. Objections will be considered as valid only relative to proprietary information of the Bidder and so designated in the proposal. Exceptions to this are ideas that were known to NDPERS before submission of such proposal or properly became known to NDPERS thereafter through other sources or through acceptance of the proposal.

Selection Advisory Team

A review team made up of NDPERS staff and its consultant(s) will evaluate all proposals. The NDPERS Board will make the final decision on the award. NDPERS reserves the right to alter the composition of this selection team and its responsibilities.

Proposal Review and Evaluation Criteria

Proposals will initially be reviewed and evaluated by the selection team. The cost proposal will be reviewed independently to ensure that it is complete and submitted in the format requested. In reviewing the proposals, the requirements in NDCC § 54-52.1-04 will be considered.

Phase I – Preliminary Review Criteria

Proposals will initially be evaluated to determine if they comply with the following review criteria:

- Completeness of proposal, including minimum Bidder requirements, as outlined in Appendix B, Proposal Content, and submitted in the format designated in the RFP.
- Completeness and quality of responses to questionnaire(s) provided.
- Extensive statewide provider networks which offers access to key population areas within the State.

Phase II – Evaluation Criteria

Proposals that have met the review criteria listed above will then be reviewed based on the following factors.

- **Overall Cost**
NDPERS intends to continue to provide its employees and retirees with comprehensive health care that is affordable and competitive. NDPERS is focused on stabilizing and controlling costs and increases to both the employer and employees. To accomplish this, NDPERS is interested in competitive premium arrangements, administrative and program fees, and competitive provider reimbursement arrangements for the duration of the biennium contract.
- **Full Disclosure of Prescription Drug Financials**
Bidders are expected to comply with North Dakota Century Code statutes that define disclosures and audit rights. Proposals that do not comply with the statutes may be considered by the Board based upon the measures and actions described by the Bidder to comply as fully as practicable.
- **Plan Design**
NDPERS is interested in maintaining the existing plan design. Any plan design parameters that cannot be duplicated must be clearly noted in your proposal in Appendix F – Deviations.
- **Comparable Statewide Provider Network/PPO Network and out-of-state network.**
NDPERS is interested in the following:
 - A network of in- and out-of-state providers for the Basic and PPO plans that is commensurate with the existing network.
 - Broad network in terms of the number, breadth, quality, and location of network providers, with the goal of matching as closely as possible the current provider networks and geographic access. If a new Bidder is selected they must at a minimum maintain the existing network for the first year of the contract and utilize that time to negotiate with any provider outside the network.

- Limited doctor/patient disruption – NDPERS is interested in limiting the disruption employees may experience in the event of a change in vendors. (see Appendix E1 & E2)
- Access to preferred providers outside the local geographic service area (national).
- Ability of the Bidder to negotiate NDPERS-specific contracts.
- The ability to match or exceed existing discount levels
- Commitment to pay for performance and other cost and quality initiatives.
- The ability to provide a value-based purchasing program similar or comparable to the existing program

- **Disease and Other Care Management Programs**

NDPERS will continue to offer disease management, care management, and care support programs as part of the overall health care program, and is interested in exploring innovative, positive incentives for participation in these programs. Bidders must demonstrate their ability to report and provide meaningful, interpretive data to better support the disease and other care management programs.

- **Health Improvement, Education and Wellness Programs**

NDPERS is interested in partnering with the successful Bidder to offer the same or similar program that is already a part of NDPERS. The existing program also links to the NDPERS employer-based wellness program and this functionality will continue to be required. NDPERS also wishes to maintain a dedicated wellness staff member with the successful Bidder who will work with our worksite wellness coordinators. The successful Bidder must provide this resource.

- **Retiree Medicare Coverage**

Match the existing coverage and arrangement and the ability to provide new coverage levels as determined by the NDPERS Board.

Phase III. Board Evaluation and Decision

1. The Board will consider the Selection Advisory Team evaluation of proposals.
2. The Board may elect to interview the proposers.
3. The Board may also consider additional information.
4. The Board will review the fully-insured and self-insured proposals as demonstrated below and make an award to the Bidder that best serves the interest of the state and its eligible employees.

V. Proposal Submission

Instructions

All proposals should be submitted simply and economically providing a direct, concise delineation of the Bidder's proposal and qualifications adhering to the proposal format guidelines outlined below. Bidders should also refer to Appendix B for a list of minimum requirements and general requirements.

- Proposals should be typed or printed on 8.5" x 11" paper.
- All proposals must include a transmittal letter/statement which includes the following:
 - An acknowledgement of receipt of the group health RFP specifications and any addenda and a statement that the proposal conforms to the RFP minimum requirements. This letter must include the title and signature of a Duly Authorized Officer of the company.
 - Any deviations from the specifications must be clearly identified in Appendix F. Failure to note deviations may exclude the proposal from further consideration. If you do not identify and explain deviations, your proposal will be deemed a certification that you will comply in every respect with the requirements and contractual language set forth in this RFP.
- All proposals must include a table of contents and follow the required content listed below:
- All pages of proposals must have consecutive page numbers.
- Proposals must respond to RFP minimum requirements (Appendix B).
- Responses to questions must include a restatement of the question (number and text as identified in the RFP) with the response immediately following.
- Appendices and other supplemental information provided with your proposal must be clearly identified.
- Cost proposal must be submitted in a separate, sealed envelope and clearly marked, "Cost Proposal". Insured rates and/or Administrative fees and/or pharmacy rates and/or stop loss premiums quoted must be all-inclusive. NDPERS will not be billed any additional amounts for services, including commissions or brokerage fees.
- NDCC § 54-52.1-10 (Exemption From State Premium Tax) provides that "All premiums, consideration for annuities, policy fees, and membership fees collected under this chapter are exempt from the tax payable pursuant to section 26.1-03-17". Thus, Offeror's responses should not reflect any amounts for premium taxes.

Proposal Submission and Contact Information

Proposals should be submitted in two parts, with the cost proposal separately from the qualitative proposal (cost proposal includes Appendices D1-D5).

All electronic and hard copy proposals must be received no later than [TBD] at 5 pm CST. Late proposals will not be considered unless approved by the Board. Proposals will be sent to two parties, as described below:

Bidders should submit one proposal including all proposed coverage/administration options. Bidders are required to submit one (1) original and ten (10) paper copies of the qualitative proposals along with one (1) unredacted electronic copy labeled "ORIGINAL" (on a USB flash drive), as well as one (1) electronic, editable, PDF redacted copy of the qualitative proposal labeled "REDACTED" on a separate USB flash drive (note that the electronic redacted copies may not be a picture) to:

North Dakota PERS
1600 East Century Ave, Suite 2
PO Box 1657
Bismarck, ND 58503

A full electronic copy of the qualitative proposal and cost proposal must be emailed to Deloitte Consulting. All appendices submitted with the RFP must be provided in Word or Excel format. Supplemental material may be included in PDF format.

Ford Edgerton
Deloitte Consulting LLP
213.553.1428
fedgerton@deloitte.com

PLEASE NOTE: As indicated above, cost proposals should only be submitted to Deloitte Consulting. Cost proposals should follow the Confidential/Proprietary Information instructions in Appendix J. Any provisions of the Bidder's proposal that are desired to be confidential must be identified specifically on each page of the proposal and included in the table provided in Appendix J.

From the date of issuance until the announcement of the finalist, Bidders should only contact the Deloitte RFP coordinator, Ford Edgerton. All correspondence and questions must be submitted in writing via e-mail to Deloitte Consulting in accordance with the timeline set forth in this RFP. NDPERS personnel are not authorized to discuss this RFP with Bidder; doing so may result in disqualification. Bidders may continue to communicate with NDPERS staff regarding other relevant business matters.

Appendix C1. Fully-Insured Medical or Fully-Insured Medical & Prescription Drug Questionnaire

This questionnaire must be completed if your organization is proposing fully-insured medical with or without pharmacy coverage for NDPERS.

To be considered and accepted, your organization must provide answers to the questions presented in this section. Each question must be answered specifically and in detail. Include both the question and the answer in your proposal response. An electronic copy of this questionnaire has been provided to facilitate your response.

Reference should not be made to a prior response unless the question involved specifically provides such an option. Proposers should refer to the earlier sections of this RFP before responding to any of the questions, to ensure that you have a complete understanding of the requirements with respect to your organization's proposal.

Bidders may include additional information that you consider relevant or useful to NDPERS. If you elect to provide additional information on services you can provide in response to the question, please specifically indicate that it is not included in the covered services offered in your proposal. If not so indicated, those services will be considered to be a part of your proposed fees. However, responses to all of the questions set forth below must be provided.

If this proposal results in your company being awarded a contract and if, in the preparation of that contract, there are inconsistencies between what was proposed and accepted versus the contract language that has been generated and executed, any controversy arising over such discrepancy will be resolved in favor of the language contained in the proposal or correspondence relating to your proposal. Bidders are reminded that **any and all deviations must be clearly identified and described in the RFP and the deviations worksheet provided in Appendix F.**

This questionnaire is divided into the following categories:

General and Medical

- Organizational Background, Strength, and Experience
- References
- Implementation and Account Management
- Communications and Website
- Plan Administration
- Eligibility
- Customer/Member Service
- Claims Administration
- Medical Information Technology
- Reporting
- Case/Utilization Management
- Health Risk Management Programs
- Network Accessibility and Disruption
- Cost, Quality, and Pay for Performance
- Credentialing and Contracting
- Reimbursement and Discounts
- Performance Standards and Guarantees
- HDHP/HSA
- Economy to be Affected
- Fiduciary Responsibility
- Appeals Process
- Actuarial Services

Pharmacy Benefit Management

- Compliance with North Dakota Statutory Requirements
- Pharmacy Benefit Management Organization General Information
- Pharmacy Benefit Clinical Management
- Specialty Pharmacy
- Formulary
- Data Analytics & Management Reporting
- Customer Service
- Retail Pharmacy Network
- Mail Service
- Eligibility
- Regulatory and Compliance
- Implementation

General and Medical

Organizational Background, Strength, and Experience

1000. Provide a brief description of your organization, including your company history, organizational structure, services provided, location of headquarters, and length of time you have been in business. Describe any significant historical or future organizational developments (acquisitions, mergers, change in subcontracted vendors, etc.)
1001. Bidders responding to this RFP must be able to substantiate their financial stability. Provide a copy of your audited financial statement or other financial information. Include, at a minimum, a Balance Sheet and a Profit and Loss Statement, together with the name and address of the bank(s) with which you conduct business and the public accounting firm(s) that audit your financial statements. Other sufficient information may include a written statement from a financial institution confirming the creditworthiness and financial stability of the Bidder.
1002. Provide a copy of any State or Federal regulatory audit performed within the last two years.
1003. Confirm that your organization agrees to be accountable for everything stated in and submitted as part of your proposal, even if not specifically addressed in the Minimum Contract Provisions in Appendix B.
1004. Indicate if your organization has been a party to litigation regarding a medical benefit plan contract or data security breach over the prior five years or at present. If so, provide details of the litigation or action. Failure to disclose this may constitute grounds for rejection of any proposal or termination of any contract.
1005. Indicate if your organization has been subject to any data breaches over the past five years. If so, provide specifics on what data was compromised and what corrective actions were taken.
1006. State whether the Bidder, its officers, agents or employees, who are expected to perform services under the NDPERS contract, have been disciplined, admonished, warned, or had a license, registration, charter, certification, or any similar authorization to do business suspended or revoked for any reason.
1007. Include a description of your organization's major short-term strategic initiatives and your long term strategic business plan. Specifically address cost containment efforts, providing specific examples of how you have made changes that resulted in savings for your clients.
1008. Describe how your organization differentiates itself from your competitors. Specifically, what makes your organization the best partner for NDPERS?
1009. Identify all services that are currently outsourced or subcontracted, the name of the vendor/partner, and length of the relationship and the nature of the long-term partnership (e.g.: are the contracts expected to expire during the course of this contract?). Describe how you

ensure quality customer service and timely and effective issue resolution. Specify which services may require a separate Business Associate Agreement (BAA) to be filed.

1010. What ratings have you received from the following third-party rating companies and organizations?

| Rating Organization | Rating | Date of Last Accreditation / Rating |
|---------------------|--------|-------------------------------------|
| A.M. Best | | |
| Standard & Poor's | | |
| Moody's | | |

1011. Are any of the services you are proposing to provide to NDPERS contracted outside the U.S.A? Describe any business you do outside the U.S.A. and the financial impact, if any, of requiring those services to be provided within the U.S.A.
1012. Confirm that your proposal includes any and all deviations to the Sample Contract/ASA and other RFP requirements (via submission of Appendix F).
1013. Confirm that you will conform to the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 as applicable to NDPERS. Confirm that you will conform to subsequent regulation such as the Consolidated Appropriations Act as applicable to NDPERS.
1014. Has your company been involved in any mergers or acquisitions in the prior 24 months? If so, how will those events impact NDPERS?

References

1015. Provide the following information on a maximum of three (3) of your largest plan clients for whom you provide services similar to those proposed in this proposal. References of similar size and scope to NDPERS are preferred; one must be your largest public sector client and one must be your largest North Dakota-based client.
- Name of employer sponsoring plan and location
 - Type of services provided to plan sponsor
 - Plan inception date
 - Length of time as client
 - Number of contracts and members participating in the plan
 - Contact information (name, title, phone number, email address)
1016. Provide the following information for two (2) of your largest clients that have terminated services during the preceding 3-year period. References of similar size and scope to NDPERS are preferred.
- Name of employer sponsoring plan and location
 - Type of services provided to plan sponsor
 - Plan inception date
 - Length of time as client
 - Number of contracts and members participating in the plan
 - Reason for termination
 - Contact information (name, title, phone number, email address)

Implementation and Account Management

1017. Bidders must outline in detail the specific activities and tasks necessary to implement the NDPERS program. Be specific with regard to the following:
- a. Amount of total time needed to effectively implement the program
 - b. Activities/tasks and corresponding timing (Detailed Timeline)
 - c. Responsible parties and amount of time dedicated to implementation, broken out by Bidder, NDPERS staff, and any third-party involvement (if needed)
 - d. Any transition activities required with incumbent carriers, including data transfers and providing members adequate notice regarding current care or treatment plans at least 60 days prior to a change
 - e. Length of time implementation team lead and members will be available to NDPERS

1018. Provide an overview of how the NDPERS relationship will be managed, both strategically and on a day-to-day basis. Include an organizational chart. Designate the names, titles, location, telephone numbers, and email addresses for the representatives listed below. For the account service individuals listed (b, c, d, and e below), provide brief biographical information, such as years of service with your company, experience as it relates to this proposal, and the number of clients for which they perform similar services.
- a. The key individual representing your company during the proposal process;
 - b. The key individuals on your proposed implementation team;
 - c. The key individual assigned to overall contract management;
 - d. The key dedicated individual or team members responsible for day-to-day account management and service;
 - e. The key individual responsible for provider contracting; and
 - f. The key individual responsible for provider relations if different than letter e. above.
 - g. Medical and/or pharmacy director assigned to NDPERS (as applicable)

1019. Please provide the requested information for the functions that will be servicing NDPERS in the table below:

| Area | Geographical Location(s) and Organization Name (if out-sourced) | Hours of Operation (Specify PST/CST/EST) | Is this service Outsourced? Yes or No? <i>If Yes, provide name of company to which the function is outsourced</i> |
|----------------------------|---|--|--|
| Member Service | | | <input type="checkbox"/> Yes <i>Specify Company Name:</i> _____ <input type="checkbox"/> No |
| Claims Processing | | | <input type="checkbox"/> Yes <i>Specify Company Name:</i> _____ <input type="checkbox"/> No |
| Enrollment and Eligibility | | | <input type="checkbox"/> Yes <i>Specify Company Name:</i> _____ <input type="checkbox"/> No |
| Disease Management | | | <input type="checkbox"/> Yes <i>Specify Company Name:</i> _____ <input type="checkbox"/> No |

| Area | Geographical Location(s) and Organization Name (if outsourced) | Hours of Operation (Specify PST/CST/EST) | Is this service Outsourced? Yes or No? <i>If Yes, provide name of company to which the function is outsourced</i> |
|---|--|--|--|
| Case and Utilization Management | | | <input type="checkbox"/> Yes <i>Specify Company Name:</i> _____ <input type="checkbox"/> No |
| Health, Education and Wellness Programs/Services (including dedicated wellness support staff) | | | <input type="checkbox"/> Yes <i>Specify Company Name:</i> _____ <input type="checkbox"/> No |
| HSA | | | <input type="checkbox"/> Yes <i>Specify Company Name:</i> _____ <input type="checkbox"/> No |
| Pharmacy Benefits Management | | | <input type="checkbox"/> Yes <i>Specify Company Name:</i> _____ <input type="checkbox"/> No |
| Other (Specify functional area) | | | <input type="checkbox"/> Yes <i>Specify Company Name:</i> _____ <input type="checkbox"/> No |

Communications and Website

- 1020. Are you willing to provide communication and marketing resources to work with NDPERS in the development of NDPERS-specific member communication materials (educational, open enrollment, benefit plan related, ongoing communications)? Describe the resources, sample communications, and your proposed approach and strategy/plan.
- 1021. How much lead time is necessary for you to guarantee that ID cards will be received by members prior to the plan year effective date of July 1, 2025?
- 1022. Describe how you handle communications for the post-65 programs that you will offer to NDPERS retirees.
- 1023. To what reading grade level are your written and website communications written? Are other languages available? What customization is allowed related to member communications?
- 1024. Does your website provide NDPERS specific plan information?
- 1025. Does your website offer a provider locator?
- 1026. What additional information does your site provide?
- 1027. Describe any additional web-based capabilities that could benefit NDPERS and our members.
- 1028. Describe your mobile capabilities and any app-based communications
- 1029. Do you have a mobile app and/or mobile ID card available to your members? Please describe the capabilities.

Plan Administration

1030. Confirm that you will communicate legislative changes related to the operations of the plan in a timely manner, and describe the support staff and process. Provide examples of materials you have used in the past to educate your clients on legislative changes/updates.
1031. What support will your organization provide NDPERS to comply with the obligations of the CAA, Transparency in Coverage rules, and Mental Health Parity rules? Provide responses to the following questions and include information regarding additional compliance items required by these rules and regulations not specifically listed.
- a. Are your claim systems and operational processes able to comply with the No Surprises Act effective as of January 1, 2022? Please describe how your organization will prevent Surprise Balance Billing and if these services are included at no additional cost.
 - b. Are you able to comply with provider directory accuracy requirements (if there is a network directory error and a plan participant uses an out-of-network provider they believe to be in-network, the cost-share cannot be more than in-network amount)?
 - c. Are you able to comply with member ID card requirements that include deductibles and out-of-pocket maximums for in-network and out-of-network coverage?
 - d. Will your organization, on behalf of NDPERS, create and provide machine readable files of in-network reimbursement rates and out-of-network allowed amounts and billed charges? Please specify that you will provide machine readable files for both medical and pharmacy rates.
 - e. Will your organization have the ability to host the machine-readable files on a public website?
 - f. Does your organization have an internet-based price comparison tool for plan participants? If so, please describe. If not, will you have a tool by January 1, 2025?
 - g. Are you able to comply with the annual reporting requirements about health care and prescription drug spending? Specifically, please confirm that you will be submitting RxDC reporting on behalf of NDPERS.
 - h. Mental Health Parity: Will your organization provide a full non-quantitative treatment limitations (NQTL) analysis and document a comparative analysis of the design and application of NQTLs for NDPERS' plans? Please provide a sample of what you will provide if NDPERS were subject to an audit.
 - i. If there are additional costs for any of the services your organization will provide to assist NDPERS in complying with these regulations they must be listed as "other" fees in the cost template submitted with your proposal. Confirm your understanding of this requirement.
1032. Confirm your ability to conduct annual employer ACA contribution testing to ensure compliance with ACA and that a working paper of testing results will be prepared and shared with NDPERS, and this testing is included in the cost proposal (see Exhibit E22)
1033. Describe your proposed transition plan. At a minimum, the transition plan must address:
- a. Conditions or type of care that is typically transitioned;
 - b. Individuals who are in a course of treatment or have prior authorizations or preapproval with the current vendor;
 - c. Transition process of current medical treatment;
 - d. Transition of individuals in disease management programs;
 - e. Communication of transition issues to all plan members.

- f. Member cost sharing and accumulators.
- g. Member secondary payer and Coordination Of Benefits information
- h. Member Wellness incentive redemptions
- i. Identify any costs associated with the transition plan that are not included in the cost proposal

1034. Describe your process for Medicare Secondary Payer administration.

1035. What is your total commercial and Medicare health plan enrollment? Complete the table below.

| Dates | Commercial | Medicare |
|--------------------|------------|----------|
| As of January 2022 | | |
| As of January 2023 | | |
| As of January 2024 | | |

1036. NDPERS is considering offering a Part G look-alike plan in the future. Please provide comment on considerations in making this decision including recommendations on closing the Part F look-alike and migrating participants or continuing to offer the Part G and allowing participants of Part F to elect participation in the Part G. Also provide commentary on allowing new enrollees to enroll in Part F or Part G plan if both remain available.

Eligibility

1037. Are ID paper/electronic cards the sole means of determining member eligibility? If not, please describe.

1038. If desired, can NDPERS update and maintain eligibility and check employee claim status online? Are there any special charges for access to and use of these tools? Please provide a sample ID and link to your site so NDPERS can review your system.

1039. NDPERS will submit enrollments, billing and/or premium remittance via a centralized electronic system. NDPERS will collect enrollment/eligibility information which will be provided to the successful Bidder on a data file that follows the HIPAA 834 file specifications. The indicative data provided on the 834 enrollment/eligibility file is to be loaded onto the successful Bidder's database and used for ID cards and all transactions/communications related to the member's participation in the plan. Premium payment information will be provided on a data file that follows the HIPAA 820 file specifications. Files will be transmitted using a secure file transmission process. The successful Bidder must be able to receive this data in that format and media. Please confirm you agree to allow this and outline any specific requirements you have related to submission of enrollment.

1040. Please describe how you handle manual eligibility updates and the turn-around/timing of such updates.

Customer/Member Service

1041. Confirm if you will provide and maintain customer service staff acceptable to NDPERS. This unit will provide dedicated local and toll-free telephone numbers and shall respond directly to member inquiries regarding benefits, claim status, selecting participating providers, and provide general assistance with navigating on-line and other resources available through the health plan and NDPERS websites. Describe the structure and organization and provide an organizational chart of the unit you are proposing.

1042. Provide information on the operational metrics given to the client related to customer services and how often these are provided.

1043. Confirm the hours/days your customer/member service team is open for operations. How are calls handled that are received after hours (e.g. can member leave a voicemail?)
1044. Does your organization have online support, where a member can chat online with a customer service representative, or email a question to your organization?
1045. Will your organization identify a dedicated customer service/call center for the NDPERS account? If customer service/call center representatives are shared with other clients, on average, how many clients does one team service? What is the average length of service of the representatives?
1046. Does your customer service inquiry system allow representatives to record comments so other customer service representatives can view previous notes to assist members? How long will records and notes be housed?
1047. What is the location of your call center(s)? What call center(s) would be responsible for servicing NDPERS members?
1048. Describe how you manage spikes in call volume.
1049. How do you ensure that your representatives are providing timely and accurate information?
1050. Provide your customer service goals and actual performance rates for your book of business for the 2023 calendar year for the following:
- Abandonment – What was the rate? How is this measured and confirmed? What was the average abandonment time?
 - Busy rate – What percent of calls received a busy signal? How is this measured and confirmed?
 - Time to answer – What was the average time to answer a call? What percent of calls took longer than 15 seconds to answer? What percent took longer than one minute? On average, what was the maximum wait time to speak with a representative?
 - First call resolution –What percent of calls were resolved at first point of contact? How is this measured and confirmed? What percent of calls were resolved with a return call within three days after the initial call?
 - Member survey – Provide a copy of member survey responses.
1051. Discuss your online services available to members, including details regarding information available through the portal.
1052. Could you provide a call center in North Dakota? If so, what would be the additional cost?

Claims Administration

1053. Provide the following information regarding the claims administration unit that will handle the NDPERS account. If there is more than one claims processing location, provide information for each.

| | Claims Processing Unit |
|-----------------------------|------------------------|
| Address/Location | |
| Phone Numbers | |
| Days and Hours of Operation | |
| Number of Members Serviced | |

| | |
|--|--|
| Number of Employer Groups Serviced | |
| Ratio of Claims Unit Staff to Members Serviced | |
| Volume of Claims Processed Daily | |

1054. Will your organization identify a dedicated team of claims processors for the NDPERS account? If processors are shared with other clients, on average, how many clients does one team service? What is the average length of service of the claim processors?
1055. Confirm that you are able to administer the NDPERS designs Dakota Plan (Grandfathered and Non-Grandfathered) and Dakota Retiree Plan, HDHP/HSA and benefit levels without manual intervention. If you are unable to administer the plan, you must specify any plan design deviations proposed as specified in the RFP.
1056. Describe your claims processing system/platform and claims administration process. Are you expecting to have any system upgrades over the course of this contract?
1057. How do you determine reasonable and customary ("R&C") charge allowances? What methodology is used (e.g. FAIR, Medicare)? What percentile is used? How often are R&C schedules updated?
1058. Are EOBs provided to each dependent for their services and mailed to the subscriber's address on file unless a request has been made by the dependent for an alternative mailing address?
1059. Are your EOBs customizable for the NDPERS plan?
1060. What is your frequency and method of distribution of EOBs?
1061. Provide information on the operational metrics given to the client related to claims processing and how often these are provided.
1062. How often do you audit your claims processing systems? What measures are in place to ensure claims accuracy?
1063. Please describe any usage of automation or artificial intelligence used by your claims processing team. What controls are in place for these tools?

Medical Information Technology

1064. Describe your options for external system connectivity and data transfer including web-enabled services/technology.
1065. Describe your privacy protection and data security standards (e.g., HIPAA, PHI). Describe certifications and other external audits. Describe the test criteria used to ensure the standards are met. Can you supply the results? Have you completed external ethical hacking tests?
1066. Are there any major system enhancements or conversions planned or being considered within the next 36 months? How are regulatory items managed in the release process? For packaged applications, what is the process and duration to upgrade a vendor release to the released version? What is the process used to maintain operating systems? What is the potential impact on NDPERS implementation?
1067. Describe your business continuity and disaster recovery plans for internet, eligibility, claims process and information management (data warehouse) systems. As part of the response, highlight any adjustments in the plan according to the magnitude and duration of the disaster (e.g., outages of one day, vs. a week, month, etc.).
1068. Have you had any security breaches involving electronic protected health information or personal financial information? If so, what was the scope of the breach? Were disclosures

made to affected individuals? What operations changes, if any, were implemented after the breach? Describe your capabilities to support management of PHI data. Do you have insurance to cover a breach?

1069. Describe your levels of security utilized in the proposed system and how each addresses HIPAA security rules/regulations.

Reporting

1070. Confirm your ability to provide the reports described in the RFP and provide samples.
1071. Describe your online reporting capabilities. Please describe the data/information and types of reports that can be accessed and downloaded from your online system.
1072. Describe your process in providing customized ad-hoc reporting.
1073. Explain your ability to comply with the NDPERS current data warehouse arrangement by providing medical and pharmacy claims and enrollment data to NDPERS in a format agreed upon between you and NDPERS no less than monthly and within 3 months of award of contract.
1074. Please confirm that you will provide a monthly medical file feed, at no cost, to a PERS specified vendor to integrate with pharmacy claims and laboratory data.
1075. If requested, please confirm you will provide complete medical claims data to other authorized third-parties at no cost.
1076. Is your organization able to share information regarding wellness and disease management activities to be used in the data warehouse? If yes, what type of information is available?
1077. Do you participate in the ND Health Information Network (NDHIN) reporting?

Case/Utilization Management

1078. Provide a brief overview of your utilization management programs, including pre-authorization, prior approval, concurrent review, discharge planning, and large case management.
1079. Does your organization offer an advocacy program that members can utilize to help with coordinating/managing a newly diagnosed disease for themselves or another covered member?
1080. What is the source of the criteria used for the following:
- Determining surgical necessity and whether a second opinion is required.
 - Determining approved length of stay.
 - What percentile of the data is used?
 - Approximately what percentages of review cases are referred to a physician because the initial review and attending physician cannot reach agreement on the proposed level of care?
 - Does this percentage vary between medical/surgical and psychiatric/substance abuse cases? If so, provide variances.
1081. What is the process for identifying members for large case management and how are claims transferred to case managers?
- What are the automatic and manual triggers to identify cases for large case management? Are there controls and oversight for the automatic triggers?
 - How do you ensure that large cases are appropriately managed?
 - How do you calculate case management savings?
 - How do you work with medical group and hospital staff in the case management function?

e. How is data privacy handled when claims trigger case management?

1082. Please describe any enhancements that your organization plans to make to their case management and utilization management programs.

Health Risk Management Programs

1083. Indicate in the table below if you currently provide the care or disease management program listed, the number of members from ND-based employers currently enrolled, the cost per participant, and its accreditation status.

| | Program | Number of Members Enrolled (ND) | Is Cost Included in Proposal? (Y/N) | Cost if Not Included (PMPM) | Accredited? If so, indicate accrediting organization. |
|--------------------------|---------------------------------------|--|--|------------------------------------|--|
| <input type="checkbox"/> | Arthritis | | | | |
| <input type="checkbox"/> | Asthma | | | | |
| <input type="checkbox"/> | Cancer | | | | |
| <input type="checkbox"/> | Congestive Heart Failure | | | | |
| <input type="checkbox"/> | COPD | | | | |
| <input type="checkbox"/> | Depression | | | | |
| <input type="checkbox"/> | Diabetes | | | | |
| <input type="checkbox"/> | Low Back Pain | | | | |
| <input type="checkbox"/> | Stress | | | | |
| <input type="checkbox"/> | High Risk Pregnancy/ Prenatal Support | | | | |
| <input type="checkbox"/> | Hypercholesterolemia | | | | |
| <input type="checkbox"/> | Pain Management | | | | |
| <input type="checkbox"/> | Renal Failure | | | | |
| <input type="checkbox"/> | Tobacco Cessation | | | | |
| <input type="checkbox"/> | Weight Management | | | | |
| <input type="checkbox"/> | Other, please indicate: | | | | |

1084. Briefly describe each of the programs currently offered, if it is included in your cost proposal, and, if not, the cost of adding each program not included. Do you currently track and report

specific clinical outcome measurements for each of the conditions for which care/disease management is offered? Please list them.

1085. Are you willing to customize your care management/DM programs and services for NDPERS? If so, please explain and provide an example of a program you developed and utilized with another client. Include any ROI or outcome data that was measured on the effectiveness of the program
1086. Describe how you coordinate members involved in more than one program, for example members with diabetes and chronic heart failure.
1087. Describe the programs offered to patients with rare and chronic diseases. Is this program outsourced? Who is the current vendor?
1088. What is your organization doing to identify and reduce health outcome disparities by race, ethnicity, or other social determinants of health?
1089. What reporting can you offer NDPERS to track the efficacy of programs?
1090. Describe in detail your ability to provide online wellness programs. Compare it to the existing program presently in the NDPERS program (see Exhibit 1). Specifically identify any deviations from the existing program. Include any future enhancements that are planned, including planned date for roll-out of the new feature. Describe Wellness incentives you offer. Compare and contrast that with the existing incentives. (see Exhibits 1 & 2).
1091. Describe your ability to support NDPERS Wellness initiatives by providing the administrative services for:
 - a. Tobacco Cessation program
 - b. NDPERS Diabetes Program (About the Patient Program coordinated with the ND Pharmacy Assoc.)
 - c. Dedicated Wellness Program Consultant and Educators
 - d. Healthy Pregnancy program
 - e. New programs or mandates
 - f. Diabetes Prevention Program
 - g. \$250 Wellness Incentive with required tax reporting to employers
1092. Describe your ability to support the employer-based wellness program and the wellness benefit funding program. <https://ndpers.nd.gov/employers/employer-resources/employer-based-wellness/>

Network Accessibility and Disruption

1093. We are requesting that Bidders provide a GeoAccess network accessibility and disruption analysis in Appendix E1. If you are proposing a combination of owned and leased networks, please provide your results separately by network. This GeoAccess analysis must be provided for your proposed NDPERS network(s).
1094. Provide a listing or provider directory and link to the web for the provider networks you are proposing for NDPERS. Identify and describe your national preferred provider organization.
1095. Does your network exclude any major health systems or provider practices in North Dakota?
1096. Describe how an employee or dependent that requires care while outside of North Dakota will be provided services. Example: a dependent who requires care over an extended period while away from home (e.g. student attending college). Do you have "guest" or "visitor" status programs for people who are temporarily domiciled outside of the service area?
1097. Confirm your willingness to negotiate and maintain NDPERS-specific provider contracts to allow for cost control mechanisms and alignment of contract and plan years. Also discuss how

you would maintain the existing PERS PPO program. Describe your process and approach for accomplishing this.

- 1098. How often is your provider network reviewed and updated?
- 1099. Are there quality metrics in place for your provider networks?
- 1100. Does your organization offer telehealth services beyond those required in North Dakota statute? If so, please describe the network available, how services are billed, and provide general overview of program.
- 1101. Does your organization offer any narrow or tiered networks? If so, please describe these network options including level of discount differences between the option and your traditional network.
- 1102. Do you anticipate any significant provider contract changes for 2023? Describe any expected changes.
- 1103. Complete the table below by type of behavior health specialist.

| Behavioral Health Network | Mental Health Providers | Chemical Health Providers |
|---|--------------------------------|----------------------------------|
| A. Percent of NDPERS population within 30 minutes or 30 miles of a specialist | | |
| B. Percent of providers accepting new patients | | |
| C. Average wait time to secure an appointment | | |

- 1104. What strategies do you have in place to improve accessibility to licensed mental health providers?
- 1105. How many of your network providers specialize in working with first responders, law enforcement, and corrections staff?
- 1106. How many of your providers are self-identified as black, indigenous and people of color (BIPOC)?
- 1107. Please describe your telehealth services as it pertains to mental and chemical health:
 - a. Have your telehealth services expanded as a result of the pandemic? If so, will the changes be permanent?
 - b. Please describe how telehealth visits are reimbursed to providers, are reimbursements equal to regular office visits?

Cost, Quality, and Pay for Performance

- 1108. Describe the programs and methodologies currently in place to gather and measure meaningful provider quality and efficiency data that can be shared with members.
- 1109. Describe any online transparency tools you have available that members can access to view quality and/or cost information on your network providers. Provide access to this site. How updated is the information on the site?

- 1110. Please describe any predictive analytic capabilities you currently use or plan to use to manage quality of care and cost.
- 1111. Describe in detail the performance standards you currently have in place with your contracted physicians, provider groups, hospitals, and other providers. Outline the types of measures utilized, how you monitor and track these measures, how providers are held accountable, and how frequently the data is compiled and shared with the physicians and provider groups.
- 1112. Describe your participation in pay-for-performance initiatives. To what extent do these activities impact the health care costs of NDPERS or claims incurred by its covered population? What percentage of your contracts are pay-for-performance? How is this likely to change in the next 2-3 years?

Credentialing and Contracting

- 1113. Briefly describe the initial credentialing process. How often are physician, hospital, and other contracts (labs, imaging facilities, DME, home health care) reviewed?

Reimbursement and Discounts

- 1114. Provide the reimbursement methodologies (by percentage) agreed to in your contractual arrangements to reimburse inpatient and outpatient hospital services (e.g., discount from charges, case rate, per diem, global DRG, fee schedule, etc.).
- 1115. Provide the reimbursement methodologies (by percentage) used to reimburse professional services (e.g., fee-for-service from billed charges, fee-for-service with discount, percent of RBRVS, capitation).
- 1116. How often are your R&C databases updated? What data version of UCR are you using?
- 1117. Do you negotiate discounts with non-network providers on a case-by-case basis? Please describe your negotiation process (including criteria used to determine when this will be done.) Do you charge for these special negotiations? If so, how is that charge assessed to NDPERS?
- 1118. If a network physician directs a member to a non-network lab for services, how is that lab service paid?
- 1119. If certain specialties (e.g. radiology or anesthesiology) or services (e.g. ambulance) are not represented in your network of providers, do you have the ability to pay these services as in-network if they were completed at an in-network facility?
- 1120. Provide your estimate of percent of charges that will be processed in North Dakota under your network.
- 1121. NDPERS presently has a value-based contract in place with certain providers in North Dakota. See Exhibit E27. Discuss your ability to offer the same or similar program. Identify if any additional cost would be required for such an option.
- 1122. Provide details on any recent, upcoming, or anticipated changes to the risk-based contracting profile of your network (e.g. ACOs, innovative contracts, changes to the level of provider risk, etc.).

Performance Standards and Guarantees

Health plan Bidders are required to comply with performance standards and guarantees that include a financial incentive/forfeiture which is negotiated as part of the renewal process. See Appendix H for a copy of these performance standards and guarantees. You are required to offer your performance standards and guarantees for the board's consideration using Appendix H. It is a priority for the Board to have a comprehensive set of standards and guarantees relating to this plan.

- 1123. Please confirm you have completed Appendix H and confirm your willingness to comply with the performance standards and guarantees or provide suitable alternatives. Identify your

process for measurement and audit availability. Identify any additional standards and metrics your organization would be willing to include.

HDHP/HSA

- 1124. Describe how your organization will administer the HSA option. What details are provided to individuals that select this option, the enrollment process, claim reimbursement options, limit monitoring, ability to accept employee pre- & post-tax contributions, record-keeping, fees, reporting capabilities, the name of the service vendor and any other applicable information.
- 1125. Will your organization also provide banking services associated with health savings accounts paired with an HDHP plan?

Economy to be Affected

- 1126. Please indicate if you will have an office in North Dakota and where most of the work on this contract will be done?
- 1127. Please identify the number of employees you will employ in North Dakota pursuant to this contract.
- 1128. Of your total administrative fee please estimate the amount that will be spent in North Dakota and the amount that will be spent outside the state.

Fiduciary Responsibility

- 1129. Confirm your organization will assume full fiduciary responsibility for claim determination.

Appeals Process

- 1130. Please describe your internal and external appeals process for fully-insured plans. This includes any limits to appeals as well as rights and responsibilities.

Actuarial Services

- 1131. As part of the fully insured contract PERS is asking that the Bidders actuary will do certain actuarial work for the Board. Confirm your ability to provide these services and that they are included in the cost proposal:
 - a. Develop estimates of the cost of adding/deleting benefit provisions to the plan
 - b. Provide PERS estimates of potential premium cost for 2027-2029 in the first half of 2026
 - c. Provide PERS actuary with actuarial analyses of proposed legislation and plan design changes.
 - d. Actuarial services NDPERS may request.

Pharmacy Benefit Management

If you are proposing fully insured medical with prescription drug coverage, the following section of this questionnaire (below) must be completed. If you are submitting a fully insured medical only bid these questions do not need to be answered.

The responses of this questionnaire should be based on the organization or operations that will administer the pharmacy benefits for eligible NDPERS employees and dependents.

Compliance with North Dakota Statutory Requirements

- 1132. Indicate you will comply with all the requirements of North Dakota Century Code, including chapter 54-52.1
- 1133. Indicate if you could comply with the preference criteria in 54-52.1-04.15.
- 1134. Indicate if your proposal includes:
 - a. Compliance with 54-52.1-04.16
 - b. Does not include compliance 54-52.1-04.16
 - c. Includes both
- 1135. Indicate any areas of the North Dakota Century Code you cannot meet and why.

Pharmacy Benefit Management Organization General Information

- 1136. Please provide the legal name of the company that will be providing the pharmacy benefit management (PBM) services in this contract.
- 1137. Please describe the PBM's corporate governance structure.
- 1138. Where is the PBM headquartered?
- 1139. Does the PBM contract supporting the fully-insured contract expire during the course of the NDPERS biennium (2025 – 2027)?
- 1140. What unique and differentiated capabilities does the PBM offer to NDPERS?

Pharmacy Benefit Clinical Management

- 1141. Please describe your approach to clinical management in the pharmacy benefit.
- 1142. Please provide a list of your clinical programs with a short description of each, and associated cost for each program. At minimum, please include prior authorization, step therapy, quantity limits, drug utilization review, opioid management, diabetes management, compound management, and specialty drug management programs. If applicable, please include return-on-investment guarantees or measurement metrics for each program
- 1143. Based on the plan design currently in place, the drug utilization, and the demographics, what are three specific recommendations to reduce cost and/or improve the health of NDPERS members (without changing plan design elements like copays)?
- 1144. Please describe the accreditations you maintain (URAC, JCAHO, NCQA)
- 1145. Please describe your capabilities of combining pharmacy data with medical data for individual members to coordinate care, case management, and utilization oversight.
- 1146. Please describe your Pharmacy & Therapeutics Committee (P&T) and the formulary review process.
- 1147. Please describe your approach or solutions to manage compound medications. Please note if you have a dollar threshold for prior authorization, exclusion strategy, or another approach.
- 1148. Please describe your COVID testing and vaccine administration programs.
- 1149. Please describe your capabilities to track and report on COVID testing and vaccine claims.

1150. Please discuss how you measure adherence; do you track medication possession ratio (MPR) and/or proportion of days covered (PDC)? Are there other factors you evaluate for certain therapeutic classes?
1151. Do you align your performance measurement with national quality measures (e.g. HEDIS)?
1152. What tools and programs do you utilize to shift percent of membership toward formulary and preferred/generic drugs? Specify how this works with regards to biosimilars.
1153. Please discuss how you plan to handle GLP-1 drugs. What measures are in place to control cost and utilization?
1154. Provide a description of your prior authorization process, including type of personnel involved in the process and average turnaround time.
1155. Do clients have access to your system to enter administrative prior authorization overrides?
- a. How does the process work?
 - b. Is training provided?
 - c. Will your client be able to report on volume of overrides and outcomes determination?
1156. Describe your quality assurance measures for your prior authorization process. What reports and tools do you provide for clients to assess if state/federal/NCQA quality measures (e.g. timeliness, overturn rates, accreditation) are met?
1157. Explain your process around instances when your prior authorization team cannot immediately contact the provider (i.e., how often do you attempt to contact the provider, what methods do you use to contact the provider, what do you do when you get no response).
1158. Please describe how members are notified of denials and expiration of prior authorizations.
1159. Describe all programs related to identification and management of potential abuse by members, providers, and pharmacies.
1160. Please provide a list of real-time utilization (concurrent) review elements at retail and mail. How are interventions managed? How are outcomes of interventions documented?
1161. Does your Retrospective Drug Utilization Review (RDUR) Program target physicians and members? How do you notify physicians and members?
1162. Please provide a list of RDUR edits. What is the timeframe for intervention? Is the intervention automated? Fax? Is there a survey collected to assess the usefulness of the intervention? Are responses charted to provide auditable savings results?
1163. Do you work with any electronic medical record (EMR) companies to provide prescription drug information to prescribers?
1164. Are you capable of receiving data and integrating it from an EMR?
1165. Do you have a preferred partner for electronic prior authorization and eligibility/formulary verification?
1166. What percentage of claims in your book-of-business are e-prescribed?
1167. Please provide sample reports that document savings of clinical programs (case management, disease management, utilization review, etc.) that NDPERS will be receiving monthly, quarterly, etc.

Specialty Pharmacy

1168. How many specialty pharmacies do you operate?
1169. Are your specialty pharmacies owned or subcontracted?
1170. Which specialty pharmacy would primarily service the NDPERS account?

1171. Is the proposed specialty network an open network (where members can use any specialty pharmacy) or closed network (members may only use Bidder's network)?
1172. Please describe your approach to specialty pharmacy. Please focus on the aspects that differentiate your services in the market.
1173. Are members contacted before each specialty fill? If so, is the outbound call made by a representative or an automated call?
1174. What is the average length of time spent with a member prior to the first fill of their specialty medication?
1175. Do you have pharmacists and technicians that are dedicated to serving members with certain disease states?
1176. Please describe any specialty patient assistance programs that are offered. Describe how you can maximize the value of these programs for the member and the plan.
1177. For any specialty patient assistance programs, describe if your programs are income based and/or rebate compliant?
1178. Please describe your strategy (formulary or more broadly), and how you engage your self-insured clients on coverage decisions related to high-cost therapies (e.g., CAR-T, Zolgensma)
1179. Please describe specialty site-of-care programs or initiatives or partnerships.
1180. Please describe solutions available to address rising costs of prescription drugs in the medical benefit.
1181. Please describe how drug coupon programs and other copay assistance programs work with a member's pharmacy plan. Do these accumulate towards a member's out-of-pocket maximum?
1182. Please confirm that specialty products shipped in error, damaged in shipment, lost in transit, left by courier without confirmation of receipt and rendered unusable by NDPERS to due negligence or error in delivery process will not be the financial responsibility to NDPERS. How are these types of shipment error reported to NDPERS?
1183. Describe your specialty drug trend forecasting services. For example, how is the specialty drug pipeline monitored and what modeling tools are available to demonstrate the financial impact to the Client?
1184. What percentage of Limited Distribution Drugs commercially available do you have access to?
1185. What is the process for procuring any limited distribution drugs that you currently do not have access to?
1186. Do you have infusion services? Can you arrange for nurses or other assistance on behalf of the member?

Formulary

NDPERS formulary has three coverage tiers. Tier 1 includes formulary generic drugs, Tier 2 includes formulary brand drugs, and Tier 3 includes all non-formulary products. Please provide a quote based on your formulary that best aligns with NDPERS current structure.

1187. Please indicate which formulary is being proposed for NDPERS, and why?
1188. If your proposed formulary is exclusionary, how many products are excluded?
1189. How frequently is your proposed formulary updated?
1190. If desired, could you grandfather existing members for a select period of time (1-3 fills, 1 year, indefinitely)?

- 1191. Does the proposed formulary require compliance with formulary utilization management controls (prior authorization and/or step therapy and/or quantity limits) or are all formulary and clinical utilization management programs an “add on” after the formulary is selected?
- 1192. Does your formulary include all generics in the lowest cost tier and all brands in the preferred or non-preferred tiers or does your proposed formulary tier brand and generic products according to different criteria?
- 1193. Please discuss your position regarding "lowest net cost" as it relates to your formulary strategy and your flexibility in facilitating a “lowest net cost” strategy for clients.
- 1194. Please provide a copy of your proposed Formulary including National Drug Code (NDC), drug name, and formulary tier in Excel format.
- 1195. Complete Appendix E2 – Network Access & Formulary Match

Data Analytics & Management Reporting

- 1196. Describe data analytic and reporting capabilities currently available.
- 1197. Specify any predictive analytics used with your reporting capabilities and describe controls in place.
- 1198. Is there an extra charge for data analytic services? If so, what are the charges?
- 1199. Describe or provide samples of standard reports around cost and utilization for the plan and its customers.
- 1200. Please confirm that you will provide a monthly prescription drug file feed, at no cost, to a PERS specified vendor to integrate with medical claims and laboratory data.
- 1201. If requested, please confirm you will provide complete pharmacy claims data to other authorized third-parties at no cost.

Customer Service

Please answer the following if the customer service operations are different than the customer service operations for the medical segment of the business, including, but not limited to.

- 1202. What is the location of the PBM call center(s)?
- 1203. What call center(s) would be responsible for servicing NDPERS members?
- 1204. Describe your use of Interactive Voice Response (IVR).
- 1205. Will the PBM have a dedicated phone number for NDPERS?
- 1206. Is the pharmacy call center available to members 24/7/365?
- 1207. Is a pharmacist available to members 24/7/365?
- 1208. Can a member leave a message at the member service line after hours? If so, what is the protocol for responding to this message?
- 1209. What is your first call resolution rate in the pharmacy call center?
- 1210. Do you have the capability to record 100% of the calls?
- 1211. Does your call monitoring application also provide for monitoring of screen navigation as well as call recording?
- 1212. Does your customer service inquiry system allow representatives to record comments so other customer service representatives can view previous notes to assist members?
- 1213. Describe in detail the training and qualifications of the customer service representatives. How will they be trained and educated on NDPERS specifics and new initiatives?

1214. How will you assist with notifying members when the formulary status of medication has changed?
1215. Do you track Net Promoter Score (NPS)? If so, please provide the most recent NPS and describe if it applies to specific business segments (e.g. customer service).
1216. How do you define / track member complaints and/or grievances?
1217. How do you report the complaints and grievances?
- What are your turnaround times? Describe your workflow process.
 - How are complaints/grievances tracked by reason code?
 - Do you maintain a complaint log? Describe your complaint resolution process.
1218. Will the appeal process for pharmacy service be different than for medical services: If so describe the appeal process. Provide materials used for member, physician, and pharmacy notification and provide your workflow process including turnaround times. How do you manage the process differently for states with unique requirements?
1219. Describe how written inquiries are handled.
1220. Please describe your member website and member portal.
- Can your website provide NDPERS specific plan information?
 - Does your website offer a pharmacy locator? Does the site offer information on retail stores that are open 24 hours/day?
 - Can members see their prescription drug claim history on the website?
 - Describe the web-enabled pricing comparison tools available to your members. Will the pricing tool account for NDPERS plan design?
 - Does your web-enabled pricing comparison tool provide pricing detail by pharmacy?
1221. Does your mobile app and/or mobile enabled website include the following:
- Formulary information
 - Network pharmacy lookup
 - Plan design information
 - Member ID card
 - Claims history
 - Family claims history
 - Drug price lookup by pharmacy

Retail Pharmacy Network

1222. Please describe your retail pharmacy network strategy and how it is differentiated from competitors.
1223. List the name of your proposed network and the number of retail pharmacies that participate in North Dakota and nationally.
1224. Based on the member zip data in Exhibit E9, please submit a Geo-Access analysis.
1225. Please describe your credentialing process including the process for removing pharmacies from the network. How often is credentialing/re-credentialing undertaken?
1226. Describe your 90-day retail network (including % of ND pharmacies in-network) and potential cost savings to NDPERS.

Mail Service

- 1227. How many mail service pharmacies do you operate?
- 1228. Where are your mail pharmacies located? Which mail service pharmacy would primarily service the NDPERS account?
- 1229. Are your mail service pharmacies owned or subcontracted?
- 1230. Do you have a program at the mail facility to align and bundle shipment for members with more than one prescription?
- 1231. How do you assure patient consent to send an order prior to shipping?
- 1232. Are there any items/medications you do not ship (e.g. controlled substances)?
- 1233. What company or companies do you have shipping contracts with for the mail service?
- 1234. Can members track their mail order prescription?
- 1235. Can you deliver mail or specialty medications to the member's location of choice (e.g. home address, office, doctor's office, hospital, pharmacy, neighbor's address)?
- 1236. How long will you hold a prescription that requires an intervention before returning, filling, or calling members?
- 1237. Do you retain member credit cards? If so, what security measure do you employ to protect this information?
- 1238. Is payment required before orders are shipped? If not, what is the maximum outstanding balance owed before you hold orders?
- 1239. Do you provide Durable Medical Equipment items through the mail pharmacy?
- 1240. Are you willing to agree that medications shipped in error, damaged in shipment, lost in transit, left by courier without confirmation of receipt when requested, and rendered unusable by NDPERS due to negligence or error in delivery process will not be the financial burden to NDPERS or our patients? How are these types of shipping errors reported to NDPERS?

Eligibility

- 1241. Please describe any differences in eligibility management for the prescription drug benefit compared to the medical benefit.

Regulatory and Compliance

- 1242. Please detail your due diligence process used in retaining the proposed PBM. Including but not limited to: review of any outstanding disputes, that the PBM is fully licensed, complaints from providers and covered members, fines, integrity of data systems, any data breaches, lawsuits, etc.
- 1243. Please provide the latest SOC2 report for the PBM providing pharmacy services under this agreement.

Implementation

- 1244. Pharmacy related implementation detail should be included in the medical section of your response.

Appendix C2. Self-Insured Medical Questionnaire

This questionnaire must be completed if your organization is proposing self-insured medical plan administration for NDPERS.

To be considered and accepted, your organization must provide answers to the questions presented in this section. Each question must be answered specifically and in detail. Include both the question and the answer in your proposal response. An electronic copy of this questionnaire has been provided to facilitate your response.

Reference should not be made to a prior response unless the question involved specifically provides such an option. Proposers should refer to the earlier sections of this RFP before responding to any of the questions, to ensure that you have a complete understanding of the requirements with respect to your organization's proposal. Proposers may include additional information that you consider relevant or useful to NDPERS. If you elect to provide additional information on services in response to a question please specifically indicate that it is not included in the covered services offered in your proposal. If not indicated those services will be considered to be a part of your proposed fees. However, responses to all of the questions set forth below must be provided.

If this proposal results in your company being awarded a contract and if, in the preparation of that contract, there are inconsistencies between what was proposed and accepted versus the contract language that has been generated and executed, any such discrepancy will be resolved in favor of the language contained in the proposal or correspondence relating to your proposal. Vendors are reminded that **any and all deviations must be clearly identified and described in the RFP and the deviations worksheet provided in Appendix F.**

The questionnaire is broken down into the following categories:

General and Medical

- Organizational Background, Strength, and Experience
- References
- Implementation and Account Management
- Communications and Website
- Plan Administration
- Eligibility
- Customer/Member Service
- Claims Administration
- Medical Information Technology
- Reporting
- Case/Utilization Management
- Health Risk Management Programs
- Network Accessibility and Disruption
- Cost, Quality, and Pay for Performance
- Credentialing and Contracting
- Reimbursements and Discounts
- Performance Standards and Guarantees
- HDHP/HSA
- Economy to be affected
- Fiduciary Responsibility
- Appeals Process
- Regulatory / Compliance
- Confidentiality
- Lawsuits/Claims
- Related Party Issues
- Discussion of Information Used to Manage Business

- Controls / Compliance
- Risk Management and Insurance Information

Organizational Background, Strength, and Experience

2001. Provide a brief description of your organization, including your company history, organizational structure, services provided, location of headquarters, and length of time you have been in business. Describe any significant historical or future organizational developments (acquisitions, mergers, change in subcontracted vendors, etc.).
2002. Vendors responding to this RFP must be able to substantiate their financial stability. Provide a copy of your audited financial statement or other financial information. Include, at a minimum, a Balance Sheet and a Profit and Loss Statement, together with the name and address of the bank(s) with which you conduct business and the public accounting firm(s) that audit your financial statements. Other sufficient information may include a written statement from a financial institution confirming the creditworthiness and financial stability of the vendor.
2003. Provide a copy of any State or Federal regulatory audit performed within the last two years.
2004. Confirm that your organization agrees to be accountable for everything stated in and submitted as part of your proposal, even if not specifically addressed in the Minimum Contract Provisions in Appendix B
2005. Indicate if your organization has been a party to litigation regarding a medical benefit plan contract or data security breach over the prior five years or at present. If so, provide details of the litigation or action. Failure to disclose this may constitute grounds for rejection of any proposal or termination of any contract.
2006. Indicate if your organization has been subject to any data breaches over the past five years. If so, provide specifics on what data was compromised and what corrective actions were taken.
2007. State whether the vendor, its officers, agents or employees, who are expected to perform services under the NDPERS contract, have been disciplined, admonished, warned, or had a license, registration, charter, certification, or any similar authorization to do business suspended or revoked for any reason.
2008. Include a description of your organization’s major short-term strategic initiatives and your long-term strategic business plan. Specifically address cost containment efforts, providing specific examples of how you have made changes that resulted in savings for your clients.
2009. Describe how your organization differentiates itself from your competitors. Specifically, what makes your organization the best partner for NDPERS?
2010. Identify all services that are currently outsourced or subcontracted, the name of the vendor/partner, and length of the relationship and the nature of the long-term partnership (e.g.: are the contracts expected to expire during the course of this contract). Describe how you ensure quality customer service and timely and effective issue resolution. Specify which services may require a separate Business Associate Agreement (BAA) to be filed.
2011. What ratings have you received from the following third-party rating companies and organizations?

| Rating Organization | Rating | Date of Last Accreditation / Rating |
|---------------------|--------|-------------------------------------|
| A.M. Best | | |
| Standard & Poor’s | | |
| Moody’s | | |

- 2012. Are any of the services you are proposing to provide to NDPERS contracted outside the U.S.A? Describe any business you do outside the U.S.A. and the financial impact, if any, of requiring those services to be provided within the U.S.A.
- 2013. Confirm that your proposal includes any and all deviations to the Sample Contract/ASA and other RFP requirements (via submission of Appendix E3).
- 2014. Has your company been involved in any mergers or acquisitions in the prior 24 months? If so, how will those events impact NDPERS?

References

- 2015. Provide the following information on a maximum of three (3) of your largest plan clients for whom you provide services similar to those proposed in this proposal. References of similar size and scope to NDPERS are preferred; one must be your largest public sector client and one must be your largest North Dakota-based client.
 - a. Name of employer sponsoring plan and location
 - b. Type of services provided to plan sponsor
 - c. Plan inception date
 - d. Length of time as client
 - e. Number of contracts and members participating in the plan
 - f. Contact information (name, title, phone number, email address)
- 2016. Provide the following information for two (2) of your largest clients that have terminated services during the preceding 3-year period. References of similar size and scope to NDPERS are preferred.
 - a. Name of employer sponsoring plan and location
 - b. Type of services provided to plan sponsor
 - c. Plan inception date
 - d. Length of time as client
 - e. Number of contracts and members participating in the plan
 - f. Reason for termination
 - g. Contact information (name, title, phone number, email address)

Implementation and Account Management

- 2017. Vendors must outline in detail the specific activities and tasks necessary to implement the NDPERS program. Be specific with regard to the following:
 - a. Amount of total time needed to effectively implement the program
 - b. Activities/tasks and corresponding timing (Detailed Timeline)
 - c. Responsible parties and amount of time dedicated to implementation, broken out by vendor, current vendor and NDPERS staff
 - d. Any transition activities required with incumbent carriers, including data transfers and providing members adequate notice regarding current care or treatment plans at least 60 days prior to a change
 - e. Length of time implementation team lead and members will be available to NDPERS
- 2018. Provide an overview of how the NDPERS relationship will be managed, both strategically and on a day-to-day basis. Include an organizational chart. Designate the names, titles, location, telephone numbers, and email addresses for the representatives listed below. For the account service individuals listed (b, c, d, and e below), provide brief biographical information, such as years of service with your company, experience as it relates to this proposal, and the number of clients for which they perform similar services.
 - a. The key individual representing your company during the proposal process;
 - b. The key individuals on your proposed implementation team;
 - c. The key individual assigned to overall contract management;

- d. The key dedicated individual or team members responsible for day-to-day account management and service;
- e. The key individual responsible for provider contracting; and
- f. The key individual responsible for provider relations if different than letter e. above.
- g. Medical and/or pharmacy director assigned to NDPERS (as applicable)

2019. Please provide your most recent customer experience survey results.

2020. Will you provide any credits to support implementation?

2021. Please provide the requested information for the functions that will be servicing NDPERS in the table below:

| Area | Geographical Location(s) and Organization Name (if out-sourced) | Hours of Operation (Specify PST/CST/EST) | Is this service Outsourced? Yes or No? <i>If Yes, provide name of company to which the function is outsourced</i> |
|---|---|--|--|
| Member Service | | | <input type="checkbox"/> Yes <i>Specify Company Name:</i> _____ <input type="checkbox"/> No |
| Claims Processing | | | <input type="checkbox"/> Yes <i>Specify Company Name:</i> _____ <input type="checkbox"/> No |
| Enrollment and Eligibility | | | <input type="checkbox"/> Yes <i>Specify Company Name:</i> _____ <input type="checkbox"/> No |
| Disease Management | | | <input type="checkbox"/> Yes <i>Specify Company Name:</i> _____ <input type="checkbox"/> No |
| Case and Utilization Management | | | <input type="checkbox"/> Yes <i>Specify Company Name:</i> _____ <input type="checkbox"/> No |
| Health, Education and Wellness Programs/Services (including dedicated wellness support staff) | | | <input type="checkbox"/> Yes <i>Specify Company Name:</i> _____ <input type="checkbox"/> No |
| HSA | | | <input type="checkbox"/> Yes <i>Specify Company Name:</i> _____ <input type="checkbox"/> No |
| Pharmacy Benefits Management | | | <input type="checkbox"/> Yes <i>Specify Company Name:</i> _____ <input type="checkbox"/> No |

| Area | Geographical Location(s) and Organization Name (if out-sourced) | Hours of Operation (Specify PST/CST/EST) | Is this service Outsourced? Yes or No? <i>If Yes, provide name of company to which the function is outsourced</i> |
|---------------------------------|---|--|--|
| Other (Specify functional area) | | | <input type="checkbox"/> Yes <i>Specify Company Name:</i> _____ <input type="checkbox"/> No |

Communications and Website

- 2022. Are you willing to provide communication and marketing resources to work with NDPERS in the development of NDPERS-specific member communication materials (educational, open enrollment, benefit plan related, ongoing communications)? Describe the resources, sample communications, and your proposed approach and strategy/plan.
- 2023. How much lead time is necessary for you to guarantee that ID cards will be received by members prior to the plan year effective date of July 1, 2025?
- 2024. Describe how you handle communications for the post-65 programs that you will offer to NDPERS retirees.
- 2025. What reading grade level are your written and website communications written to? Are other languages available? What customization is allowed related to member communications?
- 2026. Does your website provide NDPERS specific plan information?
- 2027. Does your website offer a provider locator? What additional information does your site provide?
- 2028. Describe any additional web-based capabilities that could benefit NDPERS and our members.
- 2029. Describe your mobile capabilities and any app-based communications.

Plan Administration

- 2030. Confirm that you will communicate legislative changes related to the operations of the plan in a timely manner, and describe the support staff and process. Provide examples of materials you have used in the past to educate your clients on legislative changes/updates.
- 2031. What support will your organization provide NDPERS to comply with the obligations of the CAA, Transparency in Coverage rules, and Mental Health Parity rules? Provide responses to the following questions and include information regarding additional compliance items required by these rules and regulations not specifically listed.
 - a. Are your claim systems and operational processes prepared to comply with the No Surprises Act effective as of January 1, 2022? Please describe how your organization will prevent Surprise Balance Billing and if these services are included in the base administrative fee.
 - b. Are you prepared to comply with provider directory accuracy requirements (if there is a network directory error and a plan participant uses an out-of-network provider they believe to be in-network, the cost-share cannot be more than in-network amount)?
 - c. Are you able to comply with member ID card requirements that include deductibles and out-of-pocket maximums for in-network and out-of-network coverage?
 - d. Will your organization, on behalf of NDPERS, create and provide machine readable files of in-network reimbursement rates and out-of-network allowed amounts and billed charges?

- e. Will your organization have the ability to host the machine readable files on a public website?
- f. Does your organization have an internet-based price comparison tool for plan participants? If so, please describe. If not, will you have a tool by July 1, 2025?
- g. Are you able to comply with the annual reporting requirements about health care and prescription drug spending? Specifically, please confirm that you will be submitting RxDC reporting on behalf of NDPERS.
- h. Mental Health Parity: Will your organization provide a full non-quantitative treatment limitations (NQL) analysis and document a comparative analysis of the design and application of NQLs for NDPERS' plans? Please provide a sample of what you will provide if NDPERS were subject to an audit.
- i. If there are additional costs for any of the services your organization will provide to assist NDPERS in complying with these regulations they must be listed as "other" fees in the cost template submitted with your proposal. Confirm your understanding of this requirement

2032. Confirm your ability to conduct annual employer ACA contribution testing to ensure compliance with ACA and that a working paper of testing results will be prepared and shared with NDPERS and this testing is included in the cost proposal (see Exhibit 22).

2033. Describe your proposed transition plan. At a minimum, the transition plan must address:
- a. Conditions or type of care that is typically transitioned;
 - b. Individuals who are in a course of treatment or have prior authorizations or preapproval with the current vendor;
 - c. Transition process of current medical treatment;
 - d. Transition of individuals in disease management programs;
 - e. Communication of transition issues to all plan members.
 - f. Member cost sharing and accumulators.
 - g. Member secondary payer and Coordination Of Benefits information
 - h. Member Wellness incentive redemptions
 - i. Identify any costs associated with the transition plan that are not included in the cost proposal.

2034. Describe your process for Medicare Secondary Payer administration including but not limited to: Roles and responsibility of the vendor and PERS; identifying and recovering Medicare mistaken payments where PERS has primary responsibility, receiving payment and resolving outstanding issues, etc.

2035. What is your total commercial and Medicare health plan enrollment? Complete the table below.

| Dates | Commercial | Medicare |
|---------------------|------------|----------|
| As of January, 2022 | | |
| As of January, 2023 | | |
| As of January, 2024 | | |

2036. Please describe your standard (or proposed) financial arrangements with NDPERS under a self-funded arrangement including but not limited to: account requirements and process for claim payment, frequency of reimbursement to the administrator for claims paid, methodology for funds transfers, required reserves in claim account, etc.

Eligibility

2037. Are ID paper/electronic cards the sole means of determining member eligibility? If not, please describe.
2038. If desired, can NDPERS update and maintain eligibility and check employee claim status online? Are there any special charges for access to and use of these tools? Please provide a sample ID and link to your site so NDPERS can review your system.
2039. NDPERS will submit enrollments via a centralized electronic system. NDPERS will collect enrollment/eligibility information which will be provided to the successful vendor on a data file that follows the HIPAA 834 file specifications. The indicative data provided on the 834 enrollment/eligibility file is to be loaded onto the successful vendor's data base and used for ID cards and all transactions/communications related to the member's participation in the plan. Files will be transmitted using a secure file transmission process. The successful vendor must be able to receive this data in that format and media. Please confirm you agree to allow this and outline any specific requirements you have related to submission of enrollment.
2040. Please describe how you handle manual eligibility updates and the turn-around/timing of such updates.

Customer/Member Service

2041. Confirm if you will provide and maintain customer service staff acceptable to NDPERS. This unit will provide dedicated local and toll-free telephone numbers and shall respond directly to member inquiries regarding benefits, claim status, selecting participating providers, and provide general assistance with navigating on-line and other resources available through the health plan and NDPERS websites. Describe the structure and organization and provide an organizational chart of the unit you are proposing.
2042. Provide information on the operational metrics given to the client related to customer services and how often these are provided.
2043. Confirm the hours/days your customer/member service team is open for operations. How are calls handled that are received after hours (e.g. can member leave a voicemail?)
2044. Does your organization have online support, where a member can chat online with a customer service representative, or email a question to your organization?
2045. Will your organization identify a dedicated customer service/call center for the NDPERS account? If customer service/call center representatives are shared with other clients, on average, how many clients does one team service? What is the average length of service of the representatives?
2046. Does your customer service inquiry system allow representatives to record comments so other customer service representatives can view previous notes to assist members?
2047. What is the location of your call center(s)? What call center(s) would be responsible for servicing NDPERS members? Could you provide a call center in ND? If so what would be the additional cost?
2048. Describe how you manage spikes in call volume.
2049. How do you ensure that your representatives are providing timely and accurate information?
2050. Provide your customer service goals and actual performance rates for your book of business for calendar year 2023, 2022, and 2021 for the following:
- Abandonment – What was the rate? How is this measured and confirmed? What was the average abandonment time?
 - Busy rate – What percent of calls received a busy signal? How is this measured and confirmed?

- Time to answer – What was the average time to answer a call? What percent of calls took longer than 15 seconds to answer? What percent took longer than one minute? On average, what was the maximum wait time to speak with a representative?
 - First call resolution – How is this measured and confirmed? What percent of calls were resolved at first point of contact? What percent of calls were resolved with a return call within three days after the initial call?
 - Member survey – Provide a copy of member survey responses.
2051. Discuss your online services available to members, including details regarding information available through the portal.
2052. Do you have a mobile app and/or mobile ID card available to your members? Please describe the capabilities.
2053. Could you provide a call center in North Dakota? If so, what would be the additional cost?

Claims Administration

2054. Provide the following information regarding the claims administration unit that will handle the NDPERS account. If there is more than one claims processing location, provide information for each.

| | Claims Processing Unit |
|--|------------------------|
| Address/Location | |
| Phone Numbers | |
| Days and Hours of Operation | |
| Number of Members Serviced | |
| Number of Employer Groups Serviced | |
| Ratio of Claims Unit Staff to Members Serviced | |
| Volume of Claims Processed Daily | |

2055. Will your organization identify a dedicated team of claims processors for the NDPERS account? If processors are shared with other clients, on average, how many clients does one team service? What is the average length of service of the claim processors?
2056. Confirm that you are able to administer the NDPERS designs Dakota Plan (Grandfathered and Non-Grandfathered) and Dakota Retiree Plan, (HDHP/HSA) and benefit levels without manual intervention. If you are unable to administer the plan, you must specify any plan design deviations proposed as specified in the RFP.
2057. Describe your claims processing system/platform and claims administration process. Are you expecting to have any system upgrades over the course of this contract?
2058. How do you determine reasonable and customary ("R&C") charge allowances? What methodology is used (e.g. FAIR, Medicare)? What percentile is used? How often are R&C schedules updated?

- 2059. Are EOBs provided to each dependent for their services and mailed to the subscriber's address on file unless a request has been made by the dependent for an alternative mailing address?
- 2060. Are your EOBs customizable for the NDPERS plan?
- 2061. What is your frequency and method of distribution of EOBs?
- 2062. Provide information on the operational metrics given to the client related to claims processing and how often these are provided.
- 2063. How often do you audit your claims processing systems? What measures are in place to ensure claims accuracy?
- 2064. Please describe any usage of automation or artificial intelligence used by your claims processing team. What controls are in place for these tools?

Medical Information Technology

- 2065. Describe your options for external system connectivity and data transfer including web enabled services/technology.
- 2066. Describe your privacy protection and data security standards (e.g., HIPAA, PHI). Describe certifications and other external audits. Describe the test criteria used to ensure the standards are met. Can you supply the results? Have you completed external ethical hacking tests?
- 2067. Are there any major system enhancements or conversions planned or being considered within the next 36 months? How are regulatory items managed in the release process? For packaged applications, what is the process and duration to upgrade a vendor release to the released version? What is the process used to maintain operating systems? What is the potential impact on NDPERS implementation?
- 2068. Describe your business continuity and disaster recovery plans for internet, eligibility, claims process and information management (data warehouse) systems. As part of the response, highlight any adjustments in the plan according to the magnitude and duration of the disaster (e.g., outages of one day, vs. a week, month, etc.).
- 2069. Have you had any security breaches involving electronic protected health information or personal financial information? If so, what was the scope of the breach? Were disclosures made to affected individuals? What operations changes, if any, were implemented after the breach? Describe your capabilities to support management of PHI data. Do you have insurance to cover a breach?
- 2070. Describe your levels of security utilized in the proposed system and how each addresses HIPAA security rules/regulations.

Reporting

- 2071. Confirm your ability to provide the reports described in the RFP and provide samples.
- 2072. Describe your online reporting capabilities. Please describe the data/information and types of reports that can be accessed and downloaded from your online system.
- 2073. Describe your process in providing customized ad-hoc reporting.
- 2074. Explain your ability to comply with the NDPERS current data warehouse arrangement by providing medical claims and enrollment data to NDPERS in a format agreed upon between you and NDPERS no less than monthly and within 3 months of award of contract.
- 2075. Please confirm that you will provide a monthly medical file feed, at no cost, to a PERS specified vendor to integrate with pharmacy claims and laboratory data.
- 2076. If requested, please confirm you will provide complete medical claims data to other authorized third-parties at no cost.

- 2077. Is your organization able to share information regarding wellness and disease management activities to be used in the data warehouse? If yes, what type of information is available?
- 2078. Do you participate in the ND Health Information Network (NDHIN) reporting?

Case/Utilization Management

- 2079. Provide a brief overview of your utilization management programs, including pre-authorization, prior approval, concurrent review, discharge planning, and large case management.
- 2080. Does your organization offer an advocacy program that members can utilize to help with coordinating/managing a newly diagnosed disease for themselves or another covered member?
- 2081. What is the source of the criteria used for the following :
 - a. Determining surgical necessity and whether a second opinion is required.
 - b. Determining approved length of stay.
 - c. What percentile of the data is used?
 - d. Approximately what percentages of review cases are referred to a physician because the initial review and attending physician cannot reach agreement on the proposed level of care?
 - e. Does this percentage vary between medical/surgical and psychiatric/substance abuse cases? If so, provide variances.
- 2082. What is the process for identifying members for large case management and how are claims transferred to case managers?
 - a. What are the automatic and manual triggers to identify cases for large case management? Are there controls in place for the automatic triggers?
 - b. How do you ensure that large cases are appropriately managed?
 - c. How do you calculate case management savings?
 - d. How do you work with medical group and hospital staff in the case management function?
 - e. How is data privacy handled when claims trigger case management support?
- 2083. Please describe any enhancements that your organization plans to make to their case management and utilization management programs.

Health Risk Management Programs

| | Program | Number of Members Enrolled (ND) | Is Cost Included in Proposal? (Y/N) | Cost if Not Included (PMPM) | Accredited? If so, indicate accrediting organization. |
|--------------------------|--------------------------|---------------------------------|-------------------------------------|-----------------------------|---|
| <input type="checkbox"/> | Arthritis | | | | |
| <input type="checkbox"/> | Asthma | | | | |
| <input type="checkbox"/> | Cancer | | | | |
| <input type="checkbox"/> | Congestive Heart Failure | | | | |
| <input type="checkbox"/> | COPD | | | | |
| <input type="checkbox"/> | Depression | | | | |

| | Program | Number of Members Enrolled (ND) | Is Cost Included in Proposal? (Y/N) | Cost if Not Included (PMPM) | Accredited? If so, indicate accrediting organization. |
|--------------------------|--|--|--|------------------------------------|--|
| <input type="checkbox"/> | Diabetes | | | | |
| <input type="checkbox"/> | Low Back Pain | | | | |
| <input type="checkbox"/> | Stress | | | | |
| <input type="checkbox"/> | High Risk Pregnancy/ Prenatal Support | | | | |
| <input type="checkbox"/> | Hypercholesterolemia | | | | |
| <input type="checkbox"/> | Pain Management | | | | |
| <input type="checkbox"/> | Renal Failure | | | | |
| <input type="checkbox"/> | Tobacco Cessation | | | | |
| <input type="checkbox"/> | Weight Management | | | | |
| <input type="checkbox"/> | Other, please indicate: | | | | |

2084. Indicate in the table below if you currently provide the care or disease management program listed, the number of members from ND-based employers currently enrolled, the cost per participant, and its accreditation status.
2085. Briefly discuss each of the programs currently offered, identify if it is included in your cost proposal and if not the cost to add each program. Do you currently track and report specific clinical outcome measurements for each of the conditions for which care/disease management is offered? Please list them.
2086. Are you willing to customize your care management/DM programs and services for NDPERS? If so, please explain and provide an example of a program you developed and utilized with another client. Include any ROI or outcome data that was measured on the effectiveness of the program.
2087. Describe how you coordinate members involved in more than one program, for example members with diabetes and chronic heart failure.
2088. Describe the programs offered to patients with rare and chronic diseases. Is this program outsourced? Who is the current vendor?
2089. What is your organization doing to identify and reduce health outcome disparities by race, ethnicity, or other social determinants of health?
2090. What reporting can you offer NDPERS to track the efficacy of programs?
2091. Describe in detail your ability to provide online wellness programs. Compare it to the existing program presently in the NDPERS program (see Exhibit 1). Specifically identify any deviations from the existing program. Include any future enhancements that are planned, including planned

date for roll-out of the new feature. Describe Wellness incentives you offer. Compare and contrast that with the existing incentives. (see Exhibits 1 & 2).

2092. Describe your ability to support NDPERS Wellness initiatives by providing the administrative services for:
- a. Tobacco Cessation program
 - b. NDPERS Diabetes Program (About the Patient Program coordinated with the ND Pharmacy Assoc.)
 - c. Dedicated Wellness Program Consultant and Educators
 - d. Healthy Pregnancy program
 - e. New programs or mandates
 - f. Diabetes Prevention Program
 - g. \$250 Wellness Incentive with required tax reporting to employers
2093. Describe your ability to support the employer-based wellness program and the wellness benefit funding program. <https://ndpers.nd.gov/employers/employer-resources/employer-based-wellness/>

Network Accessibility and Disruption

2094. We are requesting that vendors provide a GeoAccess network accessibility and disruption analysis in Appendix E1. If you are proposing a combination of owned and leased networks, please provide your results separately by network. This GeoAccess analysis must be provided for your proposed NDPERS network(s).
2095. Provide a listing or provider directory and link to the web for the provider networks you are proposing for NDPERS.
2096. Identify and describe your national preferred provider organization.
2097. Does your network exclude any major health systems or provider practices in North Dakota?
2098. Describe how an employee or dependent that requires care while outside of North Dakota will be provided services. Example: a dependent who requires care over an extended period while away from home (e.g. student attending college). Do you have “guest” or “visitor” status programs for people who are temporarily domiciled outside of the service area?
2099. Confirm your willingness to negotiate and maintain NDPERS-specific provider contracts to allow for cost control mechanisms and alignment of contract and plan years. Also discuss how you maintain the existing PERS PPO program. Describe your process and approach for accomplishing this.
2100. How often is your provider network reviewed and updated?
2101. Are there quality metrics in place for your provider networks?
2102. Does your organization offer telehealth visits? If so, please describe the network available, how services are billed, and provide general overview of program.
2103. Does your organization offer any narrow or tiered networks? If so, please describe these network options including level of discount differences between the option and your traditional network.
2104. Do you anticipate any significant provider contract changes for 2023? Describe any expected changes.

2105. Complete the table below by type of behavior health specialist.

| Behavioral Health Network | Mental Health Providers | Chemical Health Providers |
|---|-------------------------|---------------------------|
| A. Percent of NDPERS population within 30 minutes or 30 miles of a specialist | | |
| B. Percent of providers accepting new patients | | |
| C. Average wait time to secure an appointment | | |

2106. What strategies do you have in place to improve accessibility to licensed mental health providers?

2107. How many of your network providers specialize in working with first responders, law enforcement, and corrections staff?

2108. How many of your providers are self-identified as black, indigenous and people of color (BIPOC)?

2109. Please describe your telehealth services as it pertains to mental and chemical health?

a. Have your telehealth services expanded as a result of the pandemic? If so, will the changes be permanent?

b. Please describe how telehealth visits are reimbursed to providers, are reimbursements equal to regular office visits?

Cost, Quality, and Pay for Performance

2110. Describe the programs and methodologies currently in place to gather and measure meaningful provider quality and efficiency data that can be shared with members.

2111. Describe any online transparency tools you have available that members can access to view quality and/or cost information on your network providers. Provide access to this site. How updated is the information on the site?

2112. Please describe any predictive analytic capabilities you currently use or plan to use to manage quality of care and cost.

2113. Describe in detail the performance standards you currently have in place with your contracted physicians, provider groups, hospitals, and other providers. Outline the types of measures utilized, how you monitor and track these measures, how providers are held accountable, and how frequently the data is compiled and shared with the physicians and provider groups.

2114. Describe your participation in pay-for-performance initiatives. To what extent do these activities impact the health care costs of NDPERS or claims incurred by its covered population? What percentage of your contracts are pay-for-performance? How is this likely to change in the next 2-3 years?

Credentialing and Contracting

2115. Briefly describe the initial credentialing process. How often are physician, hospital and other contracts (labs, imaging facilities, DME, home health care) reviewed?

Reimbursement and Discounts

- 2116. Please complete and submit Appendix D2.
- 2117. Provide the reimbursement methodologies (by percentage) agreed to in your contractual arrangements to reimburse inpatient and outpatient hospital services (e.g., discount from charges, case rate, per diem, global DRG, fee schedule, etc.).
- 2118. Provide the reimbursement methodologies (by percentage) used to reimburse professional services (e.g., fee-for-service from billed charges, fee-for-service with discount, percent of RBRVS, capitation).
- 2119. How often are your R&C databases updated? What data version of UCR are you using?
- 2120. Do you negotiate discounts with non-network providers on a case-by-case basis? Please describe your negotiation process (including criteria used to determine when this will be done.) Do you charge for these special negotiations? If so, how is that charge assessed to NDPERS?
- 2121. If a network physician directs a member to a non-network lab for services, how is that lab service paid?
- 2122. If certain specialties (e.g. radiology or anesthesiology) or services (e.g. ambulance) are not represented in your network of providers, do you have the ability to pay these services as in-network if they were completed at an in-network facility?
- 2123. Provide your estimate of percent of charges that will be processed in North Dakota under your network.
- 2124. NDPERS presently has a value-based contract in place with certain ND providers. See Exhibit E27. Discuss your ability to offer the same or similar program. Identify if any additional cost would be required for such an option
- 2125. Provide details on any recent, upcoming or anticipated changes to the risk-based contracting profile of your network (e.g. ACOs, innovative contracts, changes to the level of provider risk, etc.)

Performance Standards and Guarantees

As described in Section I. Overview, of this RFP, health plan vendors are required to comply with performance standards and guarantees that include a financial incentive/forfeiture which is negotiated as part of the renewal process. See Appendix H for a copy of these performance standards and guarantees. You are required to offer your performance standards and guarantees for the board's consideration using Appendix H. It is a priority for the board to have a comprehensive set of standards and guarantees relating the to this plan.

- 2126. Please confirm you have completed Appendix H and confirm your willingness to comply with the performance standards and guarantees or provide suitable alternatives. Identify your process for measurement and audit availability. Identify any additional standards and metrics your organization would be willing to include.

HDHP/HSA

- 2127. Describe how your organization will administer the HSA option. What details are provided to individuals that select this option, the enrollment process, claim reimbursement options, limit monitoring, ability to accept employee pre- & post-tax contributions, record-keeping, fees, the name of the service vendor and any other applicable information.
- 2128. Will your organization also provide banking services associated with health accounts paired with an HDHP plan?

Economy to be affected

2129. Please indicate if you will have an office in North Dakota and where most of the work on this contract will be done?
2130. Please identify the number of employees you will employ in North Dakota pursuant to this contract.
2131. Of your total administrative fee please estimate the amount that will be spent in North Dakota and the amount that will be spent outside the state.

Fiduciary Responsibility

2132. Confirm your organization will assume full fiduciary responsibility for claim determination.

Appeals Process

2133. Please describe your internal and external appeals process for self-insured plans.
- What is the timeline to respond to appeals?
 - Is there a clinical protocol to distinguish medical necessity from administrative benefit denials?
 - Describe the medical standards of care utilized when reviewing an appeal.
 - How and when do you communicate to patients and providers?
 - Provide an overview of the staff involved in reviewing appeals, as well as their qualifications and experience. Do different staff review initial and secondary appeals?
 - Describe the process/approach utilized for cases where agreement cannot be reached between the patient and the health plan.

Regulatory Requirements

2134. Confirm that you will conform to the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 as applicable to NDPERS.
2135. Do you have any disputes currently outstanding (or threatened) with any state or federal regulators related to any portion of your business? If so, what is the nature of these disputes?
2136. What is the relationship between you and state regulatory agencies including, but not limited to, state departments of insurance and health? What measures, if any, are being taken to maintain/improve your regulatory relations?
2137. Provide a summary of any state department of insurance, state attorney general, U.S. Department of Labor and other state or Federal regulatory agency complaints filed against you, as well as information on complaints, grievances and appeals resulting from operations in the previous 5 years. Indicate what provider, member, plan sponsor or regulatory issue is involved, as well as, upheld/ overturned status and general nature of complaint or investigation. If the matter resulted in a corrective action plan ("CAP"), please provide a copy of the CAP.
2138. Have you been investigated or audited, directly or indirectly through an investigation or audit of a client/customer, by any state or Federal agency or other regulatory body (e.g., DOI, DOH, CMS, DOL, DEA, etc.) in the past three years? What were the findings and what steps are (were) being taken to address any deficiencies? Are you currently subject to or threatened with any state or Federal investigation or regulatory audit? Please provide copies of regulatory audit reports and your responses, if applicable.
2139. Have you been subjected to any fines or penalties, or been excluded/barred from any activities or programs as a result of regulatory or judicial action, within the past three years? If so, what was the nature of the underlying issue(s), and what was the penalty? What steps are being (were)

taken to prevent recurrences? Any pending or threatened proceedings that could result in such penalties?

2140. Is the process you use for late claim interest/penalties automated or manual? Please explain.
2141. Please provide a copy of your Compliance Plan including fraud, waste and abuse program (to the extent not provided in response to previous sections of the RFP). Have you had adverse findings in a Market Conduct exam within the last three years? If so, please provide details.
2142. Please provide a copy of your most recent SOC2 report
2143. Please provide the following:
- a. Organizational and reporting charts for compliance operations (to the extent not provided in response to prior section of this RFP);
 - b. A review of compliance training requirements for employees and sub-contractors
 - c. Compliance monitoring and oversight policies and procedures;
 - d. Description of internal investigations and any self-disclosures.

Confidentiality

2144. Please provide a status report on your HIPAA and other privacy law compliance efforts. How are HIPAA and privacy compliance incorporated into your overall compliance activities?
2145. How frequently do you conduct audits for HIPAA compliance? Are you willing to share the results of those audits with us? Would you be willing to audit at a frequency required by NDPERS?
2146. Indicate your practice with respect to sharing members' medical and prescription information with providers, plan sponsors, pharmaceutical manufacturers or other commercial entities such as data aggregators.
2147. Identify your designated Privacy & Security Officers and describe their qualifications.\
2148. Please indicate if you can comply with NDCC 54-52.1-11 & 54-52.1-12.

Lawsuits/Claims

2149. What is the nature and extent (number of cases, potential financial or other exposure) of current litigation outstanding, or to the knowledge of management threatened, against you?
2150. Does any of this litigation involve: (i) multiple plaintiffs or a class of plaintiffs; (ii) any allegation of (A) criminal wrongdoing (including any RICO claim), (B) violation of securities, antitrust or environmental statutes; (C) direct or vicarious malpractice on your part or you employees; or (D) any action or matter excluded from coverage under your insurance policies; or (iii) claims for (A) punitive or exemplary damages, or (B) compensatory damages in excess of \$500,000? If so, what are the details of the suit?
2151. Are any claims pending, or to your knowledge threatened, against you or your officers or directors before any regulatory body or agency in connection? What is the nature and status of the claim(s)?
2152. Are you a party to any pending arbitration or mediation proceeding? If so, what is the nature and status?

Related Party Issues

2153. Describe any equity, financial or other interests you hold in vendors, suppliers, consultants and other business with which you have a commercial relationship related to your operations.

Discussion of Information Used to Manage Business

2154. Describe the capabilities of your financial reporting systems.

- 2155. Describe what information is available and how timely the information becomes available with regard to revenues, medical costs, and overhead.
- 2156. Describe how your profitability is tracked by product segment, by market and by customer.
- 2157. Describe how often financial closing are performed and how long it takes to get final results.

Controls / Compliance

- 2158. Describe your internal accounting controls and how the internal controls are monitored.
- 2159. Describe the structure of your Internal Audit function.
- 2160. Indicate whether internal/external audits have revealed any significant internal control deficiencies or weaknesses or other issues in the past three years.
- 2161. Indicate what your compliance policies are and indicate whether there have been significant failures over the past three years, including regulatory violations, affecting the health operations.

Risk Management and Insurance Information

- 2162. Confirm proposal meets all regulatory requirements.
- 2163. Confirm proposal meets NDCC 26.1-36.6-03: 26.1-36.6-03. Self-insurance health plans - Requirements.
 - a. The following policy provisions apply to a self-insurance health plan or to the administrative services only or third-party administrator, and are subject to the jurisdiction of the commissioner: 26.1-36-03, 26.1-36-03.1, 26.1-36-05, 26.1-36-10, 26.1-36-12, 26.1-36-12.4, 26.1-36-12.6, 26.1-36-13, 26.1-36-14, 26.1-36-17, 26.1-36-18, 26.1-36-19, 26.1-36-23, 26.1-36-29, 26.1-36-37.1, 26.1-36-38, 26.1-36-39, 26.1-36-41, 26.1-36-44, and 26.1-36-46.

Appendix C3. Self-Insured (“Carve-Out”) Pharmacy Questionnaire

This questionnaire must be completed if you are quoting self-insured prescription drug services.

To be considered and accepted, your organization must provide answers to the questions presented in this section. Each question must be answered specifically and in detail. Include both the question and the answer in your proposal response. An electronic copy of this questionnaire has been provided to facilitate your response.

Reference should not be made to a prior response unless the question involved specifically provides such an option. Proposers should review all sections of this RFP before responding to any of the questions here, to ensure that you have a complete understanding of the requirements with respect to your organization’s proposal.

Bidders may include additional information that you consider relevant or useful to NDPERS. If you elect to provide additional information on services in response to a question please specifically indicate that it is not included in the covered services offered in your proposal. If not indicated those services will be a part of your proposed fees. However, responses to all of the questions set forth below must be provided.

If this proposal results in your company being awarded a contract and if, in the preparation of that contract, there are inconsistencies between what was proposed and accepted versus the contract language that has been generated and executed, any such discrepancy will be resolved in favor of the language contained in the proposal or correspondence relating to your proposal. Bidders are reminded that **any and all deviations must be clearly identified and described in the RFP and the deviations worksheet provided in Appendix F.**

The questionnaire is broken down into the following categories:

Questionnaire:

- Compliance with North Dakota Statutory Requirements
- Bidder Overview
- Clinical Programs and Drug Utilization Review
- Specialty Pharmacy
- Formulary
- Account Management
- Data Analytics and Management Reporting
- Customer Service
- Retail Pharmacy Network
- Mail Service
- Implementation
- Eligibility
- Claims Processing/Adjudication
- Information Technology
- Financial
- Regulatory / Compliance
- Confidentiality
- Lawsuits/Claims
- Related Party Issues
- Discussion of Information Used to Manage Business
- Controls / Compliance
- Risk Management and Insurance Information

PHARMACY BACKGROUND

North Dakota Public Employees Retirement – Strategic Objectives

NDPERS is seeking a Bidder partner that:

- Manages prescription drug cost for members and NDPERS
- Delivers services at competitive prices commensurate with the total covered lives
- Provides exceptional service, from both a member and management experience
- Champions transparency (and other innovations) in contracting, operations and can fully meet the provisions in NDCC 54-52.1-04.16
- Brings innovation to the services provided to members and management
- Seamlessly integrates with NDPERS medical plans, and other partners

Partnership Considerations

NDPERS is interested in exploring the value creation from combining the respective strengths of NDPERS and a best-in-class pharmacy benefits partner. NDPERS goal is to explore a partner's role in managing the following functions:

- Overall financial and operational transparency
- Specialty drug management and contracting
- Formulary management
- Clinical programs administration
- Customer service (to both members and providers)
- Pharmacy claims processing
- Reporting and data analytics
- Pharmacy network management
- Rebate processing and contracting

This request for proposal is intended to provide NDPERS with the necessary information to assess your capabilities and strategic fit. To the extent that you see opportunities to add value that is not explicitly identified in the RFP, please provide additional information.

Compliance with North Dakota Statutory Requirements

3001. Indicate that you will comply with all the requirements of North Dakota Century Code including chapter 54-52.1
3002. Indicate if you could comply with the preference criteria in 54-52.1-04.15.
3003. Indicate if your proposal includes:
 - a. Compliance with 54-52.1-04.16
 - b. Does not include compliance 54-52.1-04.16
 - c. Includes both
3004. Indicate any areas of the North Dakota Century Code you cannot meet and why.

Bidder Overview

3005. Please provide the legal name of the company that will be providing the pharmacy benefit management services in this contract.
3006. Please describe your corporate governance structure.
3007. Where is your business headquartered?
3008. How many years have you operated as a pharmacy benefits manager?
3009. How many commercial plan sponsors do you serve?
3010. How many government (Federal, State, Local) plan sponsors do you serve?
3011. How many PBM member lives are in your book-of-business?

3012. How many PBM member lives do you serve in North Dakota?
3013. How many total lives are in your book-of-business (e.g. "all lives", includes other health plans, rebate aggregation, etc.)?
3014. Do you outsource any of your operations or business functions? If so, which functions and through what organization(s)? Please provide a list of all locations/countries where your outsourced functions take place. Specify which services may require a separate Business Associate Agreement (BAA) to be filed.
3015. Bidders responding to this RFP must be able to substantiate their financial stability. Provide a copy of your audited financial statement or other financial information. Include, at a minimum, a Balance Sheet and a Profit and Loss Statement, together with the name and address of the bank(s) with which you conduct business and the public accounting firm(s) that audit your financial statements. Other sufficient information may include a written statement from a financial institution confirming the creditworthiness and financial stability of the Bidder.
3016. What teaming arrangements, joint marketing arrangements and/or partnerships do you currently have in place with other organizations (health plans, PBMs, Pharmacies, Others)? Please describe.
3017. What unique and differentiated capabilities can you offer to NDPERS?
3018. Do you have strategic advantages in North Dakota that make you a better choice for NDPERS than other Bidders?
3019. Provide the following information on a maximum of three (3) of your largest plan clients for whom you provide services similar to those proposed in this proposal. References of similar size and scope to NDPERS are preferred; one must be your largest public sector client and one must be your largest North Dakota-based client. Also provide the following for two former governmental clients similar to PERS or larger, if possible.
- a. Name of employer sponsoring plan and location
 - b. Type of services provided to plan sponsor
 - c. Plan inception date
 - d. Length of time as client
 - e. Number of contracts and members participating in the plan
 - f. Contact information (name, title, phone number, email address)

Clinical Programs and Drug Utilization Review

3020. Please describe your approach to clinical management in the pharmacy benefit.
3021. Please provide a list of your clinical programs with a short description of each, and associated cost for each program. At minimum, please include prior authorization, step therapy, quantity limits, drug utilization review, opioid management, diabetes management, compound management, and specialty drug management programs. If applicable, please include return-on-investment guarantees or measurement metrics for each program.
3022. Based on the plan design currently in place, drug utilization, and demographics, what are specific recommendations to reduce cost and/or improve the health of NDPERS members (without changing plan design elements like copays)? Please limit your responses to no more than three recommendations or programs.
3023. Please describe the accreditations you maintain (URAC, JCAHO, NCQA)
3024. Please describe your capabilities of combining pharmacy data with medical data for individual members to coordinate care, case management, and utilization oversight.

3025. Please describe your usage of predictive analytics in aiding your clinical management of NDPERS' population.
3026. Please describe your Pharmacy & Therapeutics Committee (P&T) and the formulary review process.
3027. Please describe your approach or solutions to manage compound medications. Please note if you have a dollar threshold for prior authorization, exclusion strategy, or another approach.
3028. Please describe your COVID testing and vaccine administration programs
3029. Please describe your capabilities to track and report on COVID testing and vaccine claims
3030. Please discuss how you measure adherence; do you track medication possession ratio (MPR) and/or proportion of days covered (PDC)? Are there other factors you evaluate for certain therapeutic classes?
3031. Do you align your performance measurement with national quality measures (e.g. HEDIS)?
3032. What tools and programs do you utilize to shift percent of membership toward formulary and preferred/generic drugs? Does this include biosimilars?
3033. Please discuss how you plan to handle GLP-1 drugs? What measures are in place to control cost and utilization?
3034. How do you measure the return on investment on clinical edits on an ongoing basis? What kind of reports and services do you provide to evaluate existing clinical edits and model return on investment for future clinical edits?
3035. Provide a description of your prior authorization process, including type of personnel involved in the process and average turnaround time.
3036. Please describe the process for any step therapy programs that you may offer.
3037. Do clients have access to your system to enter administrative prior authorization overrides?
 - a. How does the process work?
 - b. Is training provided?
 - c. Will your client be able to report on volume of overrides and outcomes determination?
3038. Describe how you calculate return on investment of prior authorizations performed. What reports do you provide to your clients to assess ROI, denial rate, appropriateness of denials?
3039. Describe your quality assurance measures for your prior authorization process. What reports and tools do you provide for clients to assess if state/federal/NCQA quality measures (e.g. timeliness, overturn rates, accreditation) are met?
3040. Explain your process around instances when your prior authorization team cannot immediately contact the provider (i.e., how often do you attempt to contact the provider, what methods do you use to contact the provider, what do you do when you get no response).
3041. Please describe how members are notified of denials and expiration of prior authorizations.
3042. Describe all programs related to identification and management of potential abuse by members, providers and pharmacies.
3043. Please provide a list of real-time utilization (concurrent) review elements at retail and mail. How are interventions managed? How are outcomes of interventions documented?
3044. Does your Retrospective Drug Utilization Review (RDUR) Program target physicians and members? How do you notify physicians and members?
3045. Please provide a list of RDUR edits. What is the timeframe for intervention? Is the intervention automated? Fax? Is there a survey collected to assess the usefulness of the intervention? Are responses charted to provide auditable savings results?

- 3046. Do you work with any electronic medical record (EMR) companies to provide prescription drug information to prescribers?
- 3047. Are you capable of receiving data and integrating it from an EMR?
- 3048. Do you have a preferred partner for electronic prior authorization and eligibility/formulary verification?
- 3049. What percentage of claims in your book-of-business are e-prescribed?
- 3050. Please provide sample reports that document savings of clinical programs (case management, disease management, utilization review, etc.) that NDPERS will be receiving monthly, quarterly, etc.

Specialty Pharmacy

- 3051. How many specialty pharmacies do you operate?
- 3052. Are your specialty pharmacies owned or subcontracted?
- 3053. Which specialty pharmacy would primarily service the NDPERS account?
- 3054. Is the proposed specialty network an open network (where members can use any specialty pharmacy) or closed network (members may only use Bidder's network)?
- 3055. Please describe your approach to specialty pharmacy. Please focus on the aspects that differentiate your services in the market.
- 3056. Are members contacted before each specialty fill? If so, is the outbound call made by a representative or an automated call?
- 3057. What is the average length of time spent with a member prior to the first fill of their specialty medication?
- 3058. Do you have pharmacists and technicians that are dedicated to serving members with certain disease states?
- 3059. Please describe any specialty patient assistance programs that are offered. Describe how you can maximize the value of these programs for the member and the plan.
- 3060. For any specialty patient assistance programs, describe if your programs are income based and/or rebate compliant?
- 3061. Please describe your strategy (formulary or more broadly), and how you engage your self-insured clients on coverage decisions related to high-cost therapies (e.g., CAR-T, Zolgensma)
- 3062. Please describe specialty site-of-care programs or initiatives or partnerships.
- 3063. Please describe solutions available to address rising costs of prescription drugs in the medical benefit.
- 3064. Please describe how your plan works with any copay assistance or coupon programs.
- 3065. Please confirm that specialty products shipped in error, damaged in shipment, lost in transit, left by courier without confirmation of receipt and rendered unusable by NDPERS to due negligence or error in delivery process will not be the financial responsibility to NDPERS. How are these types of shipment error reported to NDPERS?
- 3066. Describe your specialty drug trend forecasting services. For example, how is the specialty drug pipeline monitored and what modeling tools are available to demonstrate the financial impact to the Client?
- 3067. What percentage of Limited Distribution Drugs commercially available do you have access to?
- 3068. What is the process for procuring any limited distribution drugs that you currently do not have access to?

3069. Do you have infusion services? Can you arrange for nurses or other assistance on behalf of the member?
3070. Please provide a copy of your proposed specialty drug list including national drug code (NDC), drug name, and formulary tier in excel format. Please include on the specialty drug list, or provide as a separate list, indicators for limited distribution drugs and include a separate indicator if you are an authorized distributor for that product.

Formulary

NDPERS formulary has three coverage tiers. Tier 1 includes formulary generic drugs, Tier 2 includes formulary brand drugs, and Tier 3 includes all non-formulary products. Please provide a quote based on your formulary that best aligns with NDPERS current structure.

3071. Please describe your formulary offerings.
3072. Please indicate which formulary is being proposed for NDPERS, and why.
3073. Please provide a copy of your proposed Formulary including NDC, drug name, and formulary tier in Excel format.
3074. How frequently in your proposed formulary updated?
3075. Does the proposed formulary require compliance with formulary utilization management controls (prior authorization and/or step therapy and/or quantity limits) or are all formulary and clinical utilization management programs an "add on" after the formulary is selected?
3076. Does your formulary include all generics in the lowest cost tier and all brands in the preferred or non-preferred tiers or does your proposed formulary tier brand and generic products according to different criteria?
3077. Please discuss your position regarding "lowest net cost" as it relates to your formulary strategy and your flexibility in facilitating a "lowest net cost" strategy for clients.
3078. Does your proposed formulary exclude drug products that are high-cost with low clinical value (e.g. combination products where the combined products could be bought separately for a fraction of the cost)?
3079. Do you have controls or procedures to manage drugs that rapidly increase in price? Please describe how you monitor drug price inflation and the options that plan sponsors may have to mitigate this risk.
3080. Will you agree to maintain one comprehensive Maximum Allowable Cost (MAC) list for NDPERS at retail and mail throughout the term of the contract?
3081. Will you agree to utilize the lowest price MAC list compared to any other PBM maintained MAC list for NDPERS?
3082. Please confirm you will provide a copy of the MAC list, including NDC and drug prices upon request.
3083. If desired, could you grandfather existing members for a select period of time (1-3 fills, 1 year, indefinitely)?
3084. Please describe any minimum formulary or plan design requirements for NDPERS to participate in rebate payments.

Account Management

3085. Do you propose a designated or dedicated account team for NDPERS?
3086. Provide an organizational chart for the NDPERS account management group and reporting structure to your management team.
3087. Will you agree to let NDPERS switch account team members if NDPERS is dissatisfied with service or fit?

- 3088. Describe the role of each proposed account team member and include a resume for each. Please include, at minimum, tenure at your company, years of experience, and office location.
- 3089. Will NDPERS have an executive sponsor? What role with the Executive Sponsor play during the contract term?
- 3090. What is your account team turnover rate (%)?
- 3091. What commitments will you make to ensure the consistency of the account team members you have proposed for NDPERS? Will there be performance guarantees in place specific to account management?
- 3092. Do you regularly survey your clients for their satisfaction with the quality of account management support provided by your firm? Please provide a copy of the assessment tool used.
- 3093. Please indicate your 2023 client retention rate

Data Analytics and Management Reporting

- 3094. Describe data analytic and reporting capabilities currently available.
- 3095. Is there an extra charge for data analytic services? If so, what are the charges?
- 3096. What are your market differentiators regarding analytic capabilities and outcomes?
- 3097. Specify any predictive analytics used with your reporting capabilities and describe controls in place.
- 3098. Please confirm that you will provide a monthly prescription drug file feed, at no cost, to a PERS specified vendor to integrate with medical claims and laboratory data.
- 3099. If requested, please confirm you will provide complete pharmacy claims data to other authorized third-parties at no cost.
- 3100. What is your standard reporting process when sending data to stop loss carriers? Is there a standard threshold you use for your large claim reports?
- 3101. What data types can you currently take-in and integrate for analytic purposes (e.g., Rx claims, lab data, medical data, behavioral data)?
- 3102. How do you notify/advise clients of new drugs in the pipeline and potential budget impact as well as benefit design implications?
- 3103. Describe what applications used to deliver results (e.g., dash board web-based reporting)
- 3104. What is your ability to provide web-based reporting? Does the user have the ability to create custom queries, drill-downs, etc.?
- 3105. Do you provide on-line training for web-based reporting? Please describe.
- 3106. How do you communicate drug recalls and warning notifications?
- 3107. What is your ability to provide customized and/or ad-hoc reporting and associated fees, if any?
- 3108. What is your ability to generate prior authorization (PA) reports that define denied and approved PAs, percentage of total requests approved, turnaround times and costs by product, group, region?
- 3109. Describe or provide samples of standard reports around cost and utilization for the plan and its customers.
- 3110. Please confirm that you will support NDPERS with any reporting requirements to support compliance with regulatory requirements. This includes RxDC reporting, housing of machine-readable files, transparency in coverage reporting, etc.
- 3111. Include sample copies of available reports.

Customer Service

3112. What is the location of your call center(s)?
3113. What call center(s) would be responsible for servicing NDPERS members?
3114. Describe your use of Interactive Voice Response (IVR).
3115. Will you have a dedicated phone number for NDPERS?
3116. Is your pharmacy call center available to members 24/7/365?
3117. Is a pharmacist available to members 24/7/365?
3118. Can a member leave a message at the member service line after hours? If so, what is the protocol for responding to this message?
3119. What is your first call resolution rate in the pharmacy call center?
3120. Do you have the capability to record 100% of the calls?
3121. Does your call monitoring application also provide for monitoring of screen navigation as well as call recording?
3122. Does your customer service inquiry system allow representatives to record comments so other customer service representatives can view previous notes to assist members?
3123. Describe in detail the training and qualifications of your customer service representatives (CSR). How will they be trained and educated on NDPERS specifics and new initiatives?
3124. Describe the system used to monitor the average speed of answer and abandonment rates. Describe in detail your time range standards. How often will this information be shared with NDPERS? Provide a sample report.
3125. Describe the level and frequency of customer service reporting you would provide NDPERS.
3126. How do you define / track member complaints and/or grievances?
3127. How do you report the complaints and grievances?
 - a. What are your turnaround times? Describe your workflow process.
 - b. How are complaints/grievances tracked by reason code?
 - c. Do you maintain a complaint log? Describe your complaint resolution process.
3128. Do you have an executive level complaint department? Describe the process from intake to resolution.
3129. Do you track Net Promoter Score (NPS)? If so, please provide the most recent NPS and describe if it applies to specific business segments (e.g. customer service).
3130. Describe your professional services departments for pharmacist inquiries.
 - a. Include company hours and days of operation, staffing and communications.
 - b. Where are these departments located?
 - c. Are these hours different than the retail pharmacy help desk? If so, what are the hours?
3131. Describe the qualifications and experience of the staff who handle Prior Authorization (PA) requests.
3132. Please describe your member website and member portal.
 - a. Can your website provide NDPERS specific plan information?
 - b. Does your website offer a pharmacy locator? Does the site offer information on retail stores that are open 24 hours/day?

- c. Can members see their prescription drug claim history on the website?
 - d. Describe the web-enabled pricing comparison tools available to your members. Will the pricing tool account for NDPERS plan design?
 - e. Does your web-enabled pricing comparison tool provide pricing detail by pharmacy?
3133. Describe the staff and experience level of individuals who respond to member inquiries received via email. What turnaround times and quality rates do you guarantee for email responses?
3134. How would you propose to handle email inquiries regarding pharmacy issues received via NDPERS's website?
3135. Does your mobile app and/or mobile enabled website include the following:
- a. Formulary information
 - b. Network pharmacy lookup
 - c. Plan design information
 - d. Member ID card
 - e. Claims history
 - f. Family claims history
 - g. Drug price lookup by pharmacy
3136. Provide samples of communication material and welcome packets.
3137. Will you support NDPERS with any communication campaigns?
3138. What non-English language customer service staff or programs are available to assist NDPERS members?
3139. How will you assist with notifying members when the formulary status of medication has changed?
3140. Describe the appeal process. Provide materials used for member, physician, and pharmacy notification and provide your workflow process including turnaround times. How do you manage the process differently for states with unique requirements?
3141. Describe how written inquiries are handled.

Retail Pharmacy Network

3142. Please describe your retail pharmacy network strategy and how it is differentiated from other competitors.
3143. List the name of your proposed network and the number of retail pharmacies that participate in North Dakota and nationally.
3144. Based on the member zip data in Exhibit E9, please submit a Geo-Access analysis.
3145. Please describe your credentialing process including the process for removing pharmacies from the network. How often is credentialing/re-credentialing undertaken?
3146. Describe your 90-day retail network (including % of ND pharmacies in-network) and potential cost savings to NDPERS.
3147. Does your retail network contracting recognize some of the unique challenges of largely rural state? If so how?

Mail Service

3148. How many mail service pharmacies do you operate?

- 3149. Where are your mail pharmacies located? Which mail service pharmacy would primarily service the NDPERS account?
- 3150. Are your mail service pharmacies owned or subcontracted?
- 3151. Do you have a program at the mail facility to align and bundle shipment for members with more than one prescription?
- 3152. How do you assure patient consent to send an order prior to shipping?
- 3153. Are there any items/medications you do not ship (e.g. controlled substances)?
- 3154. What company or companies do you have shipping contracts with for the mail service?
- 3155. Can members track their mail order prescription?
- 3156. Can you deliver mail or specialty medications to the member's location of choice (e.g. home address, office, doctor's office, hospital, pharmacy, neighbor's address)?
- 3157. How long will you hold a prescription that requires an intervention before returning, filling, or calling members?
- 3158. Do you retain member credit cards? If so, what security measure do you employ to protect this information?
- 3159. Is payment required before orders are shipped? If no, what is the maximum outstanding balance owed before you hold orders?
- 3160. Do you provide Durable Medical Equipment (DME) items through the mail pharmacy?
- 3161. Are you willing to agree that medications shipped in error, damaged in shipment, lost in transit, left by courier without confirmation of receipt when requested, and rendered unusable by NDPERS due to negligence or error in delivery process will not be the financial burden to NDPERS or our patients? How are these types of shipping errors reported to NDPERS?

Implementation

- 3162. How long is the recommended timeline for a successful implementation? Please provide a proposed implementation plan – include resource requirement, tools, timelines, etc.
- 3163. Who will comprise your dedicated implementation team and what roles will they serve?
- 3164. Who has the ultimate responsibility for issues that occur during implementation?
- 3165. Does the account management team participate in the implementation?
- 3166. Will you provide any implementation credit to offset the cost of implementation?
- 3167. Please define in detail your expectations of NDPERS (deliverables, resource access, etc.) to support and facilitate the implementation process.
- 3168. Please describe your preferred banking arrangement and flexibility to accommodate alternative arrangements.
- 3169. If you are provided with prior pharmacy claims history, will you load open prior authorizations files, specialty pharmacy claims histories, open mail order refills, and accumulator files? If yes, explain the recommended process to follow and data specifications for transfer of data.
- 3170. Will you agree to provide 24 months of complete claims data, open prior authorization files, and open mail order refill files to NDPERS upon the termination of the agreement/ contract?
- 3171. Please describe how you manage the transition process from the incumbent for members on specialty medications to mitigate disruption.
- 3172. Please describe how prior authorizations, mail order prescriptions not yet delivered, would be managed when transitioning pharmacy vendors.

- 3173. Please describe the formulary and benefit design accuracy testing processes that occur during implementation. After implementation. How are issues found and handled?
- 3174. If an error occurs in coding of the plan design or clinical edits during implementation, what is your typical turnaround time to resolve the issue?
- 3175. What type of training will you provide during implementation on your systems and reporting tools? Will the training be provided on-site at NDPERS's location if desired?
- 3176. What is the typically the biggest implementation challenge facing you given the size and scope of our business?

Eligibility

- 3177. What is your process when a request is received for prescriptions from someone who is not eligible, or shown as terminated from the plan?
- 3178. Do you have any restrictions to the eligibility file layouts that you can support?
- 3179. What happens if a record on file is rejected via the load process? What is the process to reconcile a file load? How quickly is the report/reconciliation regarding the file load returned to the Plan?
- 3180. What system edits and processes do you have in place to ensure that an incorrectly submitted NDPERS file does not have a significant impact to eligibility? Please describe these processes and systemic edits with specific examples of what they prevent.
- 3181. Will NDPERS be able to make online eligibility changes real time? Describe the internal and external systems security measures in place. Describe any charges for this access.
- 3182. If members are added online, how does the eligibility file process against that member if the data is not the same?
- 3183. How much time is required to produce ID cards after receipt of clean eligibility data?

Claims Processing/Adjudication

- 3184. Describe your ability to integrate accumulators between medical and prescription drug either on an integrated or "carve-out" basis.
- 3185. How often can accumulators be exchanged/updated for members that elect the high-deductible health plan?
- 3186. How are member out-of-pocket accumulators reconciled to validate that the limits are not exceeded?
- 3187. If errors are identified in pricing or claims processing, how will NDPERS and its members be notified? How quickly will underpayments or overpayments be reconciled?
- 3188. What is your process for handling disputed claims?
- 3189. Do you utilize any predictive analytics or automation when handling claims adjudication? Please specify the controls in place.
- 3190. What is your system hierarchy (client, group, individual)?
- 3191. Do you measure claim financial accuracy and claim procedural accuracy separately? What are your standards for each?
- 3192. Please describe your procedures for paying delayed claim interest. Is the process entirely automated? If not, please describe any manual intervention. Also, please describe your procedures for keeping current regarding state delayed claim interest regulations and federal prompt pay legislation.
- 3193. Direct Member Reimbursements (DMR):
 - a. How do you handle receipt of a form that is incomplete or not in the required format?

- b. What is your turnaround time for paying manual claims? Define how this is measured.
3194. Can you administer coordination of benefits at the point of sale? If client supplied indicators are required, please describe the requirements.
3195. What quality assurance measures are taken to ensure that the federal and/or state laws for member submitted claim turnaround times are adhered to? What is the frequency of validation that all laws are being adhered to?
3196. Audit services:
- c. What audit functionality exists to ensure that claims are being paid accurately? Include both prospective and retrospective programs that focus on overpayments (inappropriately paid claims), fraud, waste and abuse.
 - d. How often do you audit the accuracy of plan pricing and overall adjudication accuracy? Please describe this process.
 - e. What is the average drug cost savings achieved as a result of an audit?
 - f. NDPERS requires an unrestricted right regarding the selection of an auditor (no Bidder input or sign-off) to perform its audit functions of the Bidder, pharmacy or downstream contractors. Please note any issues or concerns that the Bidder may have with this requirement.
 - g. Once claims are archived, what is the retrieval timeframe if needed for an audit?
3197. How long is claims data stored in the system before it is archived?
3198. Provide samples of your explanation of benefits (EOB) and claims forms.
3199. Provide a copy of your most recent SSAE 18 results.

Information Technology

3200. Describe your privacy protection and data security standards (e.g., HIPAA, PHI). Describe certifications and other external audits. Describe the test criteria used to ensure the standards are met.
3201. Are there any major system enhancements or conversions planned or being considered within the next 24 months? How are regulatory items managed in the release process? For packaged applications, what is the process and duration to upgrade a vendor release to the released version? What is the process used to maintain operating systems? What is the potential impact on NDPERS implementation?
3202. Describe your business continuity and disaster recovery plans for internet, eligibility, claims process and information management (data warehouse) systems. As part of the response, highlight any adjustments in the plan according to the magnitude and duration of the disaster (e.g., outages of one day, vs. a week, month, etc.).
3203. List the number of times and duration claims processing system experienced unscheduled downtime over the past twelve months. Have customer commitments been missed? Do Service Level Agreements (SLAs) exist and can you provide copies of the SLAs and recent results?
3204. What additional third-party systems does your system interface with (e.g., medical claims processing systems, phone systems, etc.)?
3205. Have you had any security breaches involving electronic protected health information or personal financial information? If so, what was the scope of the breach? Were disclosures made to affected individuals? What operations changes, if any, were implemented after the breach? Describe your capabilities to support management of PHI data.
3206. Describe your practices for prevention of identity theft and compliance with any applicable legal requirements, including FTC Red Flag Rules, to the extent applicable. Are customers / businesses notified if a breach occurs? What are the internal/external processes for managing a breach?

Financial

NOTE: Submit your pricing proposal separately from that of your technical proposal using Appendix D.

3207. Based on clients in your book-of-business that have had your proposed formulary in place, please provide the average drug trend in 2021, 2022, and 2023 gross and net of rebates?
3208. Please describe your ability to implement pricing terms based on National Average Drug Acquisition Cost (NADAC) or other alternatives to AWP. Please describe how other pricing benchmarks could be implemented by NDPERS.
3209. How will newly introduced specialty drugs be included in the specialty drug discount guarantee? Will new specialty products automatically default to a minimum discount in the therapeutic class?
3210. Based on your book-of-business, what percentage of prescriptions adjudicate at U&C price?
3211. Based on your book-of-business, what percentage of generic prescriptions adjudicate at MAC price?
3212. How often are MAC prices updated?
3213. Once a generic comes to market, how long does it take to add it to the MAC price list?
3214. Please describe if you own or participate in a Group Purchasing Organization (GPO) for rebates.
3215. Please describe your typical manufacturer revenue payment schedule (e.g. 90 days after the end of the quarter).
3216. How are rebates paid? Paid by crediting NDPERS account or payment is issued by check?
3217. Please describe your manufacturer revenue reconciliation process and timing against manufacturer contracts to confirm accurate payment to NDPERS.
3218. Under a pass-through contract, will you agree to a full pass-through for all manufacturer revenue derived by NDPERS specific utilization, with full audit rights to manufacturer contracts, rebate payments, and administrative fees?
3219. Please list any fees or payments that are paid to, or retained by, the rebate aggregator or GPO as compensation for collecting and remitting rebates.
3220. Under a pass-through contract, will you agree to quarterly reports that indicate the dollar volume of manufacturer revenue collected at the NDC level?
3221. How often are rebate contracts renegotiated?
3222. Do you have any inflation protection contracts in place today? If so, under a pass-through contract, do you agree to include any revenue resulting from inflation protection contracts back to NDPERS?
3223. Do you have any value-based rebate contracts in place today? If so, what mechanisms are in place to govern value-based payments?
3224. In a pass-through contract, please confirm that manufacturer revenue collected as a result of utilization from biosimilars or limited distribution drugs will be paid to NDPERS.
3225. Please confirm if you are willing to act as a fiduciary in the administration of this prescription drug plan.
3226. Please confirm your proposal is based on the plan design included with this RFP and the proposal parameters.
3227. Please confirm your proposal does not require any plan design changes to qualify for the terms in your offer (e.g., specific differential between preferred and non-preferred brands to qualify for rebates, etc.)

3228. Please confirm you will use Medi-Span as the sole source of Average Wholesale Price (AWP) (excepting a change in the industry that would require a change)
3229. Please confirm that AWP will be defined as Medi-Span's unit price for the 11-digit national drug code (NDC) of the product dispensed on the date-of-service for the quantity dispensed.
3230. Please confirm "Generic Drug" will be defined according to Medi-Span classification (Medi-Span Multisource Code field is a "Y" indicator).
3231. Please confirm "Brand Drug" will be defined according to Medi-Span classification (Medi-Span Multisource Code field is a "M", "N", or "O" indicator).
3232. Please confirm Usual and customary (U&C) will be defined as: the retail price at a retail pharmacy on the date the drug is dispensed based on the NDC-11 dispensed.
3233. Please confirm that once a drug product is defined as "Generic" or "Brand" at adjudication, it will remain classified as such for purposes of all financial measurements including AWP discounts, manufacturer revenue reporting and payment, management reporting and guarantee reconciliation.
3234. Please confirm that manufacturer derived revenue will be defined as all revenue received from pharmaceutical manufacturers, whether from the manufacturer directly, rebate aggregator, or other third party and will include all monies received as a result of the formulary utilization which includes but is not limited to rebates, manufacturer administration fees, inflation or price protection payments, and pro rata share of monies received for services provided to manufacturers that depends on the inclusion of NDPERS's claim utilization or data.
3235. Please confirm 100% of revenue earned from manufacturers will be passed through to NDPERS, which includes but is not limited to rebates, manufacturer administration fees, inflation or price protection payments, and pro rata share of monies received for services provided to manufacturers that depends on the inclusion of NDPERS' claim utilization or data.
3236. Please confirm member cost share will always be the lowest of the U&C, MAC, AWP discount, or member cost share.
3237. Please confirm that OTC exclusions (to the extent applicable) are not applicable to insulin or diabetic supplies (such as test strips)
3238. Please confirm that any coupons used by members will be excluded from ingredient cost calculation.
3239. Please confirm guarantees will include "Zero Balance Due" (100% member paid) claims at the ingredient cost prior to application of the member cost share and shall not be counted as AWP-100%.
3240. Please confirm that guarantees will exclude all claims that adjudicate at U&C.
3241. Please confirm there is no dispensing fee assessed for U&C claims.
3242. Please confirm that discount guarantees are not subject to aggregate day supply minimums and will be reconciled according to distribution channel.
3243. Please confirm that rebate guarantees are not subject to aggregate day supply minimums and will be reconciled according to distribution channel.
3244. Please confirm your proposal includes both a specialty drug list drug-by-drug discounts and an overall effective specialty discount guarantee.
3245. Please confirm that no DAW penalties will be included in discount reconciliation.
3246. Please confirm that your manufacturer derived revenue guarantees account for known patent expirations and the proposed guarantees will not be modified on the basis of patent expirations that can be reasonably known at the time of this proposal.
3247. Please confirm there are no minimum "claim floors" or amount due (at retail, mail, or specialty).

- 3248. Please confirm that postage increases will not be passed on to NDPERS.
- 3249. Please describe any requirements, terms, exclusions, or other caveats related to your manufacturer revenue guarantee.
- 3250. Please confirm manufacturer revenue will not include any funds collected through patient assistance programs.
- 3251. Please confirm generic discount guarantees are inclusive of MAC and Non-MAC discounts.
- 3252. Please confirm that New to Market drugs and/or Exclusive or Limited Distribution Drugs will be included in the specialty drug list with a specific discount guarantee within 30 days of becoming a covered product on the formulary and will not be excluded from pricing guarantees or restricted to a default discount for the duration of the contract.
- 3253. Please confirm that dispensing fees are assessed on paid claims only and not reversed or rejected claims.
- 3254. Please confirm that if changes are made to the safe harbor provision governing rebates is eliminated, or if other regulatory changes are implemented that impact the payment of manufacturer revenue to the plan sponsor, the contract resulting from this RFP may be re-opened.
- 3255. Please confirm the proposed discounts, dispensing fees, and manufacturer revenue are guaranteed by distinct component within the retail, mail, and specialty distribution channels such that a guarantee surplus in one guarantee component is not offset by a shortfall in another guarantee component.
- 3256. Please confirm that any shortfall determined during guarantee reconciliation will be paid to NDPERS on a dollar-for-dollar basis with no maximum limit of liability
- 3257. Please confirm that pricing guarantee reconciliation will take place within 90 days of the close of the contract year (including discounts, dispensing fees, admin fees (as applicable)), as well as a preliminary analysis of manufacturer revenue paid compared to guarantees with a full reconciliation of manufacturer revenue after all manufacturer revenue has been collected and remitted from the manufacturers (no later than 270 days after the end of the contract year)
- 3258. Please provide a copy of your audit language.

Regulatory / Compliance

- 3259. Do you have any disputes currently outstanding (or threatened) with any state or federal regulators related to any portion of your business? If so, what is the nature of these disputes?
- 3260. What is the relationship between you and state regulatory agencies including, but not limited to, state departments of insurance and health? What measures, if any, are being taken to maintain/improve your regulatory relations?
- 3261. Confirm you are fully-licensed or registered as a PBM, utilization review company or third party administrator in North Dakota. Please provide a copy of the procedures you used to assure compliance with Federal and North Dakota State regulatory, government contracting and quasi-regulatory (e.g., NCQA, URAC) requirements, including, but not limited to, pharmacy auditing, contracting and credentialing.
- 3262. Provide a summary of any state department of insurance, state attorney general, state pharmacy board, U.S. Department of Labor and other state or Federal regulatory agency complaints filed against you, as well as information on complaints, grievances and appeals resulting from PBM operations in the previous five years. Indicate what provider, member, plan sponsor or regulatory issue is involved, as well as, upheld/ overturned status and general nature of complaint or investigation. If the matter resulted in a corrective action plan ("CAP"), please provide a copy of the CAP.
- 3263. Have you been investigated or audited, directly or indirectly through an investigation or audit of a client/customer, by any state or Federal agency or other regulatory body (e.g., DOI, DOH, CMS,

DOL, DEA, State Pharmacy Board, etc.) in the past three years? What were the findings and what steps are (were) being taken to address any deficiencies? Are you currently subject to or threatened with any state or Federal investigation or regulatory audit? Please provide copies of regulatory audit reports and your responses, if applicable.

3264. Have you been subjected to any fines or penalties, or been excluded/barred from any activities or programs as a result of regulatory or judicial action, within the past three years? If so, what was the nature of the underlying issue(s), and what was the penalty? What steps are being (were) taken to prevent recurrences? Any pending or threatened proceedings that could result in such penalties?
3265. How are you supporting IRSB-Notice requirements? Do you have the ability to perform back-up withholdings on flagged providers?
3266. Is the process you use for late claim interest/penalties automated or manual? Please explain.
3267. Please provide a copy of your Compliance Plan including fraud, waste and abuse program (to the extent not provided in response to previous sections of the RFP). Have you had adverse findings in a Market Conduct exam within the last three years? If so, please provide details.
3268. Please provide a copy of your most recent SOC2 report.
3269. Describe any significant failures over the past three years in your compliance program effectiveness, including regulatory violations, affecting PBM related operations.
3270. Please provide the following:
 - a. Organizational and reporting charts for compliance operations (to the extent not provided in response to prior section of this RFP);
 - b. A review of compliance training requirements for employees and sub-contractors Compliance monitoring and oversight policies and procedures;
 - c. Description of internal investigations and any self-disclosures.

Confidentiality

3271. Please provide a status report on your HIPAA and other privacy law compliance efforts. How are HIPAA and privacy compliance incorporated into your overall compliance activities?
3272. How frequently do you conduct audits for HIPAA compliance? Are you willing to share the results of those audits with us? Would you be willing to audit at a frequency required by NDPERS?
3273. Indicate your practice with respect to sharing members' medical and prescription information with providers, plan sponsors, pharmaceutical manufacturers or other commercial entities such as data aggregators.
3274. Identify your designated Privacy & Security Officers and describe their qualifications.\
3275. Please confirm you will comply with NDCC 54-52.1-11 & 54-52.1-12.

Lawsuits/Claims

3276. What is the nature and extent (number of cases, potential financial or other exposure) of current litigation outstanding, or to the knowledge of management threatened, against you?
3277. Does any of this litigation involve: (i) multiple plaintiffs or a class of plaintiffs; (ii) any allegation of (A) criminal wrongdoing (including any RICO claim), (B) violation of securities, antitrust or environmental statutes; (C) direct or vicarious malpractice on your part or you employees; or (D) any action or matter excluded from coverage under your insurance policies; or (iii) claims for (A) punitive or exemplary damages, or (B) compensatory damages in excess of \$500,000? If so, what are the details of the suit?

3278. Are any claims pending, or to your knowledge threatened, against you or your officers or directors before any regulatory body or agency in connection? What is the nature and status of the claim(s)?
3279. Are you a party to any pending arbitration or mediation proceeding? If so, what is the nature and status?

Related Party Issues

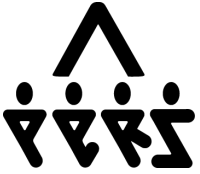
3280. Describe any equity, financial or other interests you hold in vendors, suppliers, consultants, and other business with which you have a commercial relationship related to your pharmacy or PBM operations.

Discussion of Information Used to Manage Business

3281. Describe the capabilities of your financial reporting systems.
3282. Describe what information is available and how timely the information becomes available with regard to revenues, medical costs, and overhead.
3283. Describe how your profitability is tracked by product segment, by market and by customer.
3284. Describe how often financial closing are performed and how long it takes to get final results.

Controls / Compliance

3285. Describe your internal accounting controls and how the internal controls are monitored.
3286. Describe the structure of your Internal Audit function.
3287. Indicate whether internal/external audits have revealed any significant internal control deficiencies or weaknesses or other issues in the past three years.
3288. Indicate what your compliance policies are and indicate whether there have been significant failures over the past three years, including regulatory violations, affecting the health operations.



**North Dakota
Public Employees Retirement System**
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Fax (701) 328-3920 Email ndpers-info@nd.gov Website www.ndpers.nd.gov

Memorandum

TO: NDPERS Board

FROM: Rebecca

DATE: September 10, 2024

SUBJECT: Proposed Administrative Rules Update

Since our last meeting, staff continued to work with the Assistant Attorney General assigned to perform the review of the NDPERS proposed administrative rules for legality purposes.

There was one rule being proposed due to House Bill 1040 that the Attorney General's Office determined NDPERS could not move forward with. The proposed rule was NDAC 71-08-11-08, which NDPERS proposed to define "state employer" and "state governmental unit" for purposes of determining eligibility for the special election window and corresponding incentive along with the required ADEC employer payment, cannot move forward as they determined these are defined terms. Therefore, NDPERS has removed this proposed rule for final rule submission to Legislative Council.

As a reminder, the following is what NDPERS proposed:

71-08-11-08. Employer obligations; employee eligibility.

For the purpose of identifying employer obligations under the provisions of North Dakota Century Code section 54-52-06(1)(a), North Dakota Century Code section 54-52.6-02.2, and North Dakota Century Code section 54-52.6-09.5, and determining employee eligibility under North Dakota Century Code section 54-52.6-02.2, "state governmental unit" and "state employer" are those state entities, excluding entities receiving only continuing appropriation authority, that receive budgetary approval from the state legislature.

With the removal of these definitions, NDPERS will need to move forward with offering the defined benefit to defined contribution transfer special election window to permanent state employees with no more than 5 years of service, including those state entities that do not receive budgetary approval from the state legislature. For those employees that elect to transfer, NDPERS will charge these entities the amount of the incentive for up to the 3 years

if the transferring employee remains employed by the entity. In addition, NDPERS will be charging these same entities the required ADEC employer contribution. You may recall that the concern we previously discussed was how these employers will be funded to make these payments. With the removal of the proposed rule, that will remain a concern.

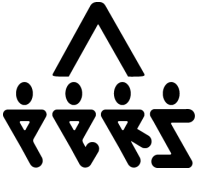
I have shared this information with the Administrative Rules Committee at their September 4th meeting, and was available to answer questions regarding our proposed rules. We will also be sharing this information later this week with the Retirement Committee and Employee Benefits Programs Committee.

In addition, the Assistant Attorney General asked that a Regulatory Analysis be performed to determine if the proposed rules are expected to have an impact on the regulated community in excess of \$50,000. Staff determined that they would not as shown on Attachment 1.

Otherwise, the suggestions made by the Attorney General's Office have been reviewed and the minor updates to the proposed rules have been made as needed.

Therefore, at this time, the Board will need to approve the final proposed administrative rules (Attachment 2). I have included the Summary of the Proposed Rules (Attachment 3) as a reference also. Once approved, staff will submit the proposed rules to Legislative Council for consideration at the Administrative Rules Committee's December meeting.

Board Action Requested: Approve moving forward with the rulemaking process with the attached final proposed administrative rules.



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Memorandum

TO: Allyson Hicks, Assistant Attorney General

FROM: Rebecca Fricke, Executive Director

RE: Regulatory Analysis of Proposed Changes to North Dakota Administrative Code Chapters 71-01, 71-02, 71-03, 71-04, 71-05, and 71-08

DATE: August 29, 2024

The purpose of this regulatory analysis is to fulfill the requirements of N.D.C.C. § 28-32-08. This analysis pertains to proposed amendments to North Dakota Administrative Code Chapter 71-01, 71-02, 71-03, 71-04, 71-05, and 71-08. The new rules are not anticipated to have a fiscal impact on the regulated community in excess of \$50,000.

Purpose

The purpose of this regulatory analysis is to fulfill the requirements of N.D.C.C. § 28-32-08. This impact statement pertains to proposed new rules, amendments to and repeal of N.D. Admin. Code Chapter 71-01, 71-02, 71-03, 71-04, 71-05, and 71-08. The proposed rulemaking implements House Bill 1040 enacted during the 2023 regular legislative session relating to the closure of the North Dakota Public Employees Retirement System (NDPERS) main plan, the deferred compensation program, and expansion of the defined contribution plan; HB 1547 enacted during the 2023 special legislative session relating to the membership of the public employees retirement board; and rules relating to proceed for completing and filing petitions, special elections, conversion of sick leave, disability benefits, insurance enrollment, continuation of life insurance after retirement, premium billing, employee contribution, deferred compensation and deferral changes.

Classes of Persons Who Will be Affected

The classes of person who will most likely be affected by these rules are:

- Employers participating in NDPERS benefits
- Members participating in NDPERS benefits

Probable Impact

The purpose of the proposed amendments includes enacting 2023 special session HB 1547, which included a fiscal impact on state and political subdivision participating employers. 2023 special session HB 1547 was a re-enacted version of 2023 HB 1040. More information regarding the fiscal impact resulting from the legislative bill to these regulated communities is available at the Legislative Council's website in the legislative history of 2023 HB 1040. For ease, a copy has been attached here with.

Separate from the already established fiscal impacts of the legislative bill, the proposed amendments may fiscally impact the regulated community as follows:

- Participating Employers:
 - Employers not participating in the NDPERS main plan will no longer be able to join the plan as of January 1, 2025. This is enacting the requirement passed in 2023 HB 1040 that closed the main plan as of this date.
 - For state agency employers, there is the cost of the additional annual contribution for eligible employees who elect to move from the main plan to the defined contribution plan, however, the Legislature appropriated funding to cover this cost to the state agency employers, so there should be a net-zero fiscal impact for effectuating N.D. Admin Code § 71-08-11-07.
 - There is an increase in participating employer contributions, however, this was legislated in 2023 HB 1040 and 2023 ss HB 1547, and the proposed rules merely clarify the process and procedure related to that increase and do not result in an additional fiscal impact beyond that reported with 2023 HB 1040, as attached herewith.
 - By requiring consistency for employers regarding employer reporting between existing participating members in the main plan and future participating members in the expanded defined contribution plan, NDPERS anticipates cost savings for employers as they can follow their existing procedures and reporting set-up.
- Participating Members:
 - It is not anticipated that participating members will be impacted by the enactment of HB 1040 as the provisions only apply to new hires on or after January 1, 2025.
 - Certain participating members may be impacted by electing to move from the main plan to the defined contribution plan, and receiving the additional annual contribution contemplated in N.D.C.C. § 54-52.6-02.2 however, this was legislated in 2023 HB 1040 and 2023 ss HB 1547, and the proposed rules merely clarify the process and procedure related to that increase and do not result in an additional fiscal impact beyond that reported with 2023 HB 1040, as attached herewith.

Probable Cost of Implementation

The cost to the state and participating employers to implement the proposed administrative rules should be minimal given the proposed rules are to ensure consistency for reporting to NDPERS based upon existing controls. The additional employer payroll system programming

that needs to be done to implement the provisions of 2023 HB 1040 are minimal. This is based upon feedback that NDPERS has received when meeting with the political subdivision participating employer payroll developers, along with the State payroll developers, to discuss the necessary changes. Furthermore, if a participating employer runs into a hardship and is unable to update their payroll system, NDPERS offers the ability for the employer to manually report the wages, and allows NDPERS to calculate their invoice on their behalf, therefore, if the programming effort is burdensome to the employer, we remove that burden at no additional cost to the employer.

The proposed rules that impact the participating members classification of regulated community are not related to the enactment of 2023 HB 1040 but are the technical correction rules. None of these proposed rules are expected to have a cost to participating members.

Consideration of Alternative Methods

Given the majority of our proposed rules are to meet the requirements of 2023 SS HB 1547 and 2023 HB 1040, the law does not allow for NDPERS to implement alternative methods. However, we have looked at opportunities to apply consistency for employer reporting where there is discretion so that employers can utilize their current processes and controls. In addition, and as referenced above, we've ensured that if an employer is unable to update their payroll system to report their new defined contribution plan members, NDPERS offers the ability for the employer to manually report the wages for NDPERS to calculate the invoice on their behalf, at no additional cost to the employer.

ARTICLE 71-01
GENERAL ADMINISTRATION

Attachment 2

Chapter

| | |
|----------|-----------------------------------|
| 71-01-01 | Organization of Board |
| 71-01-02 | Election Rules |
| 71-01-03 | Confidential Information Requests |

CHAPTER 71-01-01
ORGANIZATION OF BOARD

Section

| | |
|--------------|---|
| 71-01-01-01. | Organization of Public Employees Retirement Board |
|--------------|---|

Subsection 2 of Section 75-01-01-01 is amended as follows:

71-01-01-01. Organization of public employees retirement board.

- History.** The 1965 legislative assembly created the public employees retirement system by legislation codified as North Dakota Century Code chapter 54-52. The starting date of the program was July 1, 1966. The board acts as the administrating body to manage the public employees retirement system, the judges retirement system, the highway patrol retirement system, the national guard security officers and firefighters system, the uniform group insurance program, the deferred compensation plan, the prefunded retiree health program, and a pretax benefit program for public employees.
- Board membership.** The board consists of ~~nine~~eleven members. ~~Two~~Four are members of the legislative assembly, appointed by the chairman of the legislative management ~~The majority leader of the house of representatives shall appoint two members of the house of representatives and the majority leader of the senate shall appoint two members of the senate. The members of the legislature shall serve a term of two years, at the pleasure of the appointing majority leader.~~ one member, the chairman, is ~~Four members of the board must be appointed by the governor to serve a term of five years, at the pleasure of the governor. one member is appointed by the attorney general from the attorney general's staff; one member is the state health officer or state health officer's designee;~~ Three members are elected by the active membership of the system to serve a term of five years. ~~and one member is elected by the retired public employees.~~
- Executive director.** The executive director is appointed by the board and is responsible for the administration of the day-to-day activities of the retirement systems, the prefunded retiree health program, the uniform group insurance program, the deferred compensation program, and the pretax benefit program for public employees.
- Inquiries.** Inquiries regarding the board may be addressed to:

Executive Director
Box 1657
Bismarck, North Dakota 58502

History: Amended Effective November 1, 1981; ~~amended effective~~ November 1, 1985; April 1, 1988; September 1, 1989; January 1, 1992; May 1, 2004; April 1, 2016; _____

General Authority: NDCC ~~28-32-02.1, 54-52-04~~

Law Implemented: NDCC ~~28-32-02.154-52-03~~

CHAPTER 71-01-02 ELECTION RULES

| | |
|---------------|---|
| Section | |
| 71-01-02-01 | Election Committee |
| 71-01-02-02 | Eligible Voters |
| 71-01-02-03 | Candidate Eligibility |
| 71-01-02-04 | Election Notification |
| 71-01-02-05 | Petition Format |
| 71-01-02-06 | Procedure For Completing and Filing Petitions |
| 71-01-02-07 | Election Ballots |
| 71-01-02-08 | Election |
| 71-01-02-09 | Canvassing Rules |
| 71-01-02-10 | Notification of Election |
| 71-01-02-11 | Special Elections |
| 71-01-02-12 | Penalties |
| 71-01-02-13.1 | Election Voting |

71-01-02-01. Election Committee.

1. The retirement board must appoint a committee of three, one of whom will be designated as chair, from its membership to oversee elections to the board.
2. Committee members, or their authorized representatives, are responsible for reviewing the election rules for the retirement board membership of the North Dakota public employees retirement system, for counting ballots, and for reporting the election results to the board.
3. Committee members will be appointed at the February meeting of the North Dakota public employees retirement system board to serve until the retirement board meeting for the following February.

History: Effective April 1, 1992.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-03

Subsection 2 of Section 71-01-02-02 is amended as follows:

71-01-02-02. Eligible voters.

1. All active employees, eligible to serve as elected members of the board in accordance with subsection 4 of North Dakota Century Code section 54-52-03, are eligible to cast one vote for each active member vacancy on the retirement board.
2. ~~All persons receiving retirement benefits are eligible to cast one vote for a retiree member vacancy on the retirement board.~~ Persons Individuals participating in the uniform group insurance program, the deferred compensation plan for public employees, or the pretax benefits program but not in the retirement system are ineligible to cast votes in retirement board elections.

History: Effective April 1, 1992; amended effective July 1, 1994; April 1, 2008; April 1, 2012; _____

General Authority: NDCC 54-52-04, ~~54-52-17(5)~~

Law Implemented: NDCC 54-52-03

Subsection 1 of Section 71-01-02-03 is amended as follows and Subsection 2 of Section 71-01-02-03 is repealed:

71-01-02-03. Candidate eligibility.

1. Any active participating member, members of the defined contribution retirement plan, the highway patrol retirement system, and the job service retirement plan are eligible to serve as an elected member of the board in accordance with subsection 4 of North Dakota Century Code section 54-52-03, may become a candidate for election to the board. An department agency or political subdivision may not be represented by more than one elected member. Employees who have terminated their employment for whatever reason are not eligible to serve as an active elected member of the board.
- ~~2. Any person, as of April fifteenth of the election year, who has accepted a retirement allowance, may become a candidate for the retiree member to the board.~~

History: Effective April 1, 1992; amended effective July 1, 1994; July 1, 2000; April 1, 2008; July 1, 2010; April 1, 2012; _____

General Authority: NDCC 54-52-04, ~~54-52-17(5)~~

Law Implemented: NDCC 54-52-03

Subsection 1 of Section 71-01-02-04 is amended as follows:

71-01-02-04. Election notification.

1. The director of the North Dakota public employees retirement system shall ensure that notification of an active member vacancy and the election is given to all active participating members through publication of a notice in the North Dakota public employees retirement system newsletter or any other method of communication as deemed appropriate by the director at least ~~three weeks~~ twenty-one calendar days in advance of ~~a the~~ the filing date for nomination petitions. ~~The director shall ensure that notification of the vacancy of a retiree member and the election is given to all persons who have accepted a retirement allowance through publication of a notice in the North Dakota public employees retirement system newsletter or any other method of communication as deemed appropriate by the director at least three weeks in advance of a filing date for nomination petitions.~~
2. The notice must include a statement of voter and candidate eligibility, the candidate nomination requirements, the date of election, the filing date for the nomination petition, and where to obtain the nomination petitions for filing.

History: Effective April 1, 1992; amended effective July 1, 2000; April 1, 2008; April 1, 2014; April 1, 2020; _____

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-03

Subsection 1 of Section 71-0-1-02-05 is amended as follows:

71-01-02-05. Petition format.

- 1 The nomination petition for an active member on the board must include the signatures of at least one hundred active eligible voters. ~~The nomination petition for the retiree member on the board must include the signatures of at least twenty-five persons receiving a retirement allowance.~~
- 2 The nomination petition must include the following statement: "We, the petitioners, who are members of the North Dakota Public Employees Retirement System, nominate _____ for election to the North Dakota Public Employees Retirement System board."

- 3 The nomination petition must include a certification by the candidate, as follows: "I accept the nomination and if elected will fulfill the responsibilities as a member of the North Dakota Public Employees Retirement System board.
- 4 If there is not room for the required signatures on a single nomination petition, additional petitions may be used. Candidates may reproduce, at their own expense, blank nomination petitions that meet the format requirements without requesting additional petitions from the North Dakota public employees retirement system. All nomination petitions used must be certified and signed by the nominee when submitted to the North Dakota public employees retirement system office.

History: Effective April 1, 1992; amended effective May 1, 2004; April 1, 2008; April 1, 2012; _____

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-03

Subsection 5 of Section 71-01-02-06 is amended as follows:

71-01-02-06. Procedure for completing and filing petitions.

1. No period of time, on which an employee is entitled to receive wages or salary from the state of North Dakota or a political subdivision, may be used by the candidates to promote their election except as permitted by the employing agency. In addition, no public funds may be used for the purpose of promoting an election unless permitted by the employing agency.
2. Nomination petitions must be filed with the North Dakota public employees retirement system no later than four p.m. on the date provided in the election notice and must be validated by the election committee or their representatives following the filing deadline and prior to ballots being distributed.
3. Nomination petitions not furnished by the North Dakota public employees retirement system will be accepted provided they are submitted in the prescribed form.
4. A candidate may withdraw that candidate's nomination petition up until one week after the date the nomination petition is filed with the North Dakota public employees retirement system. The notice must be in writing and duly witnessed.
5. Nomination petitions may be accompanied by a three-inch [76.20-millimeter]-by five-inch [127.00-millimeter] photograph of the candidate and a narrative not to exceed two hundred words. The absence of a photo or narrative will not invalidate the candidate's eligibility, but only the candidate's name will then appear with the other candidates' information that accompanies the ballots.
6. The retirement board or its representative reserves the right to edit lengthy narratives to the two hundred word limit.
7. The board or its representative shall inform all candidates of the validation of their candidacy.

History: Effective April 1, 1992; amended effective July 1, 2000; April 1, 2008; April 1, 2020; _____

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-03

71-01-02-07. Election ballots.

1. Ballots must be prepared by the North Dakota public employees retirement system staff in accordance with the election rules.
2. Ballots must be printed on postcards with return postage supplied and will be mailed to all eligible voters with a narrative on candidates who have provided that information.

3. Ballots must first be arranged with the names of each candidate on the ballot. In printing the ballots, the position of the names must be changed as many times as there are candidates' names on the ballot. The change must be accomplished by taking the name at the head of the ballot and placing it at the bottom and moving the name that was second before the change to the head of the names on the ballot. The same number of ballots must be printed after each change of position so as to result in an equal number of ballots with each candidate's name at the head of the ballot. The ballot must provide a space for write-in candidates.
4. If there is only one candidate for an election, the election will nonetheless be conducted in compliance with the provisions of this chapter
5. If there is no candidate, the board shall solicit at least two persons from the eligible pool of candidates to run for election to the board. The election will then be conducted in compliance with the provisions of this chapter.

History: Effective April 1, 1992; amended effective July 1, 2000; April 1, 2008.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-03

Subsection 1 of Section 71-01-02-08 is amended as follows:

71-01-02-08. Election.

1. Ballots must be mailed by first-class United States mail to the address of all eligible active voters for an election of an active board member, ~~or all eligible retired voters for an election of a retired board member,~~ as determined by the North Dakota public employees retirement system's membership ~~rolls~~ as of April fifteenth in the year of the election. Each eligible voter gets one ballot. Lost ballots may not be replaced.
2. North Dakota public employees retirement system members who become eligible to vote after April fifteenth, but before the deadline for the receipt of ballots, may be issued a special election ballot by making their request for such ballot in writing to the North Dakota public employees retirement system office no later than the two weeks before the deadline for receipt of ballots.
3. Ballots must be returned to the North Dakota public employees retirement system office no later than four p.m. on the date provided on the election ballots.
4. The candidate receiving the highest number of votes must be considered elected. When there is more than one active member board vacancy to be filled, the candidate with the second highest number of votes must be considered elected. If there are three active member board vacancies to be filled, the person with the third highest number of votes must be considered elected.

History: Effective April 1, 1992; amended effective April 1, 2008; April 1, 2020; _____

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-03

71-01-02-09. Canvassing rules.

1. Ballot counting by election committee members or their authorized representatives will commence on the date set for the election committee to do so and will continue until complete.
2. Each candidate may have one overseer present at the canvassing who may examine each ballot as to its sufficiency after the canvassers have completed the canvassing of all ballots. No overseer may possess a pen, pencil, or other device which could be considered capable of

- altering a ballot in any manner.
3. A candidate may act as his or her overseer. If a candidate wishes to designate a representative to act as his or her overseer, that candidate must provide a written authorization, duly witnessed, to the election committee at the canvassing. An overseer may act on behalf of more than one candidate; however, each person must show the required authorization from each candidate represented.
 4. The overseer may question the decision of the canvassers regarding a ballot after completion of the canvassing. If questioned, the comments of an overseer will be heard. The canvassers will then vote regarding the acceptability of the ballot with the majority vote ruling.
 5. A ballot is not valid where the number of votes on the ballot exceeds the number of vacancies in the election. A ballot that does not, in the opinion of a majority of the canvassers, show a clear indication of the voter's intention, may not be counted.
 6. If the percentage of votes received by the candidate receiving the highest number of votes is less than one percent more than the votes received by the candidate receiving the next highest number of votes, the board shall order a recount.
 7. Tie votes will be determined by a coin toss. If this procedure is necessary, the election committee will establish and notify the tied candidates of the procedure and location for resolving the tie.
 8. If the committee should determine that the outcome of the election has been compromised for any reason, the committee may determine the election to be invalid. If the election is determined to be invalid, the committee shall call for a new election with a new election schedule.

History: Effective April 1, 1992; amended effective April 1, 2008; July 1, 2010; April 1, 2020.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-03

71-01-02-10. Notification of election results.

1. Election results must be presented to the retirement board following the canvassing of votes. Such report must include an itemization of the number of ballots returned, votes cast for each candidate, votes invalidated, and votes not counted due to late receipt.
2. All candidates will be notified of the election results no later than the business day following the June meeting of the retirement board.
3. Employers and the membership participating in the North Dakota public employees retirement system will be notified of the election results.

History: Effective April 1, 1992; amended effective April 1, 2008; April 1, 2020.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-03

Section 71-01-02-11 is amended as follows:

71-01-02-11. Special elections.

A special election will be called for by the retirement board in the event of a vacancy resulting from the death, resignation, or termination of North Dakota public employees retirement system membership by any elected board members.

1. Special elections must be conducted in accordance with the regular elections rules, except that the board will determine a new election schedule.

2. In the case of a special election, the term to be filled is the unexpired portion of the vacant board position.

History: Effective April 1, 1992; _____

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-03

71-01-02-12. Penalties.

A violation of any provision under this chapter may result in one or more of the following penalties, as determined by the board:

1. A candidate's petitions may be declared void.
2. A candidate's nomination may be declared void.
3. A candidate's election may be declared void.
4. Within thirty days of beginning an elected member's term in office, the elected member may be removed.

History: Effective July 1, 2000.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-03

Section 71-01-02-13 is amended as follows:

71-01-02-13. Election voting.

In lieu of sections 71-01-02-07, ~~and 71-01-02-08, and 71-01-02-09~~ the retirement board may allow for a process by which electronic ballots are submitted to elect an active ~~or retiree~~ candidate to the board.

History: Effective April 1, 2014; _____

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-03

CHAPTER 71-02-03 SERVICE CREDIT

Section

| | |
|---------------|--|
| 71-02-03-01 | Service Credit – General Rule |
| 71-02-03-01.1 | Noneligible Service Credit |
| 71-02-03-01.2 | Service Credit Given for Leave Taken |
| 71-02-03-02 | Military Credit [Repealed] |
| 71-02-03-02.1 | Purchase of Additional Service Credit and Repurchase of Past Service |
| 71-02-03-02.2 | Payment |
| 71-02-03-02.3 | Delinquent Payment |
| 71-02-03-02.4 | Crediting Purchased or Repurchased Service |
| 71-02-03-02.5 | Costs |
| 71-02-03-03 | Service After Age Sixty-Five [Repealed] |
| 71-02-03-04 | Cancellation of Credits |
| 71-02-03-05 | Coordination of Multiple Plan Membership |
| 71-02-03-06 | Conversion of Sick Leave |
| 71-02-03-07 | Employer Purchase of Service Credit or Sick Leave Program |
| 71-02-03-08 | Eligible Sick Leave |

71-02-03-01. Service credit – General rule.

A member receives credit for each month a contribution is made. Service credit shall be granted upon proper verification without member contribution after an employee has participated in eligible employment not less than two years for prior service employment as defined in North Dakota Century Code section 54-52-01. For employees employed prior to July 1, 2004, service credit shall be granted upon proper verification without member contribution after an employee has participated in eligible employment not less than two years for:

1. Probationary employment prior to July 1, 1979, that was previously excluded from eligible employment.
2. Eligible employment between the ages of eighteen and twenty-one that was previously excluded by the age limitation of twenty-one for participation in the retirement program.
3. Summer months for eligible school employees for the period July 1, 1979, to July 1, 1982.
4. Former members of the teachers' fund for retirement, job service North Dakota, or highway patrolmen's retirement systems will be granted credit for previous service in these funds if they received a lump sum refund prior to September 1, 1976.

History: Amended effective September 1, 1982; November 1, 1990; June 1, 1996; May 1, 2004.

General Authority: NDCC 54-52-04, 54-52-17

Law Implemented: NDCC 54-52-01(11)(12)(16), 54-52-17

71-02-03-01.1. Noneligible service credit.

Service credit will not be granted for:

1. Prior service if the member received a refund of contributions after July 1, 1966, unless service has been repurchased in its entirety.
2. Service if the member received a refund of contributions after July 1, 1966, unless it is repurchased or purchased in its entirety or in part as specified by the member.
3. Prior service for any member whose employer joined the retirement system on or after July 1, 1977, unless purchased for the member at the time the employer joined or unless purchased

by the member.

4. Service the member waived when transferring into the defined contribution retirement plan, including service not yet granted pursuant to section 71-02-03-01.

History: Effective November 1, 1990; amended effective April 1, 1992; July 1, 2000.

General Authority: NDCC 54-52-04, 54-52-17

Law Implemented: NDCC 54-52-05, 54-52-17, 54-52-19.2

71-02-03-01.2. Service credit given for leave taken.

A member may take leave pursuant to policies, rules, and statutes applicable to the member's employing unit. However, service credit may only be given for leave that is part of a participating member's continuous service. Service credit may not be given for isolated leave that is not part of continuous service.

History: Effective June 1, 1996.

General Authority: NDCC 54-52-04, 54-52-17

Law Implemented: NDCC 54-52-01(11)(12)(16), 54-52-17

71-02-03-02.1. Military credit.

Repealed effective November 1, 1990.

71-02-03-02.1. Purchase of additional service credit and repurchase of past service.

In order to purchase additional credit or repurchase past service, a member must notify the office, in writing, of the service for which they wish to receive credit. In addition to the written request, the following information must be submitted if applicable:

1. Verification by the former employer of previous North Dakota or out-of-state public service, or service with the federal government.
2. Documentation of military service by submitting a DD214 or NGB22.
3. Certification of approval by the member's employer of any leave of absence and length of that leave.
4. Statement from employee or former employer that service credits being applied for does not qualify for retirement benefits under another retirement system.

History: Effective November 1, 1990; amended effective July 1, 1994; June 1, 1996; May 1, 2004.

General Authority: NDCC 54-52-02.6, 54-52-04, 54-52-17, 54-52-17.2, 54-52-17.4

Law Implemented: NDCC 54-52-02.6, 54-52-17, 54-52-17.2, 54-52-17.4

71-02-03-02.2. Payment.

The total dollar amount for the purchase or repurchase may be paid in a lump sum or on a monthly, quarterly, semiannual, or annual basis. Payments may be subject to contribution limitations established under 26 U.S.C. 415. Payments must begin within ninety days of the date the written cost confirmation is prepared. If the installment method is used, the following conditions apply:

1. Simple interest at the actuarial rate of return must accrue monthly on the unpaid balance. Interest is calculated from the fifteenth of each month.
2. The installment schedule may extend while the employee is employed by a participating employer but for no longer than a fifteen-year time period.

3. Installment payments may be made by a payroll deduction where available. However, it is the responsibility of the member to initiate and terminate the payroll deduction.
4. Payments may only be received until the fifteenth of the month following the month of the member's termination date with a participating employer.
5. Payments are due by the fifteenth of the month to be credited for the month.
6. Payments must be greater or equal to fifty dollars per month, large enough to pay the current interest plus a portion of principal, and an amount necessary to complete the payment contract within the fifteen-year time period.

History: Effective November 1, 1990; amended effective July 1, 1994; June 1, 1996; May 1, 2004; July 1, 2006; July 1, 2010.

General Authority: NDCC 54-52-02.6, 54-52-04, 54-52-17, 54-52-17.2, 54-52-17.4

Law Implemented: NDCC 54-52-02.6, 54-52-17, 54-52-17.2, 54-52-17.4

71-02-03-02.3. Delinquent payment.

If no payment is received within thirty days of the due date, the public employees retirement system shall send a letter to the member advising them of the delinquency. If no payment is received within sixty days after the due date, the account must be closed. Payments received on closed accounts must be returned to the member. The member may submit written documentation as to the cause for the delinquency to the executive director for review and to request that the purchase contract be reestablished without a new calculation.

History: Effective November 1, 1990; amended effective July 1, 1994; June 1, 1996; May 1, 2004.

General Authority: NDCC 54-52-02.6, 54-52-04, 54-52-17, 54-52-17.2, 54-52-17.4

Law Implemented: NDCC 54-52-02.6, 54-52-17, 54-52-17.2, 54-52-17.4

71-02-03-02.4. Crediting purchased or repurchased service.

Service purchased or repurchased will be credited in the following manner:

1. For each month the system receives a payment toward a purchase contract, the member will earn a proportion of service credit.
2. Member acceptance of a service purchase contract extinguishes all pending service purchase cost estimates, excluding purchase of unused sick leave.
3. Service purchase contracts set up on a payment plan and only partially paid will have the remaining unpaid portion of service credit included when preparing the new service purchase cost calculation
4. For members converting service under the public employees retirement system to service under the judge's retirement system, each month of county judge service under the public employees retirement system will be converted to one month of judicial service credit. The account balance from the public employees retirement system will be transferred to the judges' retirement system account once the contract is paid in full or closed.

History: Effective November 1, 1990; amended effective July 1, 1994; June 1, 1996; May 1, 2004; July 1, 2010; April 1, 2020.

General Authority: NDCC 54-52-02.6, 54-52-04, 54-52-17, 54-52-17.2, 54-52-17.4

Law Implemented: NDCC 54-52-02.6, 54-52-17, 54-52-17.2, 54-52-17.4

71-02-03-02.5. Costs.

If purchasing under North Dakota Century Code section 54-52-02.6 or subdivision d of subsection 1 of North Dakota Century Code section 54-52-17.4, the cost will be the higher of the amount refunded to the member plus interest at the actuarial rate of return or the actuarial cost to provide the credit. All other types of service purchases must be actuarially determined. An actuarial cost must be calculated by applying actuarial factors to the amount of retirement and retiree health insurance credit being purchased by the member. The member's current age, average salary, current credited service, and actuarial factors on record and in effect with the North Dakota public employees retirement system in the month in which the member's written request is processed by the office must be used in the cost calculation. A member's written request must be processed by the office within sixty days of receipt. The amount of retirement and retiree health insurance credit being purchased must be calculated using the benefit formulas in place at the time the written request from the member is processed by the office. When calculating the cost, enhancements to the benefit formula must be considered to be in place at the time the law is signed by the governor.

The member's average salary shall be calculated as follows:

1. For members working full time with more than twelve months of service credit, by using the calculation found in subsection 2 of North Dakota Century Code section 54-52-17.
2. For members working full time with less than twelve months of service credit, by using the calculation found in subsection 2 of North Dakota Century Code section 54-52-17, but disregarding any month in which the member was paid less than a full-month salary. A full-month salary is the compensation the member and the member's employer agreed the member would be paid for working a full month.
3. For members who have not yet received a full-month salary, the member's average salary shall equal the member's full-month salary, as defined in subsection
4. For members working part time, by using the applicable calculations found in subsections 1 and 2, but using a monthly salary equal to the equivalent of the salary the member would have received if the member was working full time.

The retirement board must adopt actuarial assumptions necessary to determine the actuarial factors for the cost calculation. The assumptions must be reviewed concurrently with the assumptions for the retirement program.

Upon receipt of the written request from the member, and all required documentation, a written cost confirmation must be prepared and mailed to the member. The cost stated in the confirmation letter is valid for a period of ninety days from the date of the letter unless the contributor terminates employment with a participating employer. If the contributor terminates employment, then the cost stated in the confirmation letter is valid only until the earlier of the end of the ninety-day period or the fifteenth day of the month following the month of termination.

History: Effective July 1, 1994; amended effective June 1, 1996; July 1, 2000; April 1, 2002; May 1, 2004; July 1, 2006; July 1, 2018.

General Authority: NDCC 54-52-02.6, 54-52-04, 54-52-17, 54-52-17.2, 54-52-17.4

Law Implemented: NDCC 54-52-02.6, 54-52-17, 54-52-17.2, 54-52-17.4

71-02-03-03. Service after age sixty-five.

Repealed as the result of S.L. 1981, ch. 547, § 1.

71-02-03-04. Cancellation of credits.

If a member terminates service and receives a return of the member's accumulated contributions, service credit for the years of such contributions shall be canceled.

History:

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-17

71-02-03-05. Coordination of multiple plan membership.

Upon providing proper documentation of retirement plan participation, a member who meets the following criteria may use service credit in the teachers' insurance retirement fund for the purpose of meeting the normal retirement date for vesting purposes under North Dakota Century Code chapter 54-52. The member:

1. Must have participated in both the teachers' fund for retirement and the teachers' insurance and annuity association of America-college retirement equities fund.
2. Must have elected to transfer the member's teachers' insurance retirement fund account balance to teachers' insurance and annuity association of America-college retirement equities fund in connection with the administrative coordination of the various state retirement plans as provided under chapter 133 of the 1973 North Dakota Session Laws.
3. Did not have a cash out since the time of the transfer of funds.
4. Did not relinquish such service credit in writing.

History: Effective June 1, 1996; amended effective July 1, 1998; April 1, 2020.

General Authority: NDCC 54-52-04, 54-52-17

Law Implemented: NDCC 54-52-01(11)(12)(16), 54-52-17

Subdivision c of Subsection 1 and Subdivision c of Subsection 3 of Section 71-02-03-06 are amended as follows:

71-02-03-06. Conversion of sick leave.

To convert unused sick leave to service credit, the member must submit an application to the office, no later than the end of the month in which the member is no longer eligible to accrue the sick leave hours, unless otherwise approved by the executive director. The member's employer must confirm the member's unused balance of accumulated sick leave as of the date the member is no longer eligible to accrue sick leave hours. For members transferring from one participating employer to another participating employer without terminating eligible employment, the public employees retirement system will record unused sick leave of a participating member if the new employer certifies that it will not transfer that leave. The certification must include documentation from the previous employer detailing the number of hours of sick leave. The public employees retirement system must receive the certification within sixty days after the member leaves employment with the former employer. One month of service credit must be awarded for each one hundred seventy-three and three-tenths hours of unused accumulated sick leave. The employer and employee contributions rates used to calculate the cost must be the rate of the retirement program of the member at termination.

1. Aftertax payments may be accepted from the member as early as six months prior to when the member is no longer eligible to accrue sick leave hours, if the following requirements are met:
 - a. A notice of employment change has been provided to the public employees retirement system.

- b. A written certification by the member's employer, as to the member's unused balance of accumulated sick leave as of the date the member wishes to begin payment, is on file with the public employees retirement system.
 - c. The sick leave conversion payment must be recalculated using the member's unused balance of accumulated sick leave confirmed by the member's employer, and the member's final average salary as of ~~that the~~ date of calculation. If there is a difference between the sick leave conversion payment amount and the amount the member has paid, any overpayment must be refunded to the member and any underpayment must be collected from the member by the fifteenth of the month following the month the member is no longer eligible to accrue sick leave hours.
2. The member's record must be updated with the additional service credit once payment is made in full.
 3. Pretax rollover or transfer payments may be accepted from the member as early as sixty days prior to when the member is no longer eligible to accrue sick leave hours, if the following requirements are met:
 - a. A notice of employment change has been provided to the public employees retirement system.
 - b. A written certification by the member's employer, as to the member's projected unused balance of accumulated sick leave no sooner than sixty days prior to the date the member is no longer eligible to accrue sick leave hours, is on file with the public employees retirement system. This certification must also include a certification by the employer of the projected salaries to be reported to the public employees retirement system during the final months of employment.
 - c. The sick leave conversion payment must be recalculated using the member's unused balance of accumulated sick leave confirmed by the member's employer and the member's final average salary as of the ~~date the member is no longer eligible to accrue sick leave hours.~~ of calculation. If there is a difference between the sick leave balance or conversion payment amount and the amount the member has paid, then only the amount of sick leave available as of the date the member is no longer eligible to accrue sick leave hours will be added to the member's record. The member account balance will be credited with the full amount of funds from the rollover or transfer.
 - d. If an underpayment has occurred, then the remaining amount must be collected from the member by the fifteenth of the month following the month the member is no longer eligible to accrue sick leave hours.
 - e. The retiree health credit portion must be paid as a personal aftertax payment.
 4. The member's record must be updated with the additional service credit once payment is made in full.

History: Effective June 1, 1996; amended effective April 1, 2002; May 1, 2004; July 1, 2006; April 1, 2008; July 1, 2018; _____

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-27

71-02-03-07. Employer purchase of service credit or sick leave program.

An employer may elect to purchase up to five years of service credit for an employee and purchase an employee's unused sick leave that meets the requirements of section 71-02-03-08. Before offering a purchase program to its employees, the employer must create a program and an employer must document

the program in writing and submit a copy to the public employees retirement system. The governing authority of the employer shall also submit to the executive director of the public employees retirement system a letter indicating:

1. The program meets all the requirements of the North Dakota Century Code.
2. The program meets all applicable federal requirements.
3. The employer agrees to remit to the public employees retirement system a lump sum payment of the cost of the purchase upon being billed.
4. The employer has not given the employee the option of a cash payment in lieu of the employer purchase.
5. The employer shall clearly specify who is eligible for the program and indicate if the program is intended to be permanent or will be for a specific time period only.
6. The employer agrees that all purchases for service credit will be based upon actuarial cost as determined by the public employees retirement system and all unused sick leave purchases will be based upon the computation specified in the North Dakota Century Code. The employer also agrees that all purchases will be completed no later than the fifteenth day of the month following the month of the employee's termination or sixty days from the date the employer and employee agree to the purchase, whichever comes first.
7. The employer agrees that in offering such a program the employer will direct each employee interested in the program to first apply to the employer's authorized agent who will then certify the eligibility of the member, the amount of service credit to be purchased or sick leave to be converted, and send such certification to the public employees retirement system. The employer also agrees that the employer's authorized agent will coordinate the program, authorize all purchases in writing to the public employees retirement system, and be the focal point for communications between the public employees retirement system, the employer, and the employee.
8. The employer agrees that for each employee certified to be eligible to have service credit purchased or sick leave converted, the employer will first obtain from the employee authorization for the public employees retirement system to share confidential information with the employer.
9. The employer certifies that in offering the program, the employer is making it available to all employees or a specified class of employees on a nondiscriminatory basis.
10. The employer agrees to provide information and policies relating to an employer purchase program pursuant to North Dakota Century Code section 54-52-26.

When an employer files the above letter with the public employees retirement system, it may offer the program to its employees. An employer may terminate this program at any time upon the governing authority of the employer sending to the executive director of the public employees retirement system a letter indicating when the program is to be canceled

History: Effective May 1, 2004; amended effective July 1, 2006; April 1, 2008; July 1, 2010.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-17.4, 54-52-29

71-02-03-08. Eligible sick leave.

An employer or a member may only purchase unused sick leave that has not been previously purchased by a former employer or the member.

History: Effective May 1, 2004; amended effective July 1, 2006.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-27

CHAPTER 71-02-05 DISABILITY

Section

| | |
|---------------|--|
| 71-02-05-01 | Eligibility (Repealed) |
| 71-02-05-02 | Commencement of Benefit (Repealed) |
| 71-02-05-03 | Cancellation of Disability Benefits |
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| 71-02-05-07 | Optional Benefits |
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71-02-05-01. Eligibility.

Repealed effective January 1, 1992.

71-02-05-02. Commencement of benefit.

Repealed effective January 1, 1992.

Section 71-02-05-03 is repealed:

71-02-05-03. Cancellation of disability benefit.

When a member receiving a disability benefit attains the member's normal retirement date, that member may elect to terminate that member's disability benefits and draw retirement benefits as specified in North Dakota Century Code section 54-52-17.

History: Amended effective January 1, 1992; May 1, 2004; July 1, 2006. _____

General Authority: NDCC 54-52-04, 54-52-17(3)h

Law Implemented: NDCC 54-52-17

71-02-05-04. Calculation of disability benefit.

Repealed effective November 1, 1990.

71-02-05-05. Conditions for changing to a disability retirement benefit from an early reduced retirement benefit.

A member may elect to start receiving an early reduced retirement benefit, should the member be eligible to do so, pending a disability determination or appeal. Upon receiving a disability determination, interest accrual shall resume beginning the first of the month following notice of the determination, continuing to accrue on the annuitant's accumulated contribution until the annuitant reaches the annuitant's normal retirement date. The disability benefit will be calculated, and a differential payment made retroactive to the first day of the month following the member's termination from covered employment.

History: Effective September 1, 1982; amended effective November 1, 1990; January 1, 1992; July 1, 1998; July 1, 2006.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-17

71-02-05-06. Determination of disability - Procedures.

1. Application.

- a. If the member is unable or unwilling to file a public employees retirement system application for disability retirement, the member's legal representative may file the member's disability application.
- b. For the main system and the national guard and law enforcement system, the application must explain the cause of the disability, the limitations caused by the disability, the treatment being followed, and the effect of the disability on the individual's ability to be engaged in any gainful occupation for which the person is, or could become, reasonably fitted by education, training, or experience. For the judges' retirement plan, the application must explain the cause of the disability, the limitations caused by the disability, the treatment being followed, and the effect of the disability on the individual's ability to mentally or physically fulfill the duties and responsibilities of being a judge. A judge who is determined to be disabled pursuant to subdivision a of subsection 3 of North Dakota Century Code section 27-23-03 shall file an application documenting this determination and the effective date of the disability.
- c. The application must be filed with the public employees retirement system and may not be filed earlier than one hundred twenty days before the expected termination date.

2. Medical consultant.

- a. The board may retain a medical consultant to evaluate and make recommendations on disability retirement applications.
- b. The medical consultant shall review all medical information provided by the applicant.
- c. The medical consultant is responsible to determine eligibility for disability benefits for applicants not approved for social security disability benefits or for judges not approved pursuant to subsection 3 of North Dakota Century Code section 27-23-03 and shall advise the executive director of the decision in writing. Applicants who become eligible for disability benefits under the Social Security Act and who meet the requirements of subdivision h of subsection 3 of North Dakota Century Code section 54-52-17 are eligible for benefits under subdivision e of subsection 4 of North Dakota Century Code section 54-52-17 without submitting further medical information to the medical adviser, but are subject to recertification requirements specified in this chapter. The social security disability award must provide proof that the member's disability was determined during the member's period of eligible employment. In determining eligibility for judges not approved pursuant to the above, the medical director shall work with a review committee composed of one supreme court judge and a district court judge to review the proposed application. In order for the application to be approved, it must have the concurrence of the medical director and at least one judge. The executive director shall appoint two judges to serve on the review committee.

3. Medical examination.

- a. The applicant for disability retirement shall provide the medical examination reports as requested by the medical consultant.
- b. The member is liable for any costs incurred by the member in undergoing medical examinations and completing and submitting the necessary medical examination reports, medical reports, and hospital reports necessary for initial determination of eligibility for benefits.

- c. If determined to be eligible for disability benefits, the member must be reimbursed for the cost of medical examinations specifically requested by the medical adviser and the executive director.

4. **Appeal.**

- a. If the applicant has terminated employment, the public employees retirement system shall notify the applicant in writing of the decision. If the applicant is determined not to be eligible for disability benefits, the public employees retirement system shall advise the applicant of the appeal procedure. If the applicant is determined eligible for disability benefits, benefits must be paid pursuant to subsection 5.
- b. If the applicant has not terminated employment, the applicant must be provided with a preliminary notification of the decision in writing. The preliminary notification remains in effect for a period not to exceed two hundred seventy days. If an applicant does not terminate employment within two hundred seventy days of the date of termination provided on the disability application, the application must be considered to be vacated but the applicant may reapply as provided in subsection 1.
- c. The applicant may appeal an adverse determination to the board by providing a written notice of appeal within thirty days of the date that the public employees retirement system mailed the decision.
- d. The board shall consider all appeals at regularly scheduled board meetings. The applicant must be notified of the time and date of the meeting and may attend and be represented by legal counsel. The executive director shall provide to the board for its consideration a case history brief that includes membership history, medical examination summary, and the plan administrator's conclusions and recommendations. The board shall make the determination for eligibility at the meeting unless additional evidence or information is needed. The discussion concerning disability applications must be confidential and closed to the general public.
- e. If the initial board decision is adverse to the applicant after exhausting the administrative procedure under subdivisions a and b, the applicant may file a request for a formal hearing to be conducted under North Dakota Century Code chapter 28-32. The request for a formal hearing must be filed within thirty days after notice of the initial decision has been mailed or delivered. If an appeal is not filed within the thirty-day period, the initial decision of the board is final. If a request for a formal hearing is timely filed, notice of the hearing must be served at least thirty days prior to the date set for the hearing. The board shall request appointment of an administrative law judge from the office of administrative hearings to conduct the hearing and make recommended findings of fact, conclusions of law, and order. The board shall either accept the administrative law judge's recommended findings of fact, conclusions of law, and order or adopt its own findings of fact, conclusions of law, and order. The applicant may under North Dakota Century Code section 28-32-15 appeal the final decision resulting from this procedure to the district court.

5. **Payment of annuity.**

If awarded, the disability annuity is payable on, or retroactive to, the first day of the month following the member's termination from covered employment minus any early retirement benefits that have been paid.

6. **Redetermination and recertification.**

- a. A disabled annuitant's eligibility must be recertified eighteen months after the date the first check is issued and thereafter as specified by the medical consultant unless proof of receipt of ongoing social security disability benefits is received. The executive director

may waive the necessity for a recertification, based on the recommendation of the medical consultant or upon proof of receipt of ongoing social security disability benefits.

- b. The public employees retirement system will send a recertification application and request for a statement of annual earnings by certified mail with return receipt to the disabled annuitant to be completed and sent back to the office. If completed recertification application has not been received by the recertification date set in the recertification request, benefits will be suspended effective the first of the month following that date. If the recertification application is not received within six months of the recertification date set in the recertification request unless an alternative date has been approved by the executive director, the member will no longer be eligible to receive disability benefits. Benefits suspended within six months of the recertification date set in the recertification request will be reinstated the first of the month following recertification by the medical consultant, or upon proof of receipt of ongoing social security disability benefits, unless an alternative date has been approved by the executive director. The regular accrued disability benefits will commence with a lump sum equal to the amount of missed payments, without interest, retroactive to the first day of the month benefits were suspended, unless otherwise approved by the board.
- c. The medical consultant may require the disabled annuitant to be reexamined by a doctor. The submission of medical reports by the annuitant, and the review of those reports by the board's medical consultant, may satisfy the reexamination requirement. Upon recertification, the disabled annuitant must be reimbursed for the cost of the required reexamination if deemed necessary by the medical consultant and the executive director.
- d. When the member has not provided proof of receipt of ongoing social security disability benefits, the medical consultant will make the recertification decision. The executive director may require additional recertifications, if the facts warrant this action. The decision may be appealed to the board within ninety days of receiving the written recertification decision.
- e. Benefit payments must be suspended immediately upon notice received from the medical consultant that the annuitant does not meet recertification requirements. The executive director shall notify the annuitant of the suspension of benefits by certified mail and shall reinstate benefits back to date of suspension if the annuitant is subsequently found to meet recertification requirements.
- f. If it is determined that the disability annuitant was not eligible for benefits during any time period when benefits were provided, the executive director may do all things necessary to recover the erroneously paid benefits.

History: Effective January 1, 1992; amended effective July 1, 1994; June 1, 1996; April 1, 2002; May 1, 2004; July 1, 2006; April 1, 2016; July 1, 2018.

General Authority: NDCC 54-52-04, 54-52-17

Law Implemented: NDCC 54-52-17, 54-52-26

71-02-05-07. Optional benefits.

For the main system and national guard/law enforcement retirement plans, an individual deemed eligible for a disability benefit may elect, as provided in this section, to receive one of the following optional benefits in lieu of the regular disability benefit.

1. **One hundred percent joint and survivor benefit.** A member shall receive an actuarially reduced disability retirement benefit as long as the member remains eligible for benefits under subdivision e of subsection 3 of North Dakota Century Code section 54-52-17 and after the member's death the same amount will be continued to the member's surviving spouse during

the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Payments of benefits to a member's surviving spouse must be made on the first day of each month commencing on the first day of the month following the member's death, provided the beneficiary is still living and has supplied a marriage certificate and the member's death certificate. Benefits terminate in the month in which the death of the beneficiary occurs. In the event the designated beneficiary predeceases the member or, in the event of divorce, the option must be canceled and the member's benefit must be returned to the single life amount. Payment of the single life amount must commence on the first day of the month following the spouse's death providing written notification of death and a death certificate has been submitted or, in the event of divorce, a photocopy of the divorce decree.

2. **Fifty percent joint and survivor benefit.** A member shall receive an actuarially reduced disability retirement benefit as long as the member remains eligible for benefits under subdivision e of subsection 3 of North Dakota Century Code section 54-52-17 and after the member's death one-half the rate of the reduced benefit will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Payments of benefits to a member's surviving spouse must be made on the first day of each month commencing on the first day of the month following the member's death, providing the beneficiary has supplied a marriage certificate and death certificate and is still living. Benefits terminate in the month in which the death of the beneficiary occurs. In the event the designated beneficiary predeceases the member or, in the event of divorce, the option must be canceled and the member's benefit must be returned to the single life amount. Payment of the single life amount must commence on the first day of the month following the spouse's death providing written notification of death and a death certificate has been submitted or, in the event of divorce, a photocopy of the divorce decree.
3. **Twenty-year or ten-year certain option.** A member may elect an option which is the actuarial equivalent of the member's normal, early, or deferred vested retirement pension payable for life with a twenty-year or ten-year certain feature, as designated by the member.

History: Effective January 1, 1992; amended effective July 1, 1994; May 1, 2004; July 1, 2006; April 1, 2008; April 1, 2012; April 1, 2016.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-06.4, 54-52-17

71-02-05-07.1. Judges' retirement plan optional benefits.

For the judges' retirement plan, an individual deemed eligible for a disability benefit may elect, as provided in this section, to receive one of the following optional benefits in lieu of the regular disability benefit.

1. **One hundred percent joint survivor benefit.** A member shall receive an actuarially reduced disability retirement benefit as long as the member remains eligible for benefits under subdivision e of subsection 3 of North Dakota Century Code section 54-52-17 and after the member's death the same amount will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Payments of benefits to a member's surviving spouse must be made on the first day of each month commencing on the first day of the month following the member's death, provided the beneficiary is still living and has supplied a marriage certificate and the member's death certificate. Benefits terminate in the month in which the death of the beneficiary occurs. In the event the designated beneficiary predeceases the member or, in the event of divorce, the option must be canceled and the member's benefit must be returned to the normal retirement amount. Payment of the normal retirement amount must commence on the first day of the month following the spouse's death providing written notification of death and a death certificate has been submitted or, in the event of divorce, a photocopy of the divorce decree.

2. **Twenty-year or ten-year certain option.** A member may elect an option which is the actuarial equivalent of the member's normal, early, or deferred vested retirement pension payable for life with a twenty-year or ten-year certain feature, as designated by the member.

History: Effective May 1, 2004; amended effective July 1, 2006; April 1, 2008; July 1, 2010; April 1, 2012.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-17

71-02-05-08. Transitional period.

For purposes of providing a transition period during the twelve-month application period provided under previous law, amendments to chapter 71-02-05 dated January 1, 1992, apply to disabled employees who terminated on or after July 1, 1991. However, the previous rules will continue in effect for disabled employees who terminated before July 1, 1991.

History: Effective January 1, 1992.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-17

71-02-05-09. Interest accrual on accumulated contributions for disabled annuitants.

Effective January 1, 1998, interest must accrue on accumulated contributions as defined in article 71-02 until the disabled annuitant reaches that person's normal retirement age, cancels the benefit in accordance with section 71-02-05-03, the account is closed, or until benefit payments commence to the member's beneficiary.

History: Effective July 1, 1998; amended effective May 1, 2004; July 1, 2006; July 1, 2010.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-17

CHAPTER 71-02-08 PARTICIPATION BY GOVERNMENTAL UNITS

| | |
|-------------|---|
| Section | |
| 71-02-08-01 | Participation [Repealed] |
| 71-02-08-02 | Withdrawal |
| 71-02-08-03 | Transfer of Funds [Repealed] |
| 71-02-08-04 | Transfer Date [Repealed] |
| 71-02-08-05 | Merger of Eligible Employer Groups |

Section 71-02-08-01.1 is repealed.

71-02-08-01. Participation.

~~Any governmental unit not participating in the retirement system on July 1, 1977, may choose to participate in the retirement system and may elect to purchase past service in accordance with North Dakota Century Code section 54-52-02.1. If the governmental unit elects to purchase past service and prior to the governmental unit's governing authority contracting with the retirement board, the governmental unit must furnish the board with information concerning the permanent employees of the governmental unit. This information should contain, but is not limited to (1) name; (2) social security number; (3) date of birth; (4) date of employment; (5) current monthly salary; and (6) any previous public employment.~~

~~After receipt of this data, the retirement office will calculate the cost to the governmental unit to participate in the retirement plan as offered in North Dakota Century Code section 54-52-17. The governmental unit's governing authority will then decide whether or not to participate in the plan and whether or not to provide service credit for employment prior to the date of participation.~~

~~**History:** Amended effective September 1, 1982; April 1, 2012. Repealed effective _____~~

~~**General Authority:** NDCC 54-52-04~~

~~**Law Implemented:** NDCC 54-52-02.1~~

71-02-08-02. Withdrawal.

Any political subdivision may discontinue participation in the fund if the following requirements are met:

1. The political subdivision must provide the board with a copy of a resolution adopted by the governing authority authorizing the termination of participation in the fund.
2. Upon receiving a copy of the written resolution, an actuarial study must be done by the plan's actuary to determine the accrued benefit of all vested employees minus allocated assets from the date of participation. The interest assumption used must be two hundred basis points less than the plan's interest assumption used for funding purposes. The withdrawal liability must include an administrative expense assessment of five percent.
3. Any costs incurred by the fund, resulting from a political subdivision ceasing participation, including the actuarial fee study and the withdrawal liability, must be assessed against the political subdivision and paid in full before a political subdivision terminates its participation.
4. All employees of a political subdivision that has terminated participation in the fund must not be eligible for future benefit accruals or improvements granted to employees or former employees of participating governmental units after the date the employer's participation ceases.
5. An employee who is not vested at the time an employer ceases participation has the option of

taking a refund or rollover of the employee's contribution plus interest.

History: Effective September 1, 1982; amended effective June 1, 1996; April 1, 2019.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-2.1

71-02-08-03. Transfer of funds.

Repealed effective April 1, 2012.

71-02-08-04. Transfer date.

Repealed effective April 1, 2012.

71-02-08-05. Merger of eligible employer groups.

If a merger between two or more eligible employer groups occurs, the following requirements apply:

1. Written notification must be provided to the office no later than sixty days before the merger is final.
2. When two or more employer groups merge into one, and all do not presently participate in the public employees retirement system, the units merging must decide upon one of the following:
 - a. The participating employer or employers may elect to cease participation as of the date of the merger, subject to payment of any actuarial liabilities accrued. An actuarial study must be conducted at the cost of the exiting employer upon providing the public employees retirement system with written notice of the employer's election to cease participation.
 - b. Subject to executing a revised participation agreement, eligible employees who have not previously participated shall be given the opportunity to participate or waive participation effective the date of the merger. Any person hired in an eligible position after the consolidation date must participate.

History: Effective June 1, 1996.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 15-10-17, 54-52-02.1

CHAPTER 71-03-03 EMPLOYEE RESPONSIBILITIES

Section

| | |
|-------------|---|
| 71-03-03-01 | Enrollment |
| 71-03-03-02 | Late Enrollment |
| 71-03-03-03 | Early Enrollment [Repealed] |
| 71-03-03-04 | Open Enrollment [Repealed] |
| 71-03-03-05 | Special Enrollment for Certain Qualifying Events [Repealed] |
| 71-03-03-06 | Continuation of Health, Dental, Vision, or Prescription Drug Coverage After Termination |
| 71-03-03-07 | Continuation of Health, Dental, Vision, or Prescription Drug Coverage for Dependents |
| 71-03-03-08 | Continuation of Life Insurance After Retirement |
| 71-03-03-09 | Leave Without Pay |
| 71-03-03-10 | Employee Contribution |

~~Subsection 2~~ of Section 71-03-03-01 is amended as follows:

71-03-03-01. Enrollment.

An eligible employee is entitled to coverage the first of the month following the month of employment, or the month following meeting eligibility criteria, unless otherwise noted below, if the employee submits an application for coverage within the first thirty-one days of employment or within the thirty-one days of meeting eligibility for one of the following special enrollment periods:

1. Loss of coverage under any other health, dental, vision, or prescription drug insurance plan.
2. Marriage. The enrollment of an employee's spouse. An employee who previously waived coverage must enroll for coverage at the time the employee's spouse is enrolled.
3. Addition of a dependent as a result of receiving legal guardianship or receiving a court order to provide health coverage. An employee who previously waived coverage must enroll for coverage at the same time that the employee's eligible dependent is enrolled.
4. Addition of a dependent as a result of birth, the adoption, or placement for adoption. Effective date of coverage is the first of the month in which the event occurred. An employee who previously waived coverage shall enroll for coverage at the same time that the employee's eligible dependent is enrolled.

History: Effective October 1, 1986; amended effective July 1, 1994; June 1, 1996; July 1, 1998; July 1, 2010; April 1, 2012; April 1, 2016; April 1, 2022. _____

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-02, 54-52.1-03

71-03-03-02. Late enrollment.

An eligible employee failing to submit an application for coverage within the first thirty-one days of employment or eligibility for a special enrollment period may enroll during the annual open enrollment. Upon a showing of good cause, the executive director may waive the thirty-one day application requirement.

History: Effective October 1, 1986; amended effective June 1, 1996; July 1, 1998; May 1, 2004; April 1, 2016.

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-03, 42 U.S.C. 300gg-3

71-03-03-03. Early enrollment.

Repealed effective June 1, 1996.

71-03-03-04. Open enrollment.

Repealed effective June 1, 1996.

71-03-03-05. Special enrollment for certain qualifying events.

An eligible employee, retiree, or surviving spouse who elects to take a periodic distribution from the defined contribution retirement plan or a monthly retirement benefit from the North Dakota public employees retirement system, North Dakota highway patrolmen's retirement system, the retirement system established by job service North Dakota, the teachers' fund for retirement, or teachers' insurance and annuity association of America - college retirement equities fund, or retirees who have accepted a retirement allowance from a participating political subdivision's retirement plan and provide verification of distribution are eligible for coverage with the health, dental, vision, or prescription drug insurance program.

1. The employee, retiree, or surviving spouse must submit application for coverage within thirty-one days from one of the following qualifying events:
 - a. The month in which the eligible employee or retiree turns age sixty-five or becomes eligible for Medicare.
 - b. The month in which the eligible employee's or retiree's spouse turns age sixty-five or becomes eligible for Medicare.
 - c. The month in which the eligible employee terminates employment.
 - d. The month in which the eligible retiree or surviving spouse receives the first monthly retirement benefit from one of the eligible retirement systems outlined above.
 - e. The month in which an eligible employee or retiree who is covered through a spouse's plan becomes ineligible for the spouse's plan due to divorce, death, loss of employment, reduction in hours or other events which may cause loss of coverage as determined by the board.
 - f. The month in which the eligible employee or retiree is no longer eligible for employer-sponsored insurance, including coverage provided under the Consolidated Omnibus Budget Reconciliation Act.
2. Coverage will become effective on the first day of the month following the month in which the qualifying event occurred or under subdivision a or b of subsection 1 may become effective the month in which eligibility for Medicare occurs. If an application is not submitted within thirty-one days of a qualifying event, the eligible individual must be considered to have waived coverage and may not be enrolled unless the individual meets the criteria of another qualifying event. Upon a showing of good cause, the executive director may waive the thirty-one day application requirement.
3. Other individuals eligible for the health, dental, vision, or prescription drug insurance plan include a surviving spouse who is not receiving a qualified monthly retirement benefit from one of the eligible retirement systems outlined above, but who was a covered dependent on the eligible retiree's health, dental, vision, or prescription drug insurance plan at the time of the eligible retiree's death if there is no lapse in coverage.
4. Individuals not eligible for the health, dental, vision, or prescription drug insurance plan include:
 - a. A former employee who received a refund of the employee's retirement account, including

individuals in the defined contribution plan who take a cash withdrawal of the employee's account, roll their account into another qualified plan, or use the moneys in their account to purchase an annuity.

- b. A nonspouse beneficiary (eligible for Consolidated Omnibus Budget Reconciliation Act).
- c. A deferred retiree or surviving spouse between the time in which the retiree or surviving spouse's eligibility for the Consolidated Omnibus Budget Reconciliation Act (if eligible) ends and the month in which the eligible retiree or surviving spouse receives the first monthly retirement benefit from one of the eligible retirement systems.
- d. A formerly deferred retiree who received a refund of the retiree's retirement account.
- e. A surviving spouse of a nonvested employee eligible for the Consolidated Omnibus Budget Reconciliation Act.
- f. A surviving spouse of a former employee who received a refund of the employee's retirement account.
- g. A former participating member of the defined contribution retirement program who would not qualify for one of the retirement dates set forth in subsection 3 of North Dakota Century Code section 54-52-17 if that employee was a member of the defined benefit retirement plan, unless eligible under the Consolidated Omnibus Budget Reconciliation Act, and then only for the required duration of eligibility under the Act.
- h. For the purposes of the medical and prescription drug plan, employees who first retire after July 1, 2015, and are not eligible for Medicare upon their retirement and completion of any period of eligibility under the Consolidated Omnibus Budget Reconciliation Act, until such time as they or their spouse become eligible for Medicare.

History: Effective October 1, 1986; amended effective November 1, 1990; July 1, 1994; June 1, 1996; July 1, 1998; July 1, 2000; May 1, 2004; April 1, 2012; April 1, 2016; July 1, 2018.

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-02, 54-52.1-03, 54-52.1-03.1; Pub. L. 99-272; 100 Stat. 222; 26 USC 162 et seq.

71-03-03-06. Continuation of health, dental, vision, or prescription drug coverage after termination.

An employee who terminates employment and is not receiving a monthly retirement benefit from one of the eligible retirement systems, and applies for continued coverage with the health, dental, vision, or prescription drug plan may continue such coverage for a maximum of eighteen months by remitting timely payments to the board. The employee desiring coverage shall notify the board within sixty days of the termination. Coverage will become effective on the first day of the month following the last day of coverage by the employing agency if an application is submitted within sixty days. An individual who fails to timely notify the board is not eligible for coverage.

History: Effective October 1, 1986; amended effective November 1, 1990; June 1, 1996; April 1, 2012.

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-02; Pub. L. 99-272; 100 Stat. 222; 26 USC 162 et seq.

71-03-03-07. Continuation of health, dental, vision, or prescription drug coverage for dependents.

Dependents of employees with family coverage may continue coverage with the group after their eligibility would ordinarily cease. This provision includes divorced or widowed spouses and children

when they are no longer dependent on the employee. Coverage is contingent on the prompt payment of the premium, and in no case will coverage continue for more than thirty-six months. Dependents desiring coverage shall notify the board within sixty days of the qualifying event and must submit an application in a timely manner. An individual who fails to notify the board within the sixty days, and who desires subsequent coverage, will not be eligible for coverage.

History: Effective October 1, 1986; amended effective November 1, 1990; April 1, 2012.

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-02; Pub. L. 99-272; 100 Stat. 232; 42 USC 300 et seq.

Section 71-03-03-08 is amended as follows:

71-03-03-08. Continuation of life insurance after retirement.

An employee who is enrolled in the group life insurance program may continue the basic and supplemental life insurance coverage upon retirement or disability if:

1) the employee ~~is entitled to~~ receives a retirement allowance from an eligible retirement system; and

2) ~~by making application applying for life insurance coverage~~ and remitting timely payments to the board. Life insurance coverage must be continuous from when active group life insurance ends and retired employee life insurance coverage begins. Supplemental life insurance coverage can only be continued until age sixty-five.

History: Effective October 1, 1986; amended effective June 1, 1996; May 1, 2004; April 1, 2014; _____

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-02

71-03-03-09. Leave without pay.

An employee on an approved leave without pay may elect to continue coverage for the periods specified in the plans for life insurance, health, dental, vision, or prescription drug coverages by paying the full premium to the agency. An eligible employee electing not to continue coverage during a leave of absence is entitled to renew coverage for the first of the month following the month that the employee has returned to work if the employee submits an application for coverage within the first thirty-one days of returning to work. An eligible employee failing to submit an application for coverage within the first thirty-one days of returning to work or eligibility for a special enrollment period, may enroll during the annual open enrollment. Upon a showing of good cause, the executive director may waive the thirty-one day application requirement.

History: Effective October 1, 1986; amended effective November 1, 1990; June 1, 1996; September 1, 1997; July 1, 1998; May 1, 2004; April 1, 2012; April 1, 2022.

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-02, 54-52.1-03

Section 71-03-03-10 is amended as follows:

71-03-03-10. Employee contribution.

An employee who selects a level of coverage which requires an additional amount of premium shall pay the amount due to the employing agency ~~in advance~~. The employee contribution may be paid via payroll deduction or any other means acceptable to the agency.

History: Effective October 1, 1986. _____

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-03

CHAPTER 71-03-05 BOARD RESPONSIBILITIES

Section

| | |
|-------------|--|
| 71-03-05-01 | Premium Billing |
| 71-03-05-02 | Retiree Billing |
| 71-03-05-03 | Late Premium for Retirees [Repealed] |
| 71-03-05-04 | Late Premium for Terminated Employee [Repealed] |
| 71-03-05-05 | Appeal Process |
| 71-03-05-06 | Recovery of Benefit Payments |
| 71-03-05-07 | Erroneous Payment of Premiums – Overpayments |
| 71-03-05-08 | Erroneous Payment of Premiums – Underpayments |
| 71-03-05-09 | Erroneous Payment of Premiums – Appeals |
| 71-03-05-10 | Determining Amount of Premium Overpayments and Underpayments |
| 71-03-05-11 | Failure to Provide Notification and Errors |

Section 71-03-05-01 is amended as follows:

71-03-05-01. Premium billing.

The board will maintain a monthly billing and reconcile the moneys for all ~~agencies, individual retirees, employers and other eligible individuals provided in North Dakota Century Code chapter 54-52.1~~ terminated employees with continued coverage.

~~The board will reconcile the moneys received from each agency, retiree, and terminated employee to the billing.~~

History: Effective October 1, 1986. _____

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-08

71-03-05-02. Retiree billing.

Retirees receiving a monthly retirement benefit from the board in a sufficient amount to pay premium will have the total monthly premium deducted from their benefit check.

History: Effective October 1, 1986; amended effective November 1, 1990; April 1, 2008; July 1, 2018.

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-03

71-03-05-03. Late premium for retirees.

Repealed effective April 1, 2008.

71-03-05-04. Late premium for terminated employees.

Repealed effective April 1, 2012.

71-03-05-05. Appeal process.

If a member's benefits have been denied in whole or in part by the board or its agent, the member will be notified in writing of the denial and the reasons. Within sixty days of the date shown on the denial notice, the member may file a petition for review. The petition must be in writing, the reasons stated for disputing the denial and be accompanied by any documentation. Should the member filing a petition for review, or should the board or its agent desire information which cannot be presented satisfactorily by correspondence, the board or its designated appeals committee may schedule a hearing. The member filing the appeal will be notified in writing at least fifteen days prior to hearing of the time, date, and place.

The board or its agent will render a decision as soon as possible, but not later than one hundred twenty days after the receipt of the petition for review. The decision will be in writing.

History: Effective October 1, 1986; amended effective November 1, 1990; July 1, 2010; April 1, 2012.

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-08

71-03-05-06. Recovery of benefit payments.

Whenever benefits are paid in noncompliance with the contract, the board retains the right to recover the payments from the party responsible. In case the claims payor is at fault, the amount of overpayment will be withheld from the administrative fees paid by the board. In case overpayments are made because of false or misleading information provided by a member, the claims payor shall attempt to recover the amount. Any moneys recovered shall be credited to the board. In case an overpayment is made because of a mistake or deliberate act by a health care provider, the claims payor shall collect the money from the provider and credit that amount to the board. In cases of suspected fraud, the board may turn the evidence over to the state's attorney or attorney general's office for possible prosecution.

History: Effective October 1, 1986.

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-08

71-03-05-07. Erroneous payment of premiums - Overpayments.

1. An "overpayment" means a payment of money to the public employees retirement system for group insurance premiums that exceeds the premiums due for the level of coverage that should have been in effect.
2. If an overpayment occurs, the amount of the overpayment must be paid to the insured in a lump sum within thirty days of the discovery of the error. The payment may be made to any person insured under the policy.

History: Effective April 1, 2002; amended effective April 1, 2016.

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-08

71-03-05-08. Erroneous payment of premiums - Underpayments.

1. An "underpayment" means a payment of money to the public employees retirement system for group insurance premiums that is less than the premiums due for the level of coverage that should have been in effect. Underpayment of premium is solely an error in the amount of premium billed to the individual.
2. An individual who underpays premiums is liable to pay those premiums upon receiving a request for repayment and an explanation of the amount due from the executive director. All underpayments must be collected using the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like gains. If the cost of recovering the underpayment is estimated to exceed the amount of the underpayment, the underpayment is considered to be unrecoverable.
3. If an underpayment is discovered in the first month it occurs, the individual must pay the amount due in a lump sum within thirty days of the discovery of the error.
4. If an underpayment is not discovered within the first month it occurs, the following will apply:

- a. If not the result of any wrongdoing, negligence, misrepresentation, or omission by the individual, then the individual must make arrangements within sixty days of receiving written notification to either pay by lump sum or installments. The installment payment schedule is subject to approval by the executive director with the minimum repayment amount no less than fifty dollars a month. If repayment arrangements are not in place within sixty days of the date of the written request for repayment, the executive director shall authorize payment to be made in three equal installments, using the same payment method the individual has authorized for paying current monthly premiums.
 - b. If underpayment is the result, in whole or in part, of the wrongdoing, negligence, misrepresentation, or omission of the individual, underpayments must be made in full within sixty days of written notification.
5. If an underpayment occurs and the individual no longer participates in the group insurance, any premium amounts due are immediately payable.
 6. If the individual dies prior to paying in full, then the public employees retirement system must make application to the estate of the deceased to recover the remaining balance.
 7. If the individual refuses to repay the underpayment, or the underpayment is not paid in full, coverage may be canceled retroactive to the first day of the month following the month for which full premium payment was received.

History: Effective April 1, 2002; amended effective April 1, 2008; July 1, 2010; April 1, 2016.

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-08

71-03-05-09. Erroneous payment of premiums - Appeals.

1. A person not satisfied with the repayment arrangements made under this policy may appeal the executive director's decision in writing to the board. The written request must explain the basis of the appeal and must be received in the office within sixty days of the executive director's written decision.
2. The board may release a person from liability to repay an underpayment, in whole or in part, if it determines:
 - a. The underpayment is not the fault of the recipient; or
 - b. It would be contrary to equity and good conscience to collect the underpayment.

History: Effective April 1, 2002.

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-08

71-03-05-10. Determining amount of premium overpayments and underpayments.

1. The amount of the health premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred, or July of the earliest contract period still open, whichever is more recent.
2. The amount of the life premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred, or the first day of the first month of the earliest contract period still open, whichever is more recent.

3. The amount of the dental premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred, or the first day of the first month of the earliest contract period still open, whichever is more recent.
4. The amount of the vision premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred, or the first day of the first month of the earliest contract period still open, whichever is more recent.

History: Effective April 1, 2002; amended effective April 1, 2008; April 1, 2014.

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-08

71-03-05-11. Failure to provide notification and errors.

1. If the individual fails to notify the public employees retirement system of a change that affects the level of coverage in force, upon learning of the change, the guidelines for premium overpayment or underpayment will apply.
2. If an individual fails to notify the public employees retirement system to establish coverage, the guidelines for premium overpayment or underpayment will not apply. Coverage will only be established prospectively.
3. If the public employees retirement system makes an error that affects the level of coverage in force for the individual, upon learning of the error, the guidelines for premium overpayment or underpayment will apply.
4. If the public employees retirement system makes an error and does not establish coverage for an individual, upon learning of the error, the guidelines for premium underpayment will apply.
5. If an individual does not receive timely notification of COBRA continuation rights, premiums must be paid in full before continuation coverage is established retroactively.

History: Effective April 1, 2002.

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-08

CHAPTER 71-03-06
PARTICIPATING OF POLITICAL SUBDIVISIONS EMPLOYEE RESPONSIBILITIES

Section

| | |
|-------------|--|
| 71-03-06-01 | Enrollment |
| 71-03-06-02 | Late Enrollment |
| 71-03-06-03 | Special Enrollment for Certain Qualifying Events |
| 71-03-06-04 | Continuation of Hospital and Medical Coverages After Termination |
| 71-03-06-05 | Continuation of Health Benefits for Dependents |
| 71-03-06-06 | Continuation of Life Insurance After Retirement |
| 71-03-06-07 | Leave Without Pay |
| 71-03-06-08 | Employee Contribution |

Section 71-03-06-01 is amended as follows:

71-03-06-01. Enrollment.

An eligible employee is entitled to coverage the first of the month following the month of employment, or the month following meeting eligibility criteria, unless otherwise noted below, if the employee submits an application for coverage within the first thirty-one days of employment, or within the thirty-one days of meeting eligibility for one of the following special enrollment periods:

1. Loss of coverage under any other health insurance plan.
2. Marriage. The enrollment of an employee's spouse. An employee who previously waived coverage must enroll for coverage at the time the employee's spouse is enrolled.
3. Addition of a dependent as a result of ~~birth, adoption, placement for adoption~~, receiving legal guardianship, or receiving a court order to provide health coverage. An employee who previously waived coverage must enroll for coverage at the same time that the employee's eligible dependent is enrolled.
4. Addition of a dependent as a result of birth, adoption, or placement for adoption. The effective date of coverage is the first of the month in which the event occurred. An employee who previously waived coverage shall enroll for coverage at the same time that the employee's eligible dependent is enrolled.

History: Effective June 1, 1996; amended effective July 1, 1998; July 1, 2010; _____

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52.1-03.1, 54-52.1-03.4

71-03-06-02. Late enrollment.

Political subdivisions must follow the same late enrollment procedures as outlined in section 71-03-03-02.

History: Effective June 1, 1996; amended effective July 1, 1998; May 1, 2004; July 1, 2010.

General Authority: NDCC 54-52-04, 54-52.1-03.1

Law Implemented: NDCC 54-52.1-03, 54-52.1-03.1

71-03-06-03. Special enrollment for certain qualifying events.

Political subdivisions must follow the same enrollment procedures as outlined in section 71-03-03-05.

History: Effective June 1, 1996; amended effective July 1, 2010.

General Authority: NDCC 54-52-04, 54-52.1-03.1

Law Implemented: NDCC 54-52.1-03, 54-52.1-03.1

71-03-06-04. Continuation of hospital and medical coverages after termination.

Political subdivisions must follow the same continuation procedure as outlined in section 71-03-03-06.

History: Effective June 1, 1996.

General Authority: NDCC 54-52-04, 54-52.1-03.1

Law Implemented: NDCC 54-52.1-03, 54-52.1-03.1

71-03-06-05. Continuation of health benefits for dependents.

Political subdivisions must follow the same continuation procedure as outlined in section 71-03-03-07.

History: Effective June 1, 1996; amended effective July 1, 2010.

General Authority: NDCC 54-52-04, 54-52.1-03.1

Law Implemented: NDCC 54-52.1-03, 54-52.1-03.1

71-03-06-06. Continuation of life insurance after retirement.

Political subdivisions must follow the same continuation procedure as outlined in section 71-03-03-08.

History: Effective June 1, 1996.

General Authority: NDCC 54-52-04, 54-52.1-03.1

Law Implemented: NDCC 54-52.1-03, 54-52.1-03.1

71-03-06-07. Leave without pay.

Political subdivisions must follow the same leave without pay procedures as outlined in section 71-03-03-09.

History: Effective June 1, 1996.

General Authority: NDCC 54-52-04, 54-52.1-03.1

Law Implemented: NDCC 54-52.1-03, 54-52.1-03.1

Section 71-03-06-08 is amended as follows:

71-03-06-08. Employee contribution.

An employee who is enrolled in the group insurance plan and required by the ~~employing agency~~ employer to pay a part of the premium must pay the amount due to the ~~employing agency in advance of the employer's payment to the public employees retirement system~~ employer. The employee contribution may be paid via payroll deduction or any other means acceptable to the employer.

History: Effective June 1, 1996; amended effective July 1, 2010; _____

General Authority: NDCC 54-52-04, NDCC54-52.1-08

Law Implemented: NDCC 54-52.1-02, 54-52.1-03.1

ARTICLE 71-04
DEFERRED COMPENSATION PLAN FOR PUBLIC EMPLOYEES

Chapter

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| 71-04-02 | Plan Design |
| 71-04-03 | Employee Responsibilities |
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Chapter 71-04-01
Definitions

Section

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|-------------|-------------|
| 71-04-01-01 | Definitions |
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Section 71-04-01-01 is amended as follows:

71-04-01-01. Definitions.

The terms used throughout this title have the same meaning as in North Dakota Century Code section 54-52.2-04, except:

1. "Beneficiary" means an individual designated by the participant to receive benefits under the plan in the event the participant dies.
2. "Compensation" means the total annual remuneration for employment or contracted services received by the participant from the employer.
3. "Deferred compensation" means the amount of compensation not yet earned which the participant and the employer shall mutually agree shall be deferred from current monthly salary in accordance with the provisions of the plan.
4. "Eligible state deferred compensation plan" means a plan established and maintained by this state that complies with the Internal Revenue Code (IRC) 457(b).
5. "Employer" means the state of North Dakota or any of its political subdivisions, institutions, departments, or agencies.
6. "Participant" is any employee of a participating employer who executes a participant agreement.
7. "Participant agreement" means an agreement between the employer and a participant setting forth certain provisions and elections relative to the plan, incorporating the terms of the plan and establishing the deferral and participation in the plan.
8. "Provider" means any insurance company, federally insured financial institutions, Bank of North Dakota, or registered dealer under North Dakota Century Code chapter 10-04 authorized by the retirement board to provide investment vehicles to employees.
9. "Retirement" means separation from service with the employer on a date coincidental with the normal, postponed, early, or disability retirement dates as described in North Dakota Century Code chapter 54-52-17.3.

10. Retirement board" or "board" means the ~~nine~~ eleven persons described in North Dakota Century Code chapter 54-52-03.
11. Separation from service" means that term as defined under Internal Revenue Code section 402(d)(4)(A)(3i) and includes termination of employment with the employer by reason of death, disability, retirement, resignation, or discharge.
12. "State" means the state of North Dakota, or any department, institution, or separate agency thereof acting as an employer of the participant.
13. "Unforeseeable emergency" means a severe financial hardship to the participant resulting from a sudden and unexpected illness or accident of the participant, the participant's spouse or dependent of the participant, loss of the participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant.

Subsection 14 of Section 71-04-01-01 is created as follows:

14. Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported pursuant to North Dakota Administrative Code Section 71-08-11-01.

History: Effective April 1, 1989; amended effective July 1, 1994; April 1, 2002; May 1, 2004; July 1, 2010; April 1, 2016; April 1, 2020; _____

General Authority: NDCC ~~28-32-02~~, 54-52.2-03.2

Law Implemented: NDCC 54-52.2-03, 54-52.2-03.2, 54-52.2-04

CHAPTER 71-04-03 EMPLOYEE RESPONSIBILITIES

| | |
|-------------|------------------------------|
| Section | |
| 71-04-03-01 | Enrollment |
| 71-04-03-02 | Effective Date of Deferrals |
| 71-04-03-03 | Change in Monthly Deferral |
| 71-04-03-04 | Change in Beneficiary |
| 71-03-04-05 | Unforeseeable Emergency |
| 71-04-03-06 | Termination of Participation |
| 71-04-03-07 | Distribution of Assets |

Section 71-04-03-01 is amended as follows:

71-04-03-01. Enrollment.

Public employees may enroll with up to three providers in the deferred compensation plan by completing and submitting a participant agreement to the office or the board's designated vendor.

History: Effective April 1, 1989; amended effective April 1, 2014; April 1, 2016; _____

General Authority: NDCC ~~28-32-02~~, 54-52.2-03.2

Law Implemented: NDCC 54-52.2-03

71-04-03-02. Effective date of deferrals.

All deferrals are effective the payroll period ending in the month following the month in which the deferral is authorized. Deferrals cannot be requested or authorized for the month in which income is being earned.

History: Effective April 1, 1989; amended effective July 1, 2010.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 54-52.2-03; IRC 457(b)(4)

Section 71-04-03-03 is amended as follows:

71-04-03-03. Change in monthly deferral.

A participant may change the amount of deferral at any time, as long as a participant agreement is completed and submitted to the office or the board's designated vendor as set forth in section 71-04-03-01.

History: Effective April 1, 1989; amended effective April 1, 2016; _____

General Authority: NDCC ~~28-32-02~~ 54-52-04, 54-52.2-03.2

Law Implemented: NDCC 54-52.2-03; IRC 457(b)(4)

71-04-03-04. Change in beneficiary.

The participant may change the primary or contingent beneficiary at any time by contacting the participant's designated provider representative.

History: Effective April 1, 1989; amended effective May 1, 2004.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 54-52.2-03

71-04-03-05. Unforeseeable emergency.

A participant who, prior to separation from service, experiences an unforeseeable emergency as defined in section 71-04-01-01 may apply for a distribution of the participant's deferred compensation in account to the extent reasonably needed to satisfy the financial need. The participant may make application by completing a financial hardship form and delivering it to the retirement board offices.

History: Effective April 1, 1989; amended effective July 1, 1994; April 1, 2002; July 1, 2010

General Authority: NDCC 28-32-02, 54-52.2-03.2

Law Implemented: NDCC 54-52.2-03, 54-52.2-03.2

71-04-03-06. Termination of participation.

Participation in the plan may be terminated at any time by completion of a participant agreement indicating a suspension of monthly deferrals.

History: Effective April 1, 1989; amended effective July 1, 1994; April 1, 2002; May 1, 2004; July 1, 2010.

General Authority: NDCC 28-32-02, 54-52.2-03.2

Law Implemented: NDCC 54-52.2-03, 54-52.2-03.2

71-04-03-07. Distribution of assets.

Distribution of assets may be made only upon separation from service as defined in section 71-04-01-01, or in accordance with section 71-04-03-05 or 71-04-08-01, or as a direct trustee-to-trustee plan transfer to a tax-qualified governmental defined benefit plan (as defined in Internal Revenue Code section 414(d)) for the purchase of permissive service credit (as defined in Internal Revenue Code section 415(n)(3)(A) or a repayment to which Internal Revenue Code section 415 does not apply by reason of section 415(k)(3), regardless of whether or not the participant has had a severance from employment, at a time and in a manner prescribed by the board, as set forth in the 457 deferred compensation plan document, and in a manner consistent with section 457(e)(17) of the Internal Revenue Code.

History: Effective May 1, 2004; amended effective April 1, 2016.

General Authority: NDCC 28-32-02, 54-52-03.2

Law Implemented: NDCC 54-52.2-03, 54-52.2-03.2

CHAPTER 71-05-02 DISABILITY

Section

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|---------------|---|
| 71-05-02.01 | Disability Retirement Eligibility |
| 71-05-02-01.1 | Conditions for Changing to a Disability Retirement Benefit From an Early Reduced Retirement Benefit |
| 71-05-02-02 | Determination of Disability – Procedures |
| 71-05-02-03 | Aggrieved Parties' rights [Repealed] |
| 71-05-02-04 | Optional Benefits |
| 71-05-02-05 | Interest Accrued on Accumulated Contributions for Disabled Annuitants |
| 71-05-02-06 | Cancellation of Disability Benefit |

71-05-02-01. Disability retirement eligibility.

A member of the highway patrol retirement system, who has completed at least one hundred eighty days of employment, is eligible for disability retirement benefits if the member became permanently and totally disabled during the period of covered employment and otherwise complies with section 71-05-02-02. A member eligible for normal retirement date shall receive the normal retirement benefit if it exceeds the disability retirement benefit.

History: Effective November 1, 1990; amended effective July 1, 2006.

General Authority: NDCC 39-03.1-06, 39-03.1-11

Law Implemented: NDCC 39-03.1-11

71-05-02-01.1. Conditions for changing to a disability retirement benefit from an early reduced retirement benefit.

A member may elect to start receiving an early reduced retirement benefit, should the member be eligible to do so, pending a disability determination or appeal. During this period, the member's account will be handled in the same manner as all early reduced retirement benefits. Upon receiving a disability determination, interest accrual on the member's account shall resume beginning the first of the month following notice of the determination, continuing to accrue on the annuitant's accumulated contribution until the annuitant reaches the annuitant's normal retirement date. The disability benefit will be calculated and a differential payment made retroactive to the first day of the month following the member's termination from covered employment.

History: Effective May 1, 2004; amended effective July 1, 2006.

General Authority: NDCC 39-03.1-06, 39-03.1-11

Law Implemented: NDCC 39-03.1-11

71-05-02-02. Determination of disability - Procedures.

1. Application.

- a. Application for disability benefits must be made within one year from the last date of covered employment on the form provided by the plan administrator.
- b. If the member is unable or unwilling to file an application, the member's employer or legal representative may file the member's disability application.
- c. The application must explain the cause of the disability, the limitations caused by the disability, the treatment being followed, and the effect of the disability on the individual's ability to be engaged in any gainful occupation for which the person is, or could become, reasonably fitted by education, training, or experience.

2. Medical examination.

- a. The applicant for disability retirement must provide the plan administrator with medical examination reports.
- b. An initial medical examination should be completed by the member's attending or family physician on the medical examination form provided by the plan administrator. If deemed necessary by the board's medical consultant, an additional examination must be completed by a specialist in the disability involved. Available medical or hospital reports may be accepted in lieu of a medical examination report if deemed acceptable by the medical consultant.
- c. The member is liable for any costs incurred by the member in undergoing medical examinations and completing and submitting the necessary medical examination reports, medical reports, and hospital reports.

3. Medical consultant.

- a. The board will retain a medical doctor to act as its consultant on disability retirement applications.
- b. The medical consultant shall review all medical information provided by the applicant.
- c. The medical consultant will be responsible to advise the plan administrator of the medical diagnosis and whether the condition is a permanent and total disability.

4. Decision and appeal.

- a. The plan administrator shall consider applications for disability benefits and shall make a written decision whether an applicant is entitled to benefits. The decision must be mailed to the applicant's address of record.
- b. The applicant may appeal an adverse determination to the board by providing a written notice of appeal within thirty days of the date that the plan administrator mailed the decision.
- c. The board shall consider all appeals at regularly scheduled board meetings. The applicant must be notified of the time and date of the meeting and may attend and be represented by legal counsel. The executive director shall provide to the board for its consideration a case history brief that includes membership history, medical examination summary, and the plan administrator's conclusions and recommendations. The board shall make the determination for eligibility at the meeting unless additional evidence or information is needed. The discussion concerning disability applications must be confidential and closed to the general public.
- d. If the applicant has terminated employment, the plan administrator shall notify the applicant in writing of the decision. If the applicant is determined not to be eligible for disability benefits, the plan administrator shall advise the applicant of the appeal procedure. If the applicant is determined eligible for disability benefits, benefits must be paid pursuant to subsection 5.
- e. If the applicant has not terminated employment, the applicant must be provided with a preliminary notification of the decision in writing. The preliminary notification remains in effect for a period not to exceed two hundred seventy days. If an applicant does not terminate employment within two hundred seventy days of the date of termination provided on the disability application, the application must be considered to be vacated but the applicant may reapply as provided in subsection 1.

- f. If the initial board decision is adverse to the applicant, after exhausting the administrative procedure under subdivisions b and c, the applicant may file a request for a formal hearing to be conducted under North Dakota Century Code chapter 28-32. The request for a formal hearing must be filed within thirty days after notice of the initial decision has been mailed or delivered. If an appeal is not filed within the thirty-day period the initial decision of the board is final. If a request for a formal hearing is timely filed, notice of the hearing must be served at least thirty days prior to the date set for the hearing. The board shall request appointment of an administrative law judge from the office of administrative hearings to conduct the hearing and make recommended findings of fact, conclusions of law, and order or adopt its own findings of fact, conclusions of law and order. The applicant may under North Dakota Century Code section 28-32-15 appeal the final decision resulting from this procedure to the district court.
5. **Payment of annuity.** If awarded, the disability annuity is payable on, or retroactive to, the first day of the month following the member's termination from covered employment, minus any early retirement benefits that have been paid.
6. **Redetermination and recertification.**
 - a. A disabled annuitant's eligibility must be recertified eighteen months after the date the first check is issued and thereafter as specified by the medical consultant. The plan administrator may waive the necessity for a recertification based on the recommendation of the medical consultant.
 - b. The plan administrator will send a recertification form and request for a statement of annual earnings by certified mail with return receipt to the disabled annuitant to be completed and sent back to the office. If completed recertification has not been received by the recertification date set in the recertification request, benefits will be suspended effective the first of the month following that date. Benefits will be reinstated the first of the month following recertification by the medical consultant. The regular accrued disability benefits will commence with a lump sum equal to the amount of missed payments, without interest, retroactive to the first of the month that benefits were suspended, unless otherwise approved by the North Dakota public employees retirement system board.
 - c. The medical consultant may require the disabled annuitant to be reexamined by a doctor. The submission of medical reports by the annuitant, and the review of those reports by the board's medical consultant, may satisfy the reexamination requirement. Upon recertification, the disabled annuitant must be reimbursed up to four hundred dollars for the cost of the required reexamination if deemed necessary by the medical consultant and the plan administrator.
 - d. The medical consultant will make the recertification decision. The executive director may require additional recertifications. The decision may be appealed to the board within ninety days of receiving the written recertification decision.
 - e. Benefit payments must be suspended immediately upon notice received from the medical consultant that the annuitant does not meet recertification requirements. The plan administrator shall notify the annuitant of the suspension of benefits by certified mail and shall reinstate benefits back to the date of suspension if the annuitant is subsequently found to meet recertification requirements.
 - f. If it is determined that the disability annuitant was not eligible for benefits during any time period when benefits were provided, the executive director may do all things necessary to recover the erroneously paid benefits.

History: Effective November 1, 1990; amended effective June 1, 1992; June 1, 1996; May 1, 2004.

General Authority: NDCC 39-03.1-06, 39-03.1-11

Law Implemented: NDCC 39-03.1-11

71-05-02-03. Aggrieved parties' rights.

Repealed effective June 1, 1996.

71-05-02-04. Optional benefits.

An individual deemed eligible for a disability benefit may elect, as provided in this section, to receive one of the following optional benefits in lieu of the regular disability benefit.

1. **One hundred percent joint and survivor benefit.** A member shall receive an actuarially reduced disability retirement benefit as long as the member remains eligible for benefits under subdivision d of subsection 3 of North Dakota Century Code section 39-03.1-11 and after the member's death the same amount will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Payments of benefits to a member's surviving spouse must be made on the first day of each month commencing on the first day of the month following the member's death, provided the beneficiary supplies a marriage certificate and death certificate and is still living. Benefits must terminate in the month in which the death of the beneficiary occurs. If the designated beneficiary predeceases the member or, in the event of divorce, the member's benefit must be returned to the normal retirement amount. Payment of the normal retirement amount must commence on the first day of the month following the spouse's death if written notification of death, provided a death certificate has been submitted or, in the event of divorce, a photocopy of the divorce decree.
2. **Twenty-year or ten-year certain option.** A member may receive the actuarial equivalent of the member's normal, early, or deferred vested retirement pension payable for life with a twenty-year or ten-year certain feature, as designated by the member.

History: Effective July 1, 1998; amended effective May 1, 2004; July 1, 2006; April 1, 2008; April 1, 2012.

General Authority: NDCC 39-03.1-06, 39-03.1-11

Law Implemented: NDCC 39-03.1-11.4(d)

71-05-02-05. Interest accrued on accumulated contributions for disabled annuitants.

Effective January 1, 1998, interest shall accrue on accumulated contributions as defined in article 71-01 until the disabled annuitant reaches normal retirement age, cancels the benefit in accordance with section 71-05-02-06, the account is closed, or until benefit payments commence to the member's beneficiary.

History: Effective July 1, 1998; amended effective July 1, 2010.

General Authority: NDCC 39-03.1-06, 39-03.1-11

Law Implemented: NDCC 39-03.1-11.4(d)

Section 71-05-02-06 is amended as follows:

71-05-02-06. Cancellation of disability benefit.

When a member receiving a disability benefit attains the member's normal retirement date, that member may elect to terminate that member's disability benefit and draw retirement benefits as specified in North Dakota Century Code section 39-03.1-11. Upon receipt of normal retirement benefits, interest

accrual on the member account shall end and benefit option factors will be based upon the actuarial retirement factors on the date of disability to normal conversion.

History: Effective May 1, 2004; amended effective July 1, 2006; _____

General Authority: NDCC 39-03.1-06, 39-03.1-11

Law Implemented: NDCC 39-03.1-11

CHAPTER 71-05-04 SERVICE CREDIT

Section

| | |
|---------------|--|
| 71-05-04-01 | Service Credit – General Rule |
| 71-05-04-02 | Military Credit |
| 71-05-04-03 | Repurchase of Service Credit and Purchase of additional Service Credit |
| 71-05-04-03.1 | Purchase of Additional Years of Service [Repealed] |
| 71-05-04-04 | Payment |
| 71-05-04-04.1 | Costs |
| 71-05-04-05 | Delinquent Payment |
| 71-05-04-06 | Crediting Purchased or Repurchased Service |
| 71-05-04-07 | Cancellation of Credits |
| 71-05-04-08 | Conversion of Sick Leave |
| 71-05-04-09 | Employer Purchase of Service Credit or Sick Leave Program |

Section 71-05-04-08 is amended as follows:

71-05-04-01. Service credit - General rule.

A member receives credit for each month a contribution is made.

History: Effective October 1, 1991; amended effective July 1, 1998.

General Authority: NDCC 39-03.1-06

Law Implemented: NDCC 39-03.1-11

71-05-04-02. Military credit.

Eligible service credit may be granted as it pertains to the North Dakota highway patrol retirement system as established in chapter 71-02-11.

History: Effective October 1, 1991.

General Authority: NDCC 39-03.1-06

Law Implemented: 38 USC 2021-2026

71-05-04-03. Repurchase of service credit and purchase of additional service credit.

To purchase additional credit or repurchase past service, a contributor must notify the public employees retirement system, in writing, of the service for which the person wishes to receive credit. In addition to the written request, the following information must be submitted, if applicable:

1. Documentation of military service by submitting a DD214 or NGB22.
2. Certification of approval by the member's employer of any leave of absence and length of that leave.

History: Effective October 1, 1991; amended effective June 1, 1996; April 1, 2002; May 1, 2004.

General Authority: NDCC 39-03.1-06, 39-03.1-10.1, 39-03.1-14.1

Law Implemented: NDCC 39-03.1-08.1, 39-03.1-10.1, 39-03.1-14.1

71-05-04-03.1. Purchase of additional years of service.

Repealed effective May 1, 2004.

71-05-04-04. Payment.

The total dollar amount for repurchase or purchase may be paid in a lump sum or on a monthly, quarterly, semiannual, or annual basis. Payments may be subject to contribution limitations established under 26 U.S.C. 415. Payments must begin within ninety days of the date the written cost confirmation is prepared. If the installment method is used, the following conditions apply:

1. Simple interest at the actuarial rate of return must accrue monthly on the unpaid balance. Interest is calculated from the fifteenth of each month.
2. The installment schedule may extend while the member is employed by the participating employer but for no longer than a fifteen-year time period.
3. Installment payments may be made by a payroll deduction where available. However, it is the responsibility of the contributor to initiate and terminate the payroll deduction.
4. Payments are due by the fifteenth of the month to be credited for the month.
5. Payments may only be received from a contributor until the fifteenth of the month following the month of the member's termination date with a participating employer.
6. Payments must be greater or equal to fifty dollars per month, large enough to pay the current interest plus a portion of the principal and an amount necessary to complete the payment contract within the fifteen-year time period.

History: Effective October 1, 1991; amended effective June 1, 1996; May 1, 2004; July 1, 2006; July 1, 2010.

General Authority: NDCC 39-03.1-06, 39-03.1-08.1, 39-03.1-10.1, 39-03.1-14.1

Law Implemented: NDCC 39-03.1-08.1, 39-03.1-10.1, 39-03.1-14.1

71-05-04-04.1. Costs.

The cost to repurchase service credit must be calculated by applying actuarial factors to the amount of the retirement and retiree health insurance credit being purchased by the contributor or member of an alternative retirement system. The contributor's current age, average salary as calculated under subsection 2 of North Dakota Century Code section 39-03.1-11, and current credited service on record with the North Dakota public employees retirement system in the month in which the contributor's written request is received must be used in the cost calculation. The amount of retirement and retiree health insurance credit benefits being purchased must be calculated using the benefit formulas in place at the time the written request is received from the contributor. When calculating the cost, enhancements to the benefit formula must be considered to be in place at the time the law is signed by the governor.

The retirement board must adopt actuarial assumptions necessary to determine the actuarial factors for the cost calculation. The assumptions must be reviewed concurrently with the assumptions for the retirement program.

Upon receipt of the written request from the contributor, a written cost confirmation must be prepared and mailed to the individual. The cost stated in the confirmation letter is valid for a period of ninety days from the date of the letter unless the contributor terminates employment with the employer. If the contributor terminates employment, then the cost stated in the confirmation letter is valid only until the earlier of the end of the ninety-day period or the fifteenth day of the month following the month of termination.

History: Effective June 1, 1996; amended effective May 1, 2004; July 1, 2006.

General Authority: NDCC 39-03.1-06, 39-03.1-10.1, 39-03.1-14.1

Law Implemented: NDCC 39-03.1-08.1, 39-03.1-10.1, 39-03.1-14.1

71-05-04-05. Delinquent payment.

If a payment to be made pursuant to section 71-05-04-04 is not received within thirty days of the due date, the public employees retirement system shall send a letter to the contributor or member of an alternative retirement system advising the person of the delinquency. If no payment is received within sixty days after the due date, the account must be closed. Payments received on a closed account must be returned to the member. The member may submit written documentation as to the cause for the delinquency to the executive director for review and to request that the purchase contract be reestablished without a new calculation.

History: Effective October 1, 1991; amended effective June 1, 1996; May 1, 2004.

General Authority: NDCC 39-03.1-06, 39-03.1-10.1, 39-03.1-14.1

Law Implemented: NDCC 39-03.1-08.1, 39-03.1-10.1, 39-03.1-14.1

71-05-04-06. Crediting purchased or repurchased service.

For each month the system receives a payment toward a purchase contract, the member will earn a proportion of service credit.

History: Effective October 1, 1991; amended effective June 1, 1996; May 1, 2004; July 1, 2010.

General Authority: NDCC 39-03.1-06, 39-03.1-10.1, 39-03.1-14.1

Law Implemented: NDCC 39-03.1-08.1, 39-03.1-10.1, 39-03.1-14.1

71-05-04-07. Cancellation of credits.

If a member terminates service and receives a return of the member's accumulated contributions, service credit for the years of such contributions must be canceled.

History: Effective October 1, 1991.

General Authority: NDCC 39-03.1-06

Law Implemented: NDCC 39-03.1-10.1, 39-03.1-14.1

71-05-04-08. Conversion of sick leave.

To convert unused sick leave to service credit, the member must submit an application to the office, in writing, of the amount of unused sick leave to be converted, and the member's employer must confirm the member's unused balance of accumulated sick leave as of the date the member terminates employment. For members transferring from one participating employer to another participating employer without terminating eligible employment, the public employees retirement system will record unused sick leave of a participating member if the new employer certifies that it will not transfer that leave. The certification must include documentation from the previous employer detailing the number of hours of sick leave. The public employees retirement system must receive the certification within sixty days after the member leaves employment with the former employer.

One month of service credit must be awarded for each one hundred seventy-three and three-tenths hours of unused accumulated sick leave. The cost to convert unused sick leave into service credit must be paid with after tax employee contributions.

1. Aftertax payments may be accepted from the member as early as six months prior to termination if the following requirements are met:
 - a. A notice of termination or application for monthly benefits form is on file with the public employees retirement system.
 - b. A written certification by the member's employer, as to the member's unused balance of accumulated sick leave as of the date the member wishes to begin payment, is on file with the public employees retirement system.

- c. At termination, the sick leave conversion payment must be recalculated using the member's unused balance of accumulated sick leave, confirmed by the member's employer, and the member's final average salary as of ~~that~~ the date of calculation.
- d. If there is a difference between the sick leave conversion payment amount and the amount the member has paid, any overpayment must be refunded to the member and any underpayment must be collected from the member by the fifteenth of the month following the month of the member's date of termination.
- e. The member's record must be updated with the additional service credit once payment is made in full and the member has terminated employment.

Subdivision c of Subsection 2 is amended as follows:

- 2. Pretax rollover or transfer payments may be accepted from the member as early as sixty days prior to termination if the following requirements are met:
 - a. A notice of termination or application for monthly benefits form is on file with the public employees retirement system.
 - b. A written certification by the member's employer, as to the member's projected unused balance of accumulated sick leave no sooner than sixty days prior to the date of termination, is on file with the public employees retirement system. This certification must also include a certification by the employer of the projected salaries to be reported to the public employees retirement system during the final months of employment.
 - c. At termination, the sick leave conversion payment must be recalculated using the member's unused balance of accumulated sick leave confirmed by the member's employer, and the member's final average salary as of ~~that~~ the date of calculation. If there is a difference between the sick leave balance or conversion payment amount and the amount the member has paid, then only the amount of sick leave available as of the termination date will be added to the member's record. The member account balance will be credited with the full amount of funds from the rollover or transfer.
 - d. If an underpayment has occurred, then the remaining amount must be collected from the member by the fifteenth of the month following the month of the member's date of termination.
 - e. The retiree health credit portion must be paid as a personal aftertax payment.
- 3. The member's record must be updated with the additional service credit once payment is made and the member has terminated employment.

History: Effective June 1, 1996; amended effective April 1, 2002; May 1, 2004; July 1, 2006; April 1, 2008; _____

General Authority: NDCC 39-03.1-06

Law Implemented: NDCC 39-03.1-30

71-05-04-09. Employer purchase of service credit or sick leave program.

An employer may elect to purchase up to five years of service credit for an employee and purchase an employee's unused sick leave that meets the requirements of section 71-02-03-08. Before offering a purchase program to its employees the employer must create a program and document the program in writing and submit a copy to the public employees retirement system. The governing authority of the employer shall also submit to the executive director of the public employees retirement system a letter indicating:

1. The program meets all the requirements of the North Dakota Century Code.
2. The program meets all applicable federal requirements.
3. The employer agrees to remit to the public employees retirement system a lump sum payment of the cost of the purchase upon being billed.
4. The employer has not given the employee the option of a cash payment in lieu of the employer purchase.
5. The employer shall clearly specify who is eligible for the program and indicate if the program is intended to be permanent or will be for a specific time period only.
6. The employer agrees that all purchases for service credit will be based upon actuarial cost as determined by the public employees retirement system. The employer also agrees that all purchases will be completed no later than the fifteenth day of the month following the month of the employee's termination or sixty days from the date the employer and employee agree to the purchase, whichever comes first.
7. The employer agrees that in offering such a program the employer will direct each employee interested in the program to first apply to the employer's authorized agent who will then certify the eligibility of the member, the amount of service credit to be purchased, and send such certification to the public employees retirement system. The employer also agrees that the employer's authorized agent will coordinate the program, authorize all purchases in writing to the public employees retirement system, and be the focal point for communications between the public employees retirement system, the employer, and the employee.
8. The employer agrees that for each employee certified to be eligible to have service credit purchased, the employer will first obtain from the employee authorization for the public employees retirement system to share confidential information with the employer.
9. The employer certifies that in offering the program, the employer is making it available to all employees or a specified class of employees on a nondiscriminatory basis.
10. The employer agrees to provide information and policies pertaining to the employer purchase program pursuant to North Dakota Century Code section 39-03.1-28.

When an employer files the above letter with the public employees retirement system, it may offer the program to its employees. An employer may terminate this program at any time upon the governing authority of the employer sending to the executive director of the public employees retirement system a letter indicating when the program is to be canceled.

History: Effective May 1, 2004; amended effective July 1, 2006; April 1, 2008; July 1, 2010.

General Authority: NDCC 39-03.1-06

Law Implemented: NDCC 39-03.1-10.2

**ARTICLE 71-08
DEFINED CONTRIBUTION RETIREMENT PLAN**

Chapter

| | |
|-----------------|---|
| 71-08-01 | Election and Transfer |
| 71-08-02 | Membership in Defined Contribution Retirement Plan |
| 71-08-03 | Disability |
| 71-08-04 | Qualified Domestic Relations Order |
| 71-08-05 | Review Procedure |
| 71-08-06 | Uniformed Services Employment and Reemployment Rights Act |
| 71-08-07 | Additional Contributions |
| 71-08-08 | Temporary Employee Participation |
| 71-08-09 | Return to Service – Retired Member |
| <u>71-08-10</u> | <u>Permanent Employee Participation</u> |
| <u>71-08-11</u> | <u>Contributions</u> |

**CHAPTER 71-08-01
ELECTION AND TRANSFER**

Section

| | |
|-------------|--|
| 71-08-01-01 | Ability to Elect to Transfer Into the Defined Contribution Retirement Plan <u>[Repealed]</u> |
| 71-08-01-02 | Vesting in Transferred Accumulated Fund Balance |
| 71-08-01-03 | Spousal Signature Requirements |
| 71-08-01-04 | Transfer of Members With Qualified Domestic Relations Order on Their Accounts |
| 71-08-01-05 | Transfer Amount of Persons Transferring Into Eligible Employment After December 31, 1999 |
| 71-08-01-06 | Public Employees Retirement System Retirees Not Eligible to Transfer Upon Return to work |
| 71-08-01-07 | Late Election Opportunity <u>[Repealed]</u> |
| 71-08-01-08 | Transfer of Funds |

Section 71-08-01-01 is repealed.

71-08-01-01. Ability to elect to transfer into the defined contribution retirement plan.

~~Once a member of the public employees retirement system under North Dakota Century Code chapter 54-52 has declined or failed to elect to transfer into the defined contribution retirement plan, that member may not later elect to transfer unless one of the following applies:~~

- ~~1. The member is appointed or elected to a new office that is eligible for the defined contribution retirement plan.~~
- ~~2. The member leaves eligible employment and later reacquires eligible employment.~~

~~**History:** Effective July 1, 2000. Repealed effective _____~~

~~**General Authority:** NDCC 28-32-02(1)~~

~~**Law Implemented:** NDCC 54-52.6-02~~

71-08-01-02. Vesting in transferred accumulated fund balance.

Vesting in that portion of the accumulated fund balance attributable to the employer's contribution which is transferred from the defined benefit public employees retirement system pursuant to North Dakota Century Code section 54-52.6-03 will follow the same schedule provided in North Dakota Century Code section 54-52.6-10.

History: Effective July 1, 2000.

General Authority: NDCC 28-32-02(1)

Law Implemented: NDCC 54-52.6-03, 54-52.6-10

71-08-01-03. Spousal signature requirements.

For purposes of the spousal signature requirements of subsection 4 of North Dakota Century Code section 54-52.6-02 and North Dakota Century Code section 54-52.6-11, extenuating circumstances alleviating the requirement of a spouse's signature are only present if the board determines the spouse is unavailable for the entire election period or the member has a power of attorney over the spouse which would legally allow the member to sign for the spouse.

History: Effective July 1, 2000.

General Authority: NDCC 28-32-02(1)

Law Implemented: NDCC 54-52.6-02(4), 54-52.6-11

71-08-01-04. Transfer of members with qualified domestic relations orders on their accounts.

Members of the public employees retirement system under North Dakota Century Code chapter 54-52 who have a valid qualified domestic relations order on their account may only transfer to the defined contribution retirement plan if they obtain a new qualified domestic relations order from the applicable court. The account shall not be transferred unless both the participating member and the member's ex-spouse agree to transfer to the defined contribution retirement plan.

History: Effective July 1, 2000.

General Authority: NDCC 28-32-02(1)

Law Implemented: NDCC 54-52.6-12

Section 71-08-01-05 is amended as follows:

71-08-01-05. Transfer amount of persons transferring into eligible employment after December 31, 1999.

The amount the board shall transfer for persons beginning or transferring to eligible employment after December 31, 1999, and before January 1, 2025, shall equal the actual employer and employee contributions plus interest, as provided in subsection 2 of North Dakota Century Code section 54-52.6-03.

History: Effective July 1, 2000; _____

General Authority: NDCC ~~28-32-02(1)~~ 54-52-04

Law Implemented: NDCC 54-52.6-03

71-08-01-06. Public employees retirement system retirees not eligible to transfer upon return to work.

A member of the public employees retirement system defined benefit plan who has retired and received a retirement annuity and later returns to work in a position that is eligible for the defined contribution retirement plan is nonetheless ineligible to transfer into the defined contribution retirement plan and must remain a member of the public employees retirement system.

History: Effective July 1, 2000.

General Authority: NDCC 28-32-02(1)

Law Implemented: NDCC 54-52.6-02

71-08-01-07. Late election opportunity.

~~An eligible member who is not provided a timely opportunity to enroll in the defined contribution plan within the first six months of employment may be provided additional time to make an election if:~~

- ~~1. The executive director determines that the member was not given an election opportunity within the first six months of employment. The executive director shall then give the member a special enrollment opportunity of three months beginning from the date a new enrollment packet is mailed to the member.~~
- ~~2. The board determines that member was not given timely notice or the member was unable to make an election within the first six months. If the board determines that the member should have an additional election opportunity, the member shall have three months from the date a new enrollment packet is mailed to the member.~~

History: Effective April 1,
2002.~~Repealed Effective:~~

General Authority: NDCC 28-32-02(1)

Law Implemented: NDCC 54-52.6-02

71-08-01-08. Transfer of funds.

Pursuant to subdivision a of subsection 4 of North Dakota Century Code section 15-10-17, funds may be transferred on behalf of those persons who are eligible through their employment with the state board of higher education. The following requirements apply:

1. Applicant must file a completed application for the teachers' insurance and annuity association of America - college retirement equities fund.
2. Notice of termination and verification of teachers' insurance and annuity association of America - college retirement equities fund eligibility must be filed by either the applicant or appropriate payroll officer.
3. A participating member is eligible to transfer that person's accumulated balance in the plan upon becoming a former participating member.

History: Effective April 1, 2012.

General Authority: NDCC 15-10-17

Law Implemented: NDCC 15-10-17

CHAPTER 71-08-08 TEMPORARY EMPLOYEE PARTICIPATION

Section
71-08-08-01 Temporary Employee Participation

Section 71-08-08-01 is amended as follows:

71-08-08-01. Temporary employee participation.

For each eligible employee who elects to participate as such in the defined contribution plan, the following applies.

1. Aa temporary employee hired before January 1, 2025, must submit a completed participation agreement within six months of the date of hire as a temporary employee or within six months of a change in status from a permanent to temporary position. If no application is made and filed with the office, an irrevocable waiver of participation will occur for as long as the employee is in temporary status.
2. Contributions for temporary employees must be submitted no later than the sixth working day of the month for the previous month's salary.
3. Delinquent payments of over thirty days, for reasons other than leave of absence or seasonal employment, will result in termination of eligibility to participate as a temporary member.
4. Upon taking a refund, future participation as a temporary member is waived.
5. A member may not participate as both a permanent and a temporary member. Permanent employment has precedence.
6. All temporary employee contributions shall be made on an after-tax basis. An employer shall not enter into a pick-up arrangement under IRC 414(h) with any temporary employee.
7. A temporary employee first employed after December 31, 2024, may elect, within one hundred eighty days of beginning employment, to participate in the defined contribution retirement plan under this chapter. If no application is made and filed with the office, a waiver of participation will occur for as long as the employee is in temporary employee status. Monthly, the temporary employee shall contribute an amount equal to nine and twenty-six hundredths percent times the temporary employee's present monthly salary, and may elect to contribute up to an additional one, two, three, four, five or six percent. The election to contribute an additional percent is a lifetime election and will continue for as long as the temporary employee is employed by any participating employer.
8. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee. For a temporary employee that becomes a permanent employee, all provisions applicable to permanent employees shall apply upon eligibility as a permanent employee.

History: Effective July 1, 2006; _____

General Authority: NDCC 54-52-04, 54-52.6

Law Implemented: NDCC 54-52-02.9, 54-52.6-09.6

Chapter 71-08-10 is created as follows:

CHAPTER 71-08-10
PERMANENT EMPLOYEE PARTICIPATION

Section

71-08-10-01 Permanent Employee Participation

71-08-10-02 Contribution

71-08-10-03 Designation of Beneficiary

71-08-10-01. Permanent employee participation.

1. Under this chapter "eligible employee" means a permanent employee who:
 - a. Meets all the eligibility requirements set by North Dakota Century Code chapter 54-52;
 - b. Is at least eighteen years of age;
 - c. Becomes a participating member after December 31, 2024; and
 - d. Is not eligible to participate in the law enforcement plan, judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative retirement program established under subsection 6 of North Dakota Century Code chapter 15-10-17 for employees of the board of higher education or state institutions under the jurisdiction of the board of higher education.
2. Effective January 1, 2025, the public employees retirement system defined benefit main plan maintained for employees is closed to new eligible employees. However, an employee who first becomes a participating or deferred member under North Dakota Century Code chapter 54-52 before January 1, 2025, remains in the defined benefit retirement plan under North Dakota Century Code chapter 54-52, regardless of being rehired after December 31, 2024.
3. Except as otherwise provided under this section, effective January 1, 2025, an eligible employee who begins employment with an employer as defined under North Dakota Century Code chapter 54-52-01(6) shall participate in the defined contribution retirement plan under North Dakota Century Code chapter 54-52.6 as provided under North Dakota Century Code chapter 54-52.6-02.1.
4. This section does not impact an employee to the extent the employee is a participating member in one or more of the following enumerated plans: law enforcement plan, judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative retirement program established under subsection 6 of North Dakota Century Code chapter 15-10-17 for employees of the board of higher education or state institutions under the jurisdiction of the board of higher education.
 - a. A participating or deferred member in the defined contribution retirement plan under North Dakota Century Code chapter 54-52.6 who becomes eligible to participate in a plan enumerated under subsection 4 shall cease participation in the defined contribution retirement plan under North Dakota Century Code chapter 54-52.6 and commence participation in the retirement plan enumerated under this subsection.
 - b. Unless subsection 2 applies, a participating member of a retirement plan enumerated under subsection 4 who ceases participation in that plan and becomes an eligible employee under the defined contribution retirement plan under North Dakota Century Code chapter 54-52.6

shall participate in the defined contribution retirement plan under North Dakota Century Code chapter 54-52.6.

5. An eligible employee must be enrolled in the plan within the first thirty days of employment.

History: Effective January 1, 2025

General Authority: NDCC 54-52-04, 54-52-02.15

Law Implemented: NDCC 54-52-02.15, 54-52.6-09

71-08-10-02. Contribution.

1. A participating member who first joined the defined contribution retirement plan under North Dakota Century Code chapter 54-52.6 after December 31, 2024, except for an employee who elects to participate in the defined contribution retirement plan under North Dakota Century Code section 54-52.6-02.2, shall contribute monthly four percent of the monthly salary or wage paid to the participating member. In addition, the participating member may elect, within thirty days of beginning employment, to contribute monthly to the defined contribution retirement plan under North Dakota Century Code chapter 54-52.6-up to an additional three percent of the monthly salary or wage paid to the participating member. All additional contributions shall be in whole percentages.
2. A participating member's election for additional contributions under subsection 1 is a one-time, irrevocable election as long as the individual is a participating member with any participating employer.

History: Effective January 1, 2025

General Authority: NDCC 54-52-04, IRC 414(h)(2), Rev. Rul. 2006-43

Law Implemented: NDCC 54-52-02.15, 54-52.6-09

71-08-10-03. Designation of beneficiary.

A member may designate a beneficiary or beneficiaries by filing such designation with the office. A member shall have the right to change the member's designation of beneficiary without the consent of the beneficiary, but no such change shall be effective or binding unless it is received by the office prior to the death of the member. If a vested, married member designates a beneficiary other than or in addition to a spouse, the member's spouse's consent must be obtained before benefits can be paid other than to the member's spouse. For the purpose of this section, "member" shall mean a participating member, a deferred member, or a retiree.

History: Effective January 1, 2025

General Authority: NDCC 54-52-04, NDCC 54-52.6-11

Law Implemented: NDCC 54-52-02.15, 54-52.6-09, NDCC 30.1-05-02

Chapter 71-08-11 is created as follows:

CHAPTER 71-08-11
CONTRIBUTIONS

Section

| | |
|--------------------|--|
| <u>71-08-11-01</u> | <u>Adjustment for bonuses, profit sharing, and contributions paid in a month other than earned</u> |
| <u>71-08-11-02</u> | <u>Basis for calculation contributions – Salary reduction – Salary deferral arrangements</u> |
| <u>71-08-11-03</u> | <u>Employer payment of employee contributions</u> |
| <u>71-08-11-04</u> | <u>Retirement contributions for individuals working less than forty-hour workweek</u> |
| <u>71-08-11-05</u> | <u>Individual employee incentive payments</u> |
| <u>71-08-11-06</u> | <u>Contributions transferred from defined benefit retirement plan</u> |
| <u>71-08-11-07</u> | <u>Employer paid additional contribution for transferees</u> |
| <u>71-08-11-08</u> | <u>Employer obligations; employee eligibility</u> |

71-08-11-01. Adjustment for bonuses, profit sharing, and contributions paid in a month other than month earned.

Adjustments for the following must be made for all participating members:

1. Participating employers shall report bonuses or profit-sharing amounts paid when remitting the contribution associated with the bonus. Recruitment and retention bonuses paid pursuant to North Dakota Century Code section 54-06-31 are not eligible for consideration as salary and no contributions associated with those bonuses shall be submitted.
2. Bonuses or profit-sharing amounts may not be submitted to the public employees retirement system for any month other than the month the amount is paid to the participating employer.

History: Effective January 1, 2025

General Authority: NDCC 54-52-04, 54-52.6-01(8)

Law Implemented: NDCC 54-52.6-01, 54-52.6-02

71-08-11-02. Basis for calculating contributions - Salary reduction - Salary deferral arrangements.

1. Amounts deducted from a participating member's salary at the participating member's option to a qualified section 125 cafeteria plan, 401(k) plan, 403(b) plan, or 457 plan are part of wages or salary when calculating retirement contributions.
2. Employee contributions paid by the employer under IRC 414(h) pursuant to a salary reduction agreement do not reduce wages or salary when calculating retirement contributions.
3. Amounts contributed to a qualified section 125 cafeteria plan, 401(k) plan, 403(b) plan, or 457 plan by the employer are not part of wages or salary when calculating retirement contributions.

History: Effective January 1, 2025

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52.6-01, 54-52.6-02

71-08-11-03. Employer payment of employee contributions.

1. A written election submitted under subsection 3 of North Dakota Century Code section 54-52.6-09 shall be reported to the board a minimum of thirty-one days prior to the effective date.

2. An employer may not discriminate in its contributions to eligible employees within the same plan under North Dakota Century Code section 54-52.6-09.

History: Effective January 1, 2025

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52.6-09

71-08-11-04. Retirement contributions for individuals working less than a forty-hour workweek.

Retirement contributions must be made on wages paid to permanent employees who are regularly scheduled for less than forty hours per week but who work at least twenty hours per week during a twelve-month period.

History: Effective January 1, 2025

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52.6-09.6

71-08-11-05. Individual employee incentive payments.

Individual employee incentive payments received under North Dakota Century Code section 54-06-24 or similar programs are not considered to be salary and are not subject to retirement contributions.

History: Effective January 1, 2025

General Authority: NDCC 54-52-04, 54-52.6-01(8), 54-52.6-02

Law Implemented: NDCC 54-52.6-01, 54-52.6-02

71-08-11-06. Contributions transferred from defined benefit retirement plan.

1. The lump sum amount to be transferred from the defined benefit retirement plan under North Dakota Century Code section 54-52.6-02.2 and North Dakota Century Code section 54-52.6-03 based on the actuarial present value of the eligible employee's accumulated benefit obligation as of January 1, 2025, includes the employee contribution portion and the employer contribution portion.
2. The employee contribution portion of the actuarial present value of the eligible employee accumulated benefit obligation means the employee's direct contribution to the defined benefit retirement plan under North Dakota Century Code chapter 54-52 plus the interest on the employee's contributions in the defined benefit retirement plan.
3. The employer contribution portion of the actuarial present value of the eligible employee's accumulated benefit obligation means the lump sum amount transferred minus the employee share. The employee shall vest in the employer contribution under the provisions found in North Dakota Century Code section 54-52.6-10.

History: Effective January 1, 2025

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52.6-02.2, NDCC 54-52.6-03

71-08-11-07. Employer paid additional contribution for transferees.

For eligible employees who are employed by a state employer who transfer from the defined benefit plan to the defined contribution plan under North Dakota Century Code chapter 54-52.6, the eligible employee's state employer, on January 1 of each year an additional contribution is due, will make the additional contribution under North Dakota Century Code section 54-52.6-02.2(3) no later than January 15 of the year in which the additional contribution is required. Only eligible employees who are employed by a state employer at the time each additional contribution is required will receive the additional contribution.

History: Effective January 1, 2025

General Authority: NDCC 54-52.6-02

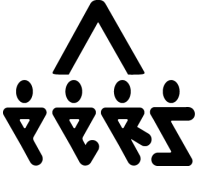
Law Implemented: NDCC 54-52.6-02.2, NDCC 54-52.6-03

SUMMARY OF PROPOSED ADMINISTRATIVE RULE CHANGES:

| Section | Description | Reason |
|---|--|---|
| 71-01-01-01(2). Organization of public employees retirement board. | Modify language regarding board membership to be consistent with 54-52-03. | Comply with state law, HB 1547 |
| 71-01-02-02(2). Eligible voters. | Remove reference to retirees being eligible to cast a vote for a retiree member on the board. | Comply with state law, HB 1547 |
| 71-01-02-03(2). Candidate eligibility. | Remove reference of eligible voter for retiree member of the board. | Comply with state law, HB 1547 |
| 71-01-02-04. Election notification. | Clarify that communication of active members of active member vacancy and election will be provided twenty-one calendar days prior to the due date to file nomination petitions. Remove reference of retiree board member notice. Add filing date for the nomination petition. | Comply with state law, HB 1547 |
| 71-01-02-05(1). Petition format. | Remove reference of nomination petition for the retiree member of the board. | Comply with state law, HB 1547 |
| 71-01-02-08(1). Election. | Remove reference to election of a retiree member of the board | Comply with state law, HB 1547 |
| 71-01-02-13. Election voting. | Clarify that canvassing rules apply if electronic ballots used. Also, remove reference of retiree candidate. | Clarification and to comply with state law, HB 1547 |
| 71-02-03-06. Conversion of sick leave. | Modify language regarding the calculation of unused sick leave related to the final average salary to be used. | Clarification |
| 71-02-05-03. Cancellation of disability benefits. | Add additional general authority. | Clarification |
| 71-02-08-01. Participation. | Repeal as employer groups will no longer be able to join the Defined Benefit Plan as of closure date. | Comply with state law, HB 1040 |
| 71-03-03-01. Enrollment. | Ensure consistency to 71-03-06-01 between state agency employees and political subdivision employees. | Clarification |
| 71-03-03-08. Continuation of life insurance after retirement. | Clarify eligibility to continue life insurance after retirement and that individual must have continuous coverage as they transition from active employment to retirement. | Clarification |
| 71-03-05-01. Premium billing. | Simplify language to reference NDCC 54-52.1. | Clarification |
| 71-03-06-01. Enrollment. | Ensure consistency to 71-03-03-01 between state agency employees and political subdivision employees. | Clarification |
| 71-03-06-08. Employee contribution. | Clarify employee's responsible for paying part of insurance premium must pay premium to their employer. | Clarification |

| Section | Description | Reason |
|---|--|---|
| 71-04-01-01. Definitions. | Updates number of members on board to eleven and adds definition of wages and salary for 457 plan to be consistent with other retirement definitions. | Comply with state law and clarification, HB 1547 & HB 1040 |
| 71-04-03-01. Enrollment. | Allows employees to participate with up to three providers and for the deferral election to be filed with NDPERS office or with the Board's selected vendor. | Clarification |
| 71-04-03-03. Change in monthly deferral. | Allows deferral election to be filed with NDPERS office or with the Board's selected vendor. | Clarification |
| 71-05-02-06. Cancellation of disability benefit. | Clarifies interest accrual ends and benefit option factors to be used for normal retirement benefit for highway patrol members. | Clarification |
| 71-05-04-08. Conversion of sick leave. | Modify language for Highway Patrol Retirement System regarding the calculation of unused sick leave related to the final average salary to be used. | Clarification |
| 71-08-01-01. Ability to elect to transfer into the defined contribution plan. | Repeal due to special enrollment window outlined in HB 1040 for state employees with no more than 5 years of service. | Comply with state law, HB 1040 |
| 71-08-01-05. Transfer amount of persons transferring into eligible employment after December 31, 1999. | Add clarification that calculation identified in rule expires as of closure date due to different calculation for special window outlined in HB 1040. | Comply with state law, HB 1040 |
| 71-08-01-07. Late election opportunity. | Repeal as late election opportunities are no longer applicable. | Comply with state law, HB 1040 |
| 71-08-08-01. Temporary employee participation. | Add language regarding temporary participation after defined benefit plan closure to clarify new temporary employee must participate in new defined contribution. | Comply with state law, HB 1040 |
| 71-08-10-01. Permanent employee participation. | Add new section to rules related to permanent employee participation and allow NDPERS to auto enroll eligible employees. | Comply with state law, HB 1040 and IRC requirements related to governmental 401(a) plans and contribution elections |
| 71-08-10-02. Contribution. | Add new section to specify additional contribution requirements due to federal restrictions. | Comply with federal law |
| 71-08-10-03. Designation of beneficiary. | Add new section clarifying designation of beneficiary provisions. | Clarification |
| 71-08-11-01. Contributions. | Add new section regarding employer reporting requirements to be consistent with reporting between defined benefit plan and defined contribution plan members, specifically related to bonuses, calculating contributions, employer payment of employee contributions, reporting for individuals working less than a forty hour week and employee incentive payments. | Comply with state law, HB 1040 and clarification for consistency between plan administration |
| 71-08-11-02. Basis for calculating contributions – | Add new section regarding employer reporting requirements to be consistent with reporting between defined benefit plan and | Clarification for consistency between plan administration |

| Section | Description | Reason |
|---|--|---|
| salary reduction – salary deferral arrangements. | defined contribution plan members, specifically related to calculating contributions. | |
| 71-08-11-03. Employer payment of employee contributions. | Add new section regarding employer reporting requirements to be consistent with reporting between defined benefit plan and defined contribution plan members, specifically related to employer payment of employee contributions. | Clarification for consistency between plan administration |
| 71-08-11-04. Retirement contributions for individuals working less than a forty-hour workweek. | Add new section regarding employer reporting requirements to be consistent with reporting between defined benefit plan and defined contribution plan members, specifically related to reporting for individuals working less than a forty hour week. | Clarification for consistency between plan administration |
| 71-08-11-05. Individual employee incentive payments. | Add new section regarding employer reporting requirements to be consistent with reporting between defined benefit plan and defined contribution plan members, specifically related to employee incentive payments under NDCC 54-06-24. | Clarification for consistency between plan administration |
| 71-08-11-06. Contributions transferred from defined benefit retirement plan. | Add new section providing clarification regarding contributions transferred from the defined benefit plan to the defined contribution plan. | Comply with state law, HB 1040 |
| 71-08-11-07. Employer paid additional contribution for transferees. | Add new section for provisions of employer payment of additional contribution for eligible employees who elect to transfer from the defined benefit plan to the defined contribution plan under provisions of NDCC 54-52.6-02.2(3). | Comply with state law, HB 1040 |



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Public Employees Retirement System**
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Memorandum

TO: NDPERS Board

FROM: Shawna Piatz

DATE: September 10, 2024

SUBJECT: Audit Committee Minutes

Attached are the approved minutes from the May 13, 2024 Audit Committee meeting. The minutes may also be viewed on the NDPERS website at www.nd.gov/ndpers.

The next regular audit committee meeting is scheduled virtually and in person for November 4, 2024 at 3:00 pm. This is for your information.

Attachment

MEMORANDUM

TO: Audit Committee
Joe Morrissette
Adam Miller
Tyler Erickson
Nina Sand
Senator Dick Dever
Rebecca Fricke
Derrick Hohbein
Dean DePountis
Shannon Ennen

FROM: Shawna Piatz, Chief Audit Officer

DATE: Monday May 13, 2024

SUBJECT: **February 12, 2024 Audit Committee Meeting**

In Attendance:

Joe Morrissette
Senator Dick Dever
Adam Miller
Tyler Erickson
Nina Sand
Dean DePountis
Shawna Piatz
Shannon Ennen
Derrick Hohbein
Daniel Reichelt (Sanford)
Kim Haug (Sanford)

The meeting was called to order at 3:01 p.m. by Mr. Morrissette

I. Conflict of Interest Disclosure

- A. Conflict of interest disclosures concerning any of the agenda topics were considered. No conflicts of interest were disclosed.

II. Approval of prior Audit Committee Minutes

- A. The Audit Committee minutes from the prior Audit Committee meeting held on February 12, 2024 were examined. Senator Dever moved approval of the minutes. The motion was seconded by Mr. Miller. This was followed and approved by voice vote.

III. Internal Audit Reports

- A. Quarterly Audit Plan Status Report – Information was provided of the past quarter's activity February 1, 2024 through April 30, 2024. Internal Audit spent 37.6% of

their time on audit activities and 32.5% on consulting services. The remaining 29.9% of their time was spent on administrative items.

- B. Retirement Benefit Payment Status Report – Information was provided to the Audit Committee, which summarizes the accuracy percentages of the new monthly retirement benefit and refund payments. The report shows the number of new retirees or refunds each month, the total number of new retirees or refunds audited and whether issues identified were procedural, system or compliance issues.

As of May 1, 2024, 448 of the 1,023 new retirees or \$1,591,386 of the \$3,610,882 total gross benefits issued have been audited. The fiscal year-to-date internal calculation accuracy rate is 97.54% for FY 2024. The fiscal year-to-date compliance/other accuracy rate is 97.1% resulting in an overall accuracy rate of 94.64% for FY 2024.

As of May 1, 2024, 142 of the 2,283 or \$4,253,339 of the \$18,727,102 total gross refunds issued for FY 2024 were audited. The fiscal year-to-date internal calculation accuracy rate is 95.07% for FY 2024. The fiscal year-to-date compliance/other accuracy rate is 97.18% resulting in an overall accuracy rate of 92.25% for FY 2024.

- C. Sanford Claim Audit Report – Each year, ND PERS performs a review of a sample of medical and pharmacy claims from the Sanford health plan and the Humana Medicare Part-D prescription drug plan. A sample of 105 claims were selected for review and Internal Audit met virtually in March with Sanford and Humana staff to review the selections. There were seven observations which are discussed in more detail in the attached report. This information was provided to the Audit Committee.
- D. Benefit/Premium Adjustments Report – The quarterly benefit adjustment report was provided to the Audit Committee. The report is in several sections, each representing the type of correction made. The dollar amount and the number of errors has increased slightly over the last quarter but this is largely due to the increased availability of information obtained to be provided in this report and not due to an increase in the occurrence of over or under payments needed. There were 65 adjustments that were new this quarter and 23 previously reported adjustments remain outstanding. The new adjustments were largely due to the untimely notification of changes in membership status or information, system programming errors and processing errors.
- E. Outstanding Issues Status Report – The Outstanding Issues Status report has been updated to reflect new and outstanding issues as of April 2024. There were 24 existing recommendation with no change or no response and 12 new recommendations added to this report. The new and outstanding issues were reviewed and discussed.

IV. Administrative

- A. Audit Committee Charter Matrix Review - Per the Audit Committee charter, the Audit Committee is to “Confirm annually all responsibilities outlined in this charter have been carried out. Review and assess periodically the adequacy of the Committee charter, request Board approval for proposed changes, and ensure appropriate disclosure as

may be required by law or regulation.”

To meet this responsibility a matrix was developed to review against current practices to ensure that the audit committee is meeting its responsibilities. A summary was attached of the progress made and activities completed through April 2024 for The Audit Committee's review.

B. Internal Audit Charter Matrix Review – In order to confirm all responsibilities outlined in the Audit Committee Charter are carried out annually, a matrix was developed to review each objective quarterly and ensure that the Audit Committee is meeting its responsibilities. The matrix was reviewed and discussed for progress and activities completed through April 2024.

C. 2023 CAO Annual Performance Evaluation - ND PERS is in the process of completing annual performance reviews. The 2023 CAO annual performance evaluation, which includes a self-evaluation portion, and evaluations completed by the Executive Director and each of the Audit Committee members who chose to respond, has been completed and is attached for review, discussion, and approval.

A motion was made by Mr. Erickson to approve the average scores of the Audit Committee as the final evaluation score. This was seconded by Senator Dever. This was followed and approved by a voice vote.

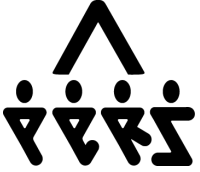
D. Report on Consultant Fees – According to the Audit Committee Charter, the Audit Committee should “Periodically review a report of all costs of and payments to the external financial statement auditor. The listing should separately disclose the costs of the financial statement audit, other attest projects, agreed-upon procedures and any non-audit services provided.” To accomplish this objective, a summary of the consulting, investment and administrative fees paid as of March 31, 2024 was provided and reviewed by the Committee.

E. Risk Management Reports – During a previous review of the Audit Committee's charter, it was determined that a Risk Management Policy for PERS would not be necessary because we have a Loss Control Committee in place to manage risk for the agency. The Audit Committee decided at the May 2022 Audit Committee meeting to review the Loss Control Committee minutes annually unless major areas of risk arise. The minutes will be presented each May in the future. A copy of the meeting minutes that have been approved by the Loss Control Committee over the previous year were provided to the Audit Committee.

F. Travel Expenditures – The Audit Committee reviewed the out-of-state travel expenditures incurred by the Executive Director for the period February 1, 2024 through April 30, 2024. There were no out-of-state travel expenditures for the Board during this time. This was provided for the Audit Committee's information.

G. CPE, Training and Webinars – A report on the training and education, including continuing professional education (CPE) webinars and seminars, Internal Audit participated in for the period February 1, 2024 through April 30, 2024 was provided to the committee for their review.

The meeting adjourned at 4:42 p.m. by Mr. Morrissette.



**North Dakota
Public Employees Retirement System**
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Bismarck, North Dakota 58502-1657

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Memorandum

TO: NDPERS Board

FROM: Derrick Hohbein

DATE: September 10, 2024

SUBJECT: Consultant Fees for the Quarter Ended June 2024

Attached is a quarterly report showing the consulting, investment, and administrative fees paid during the quarter ended June 2024.

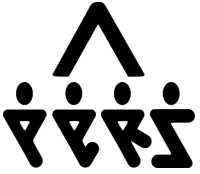
This is informational only.

Attachment

**North Dakota Public Employees Retirement System
Consulting/Investment/Administrative Fees
For the Quarter ended June 30, 2024**

Attachment

| <u>Program/Project</u> | <u>Fee Type</u> | <u>Apr-24</u> | <u>May-24</u> | <u>Jun-24</u> | <u>Fees Paid During The Quarter</u> | <u>Fees Paid Fiscal Year-To-Date</u> | <u>Last Calendar Year-to-Date</u> |
|---|--|---------------|---------------|---------------|---|--|---------------------------------------|
| <u>Actuary/Consulting Fees:</u> | | | | | | | |
| <u>Insurance Plans:</u> | | | | | | | |
| Deloitte | Insurance Legislative Analysis | Time Charges | | | | - \$ | 32,419 |
| Deloitte | Health & Part D Claims Projections | Time Charges | | | | - \$ | - |
| Deloitte | Insurance Consulting | Time Charges | | | | 975 \$ | 13,488 |
| Buck Consulting | Life/Dental/Vision RFP | Fixed Fee | 5,000 | 5,000 | 5,000 | 15,000 \$ | 29,999 |
| | | | | | | 30,000 \$ | |
| <u>Deferred Compensation/Defined Contribution:</u> | | | | | | | |
| Callan & Associates | Asset Allocation & Liability Study | Fixed Fee | | | | - \$ | - |
| Callan & Associates | Investment Consultant Expenses | Fixed Fee | 13,208 | | | 13,208 \$ | 25,274 |
| Callan & Associates | Record Keeper Search | Fixed Fee | | | | - \$ | - |
| <u>Defined Benefit:</u> | | | | | | | |
| Gabriel Roeder Smith & Company | Retirement Actuarial Valuation | Fixed Fee | | | | - \$ | 26,000 |
| Gabriel Roeder Smith & Company | GASB 67/68 (Retirement) Valuation | Fixed Fee | | | | - \$ | 6,750 |
| Gabriel Roeder Smith & Company | Actuarial Factor Updates for 1040 | Fixed Fee | | | | - \$ | - |
| Gabriel Roeder Smith & Company | Retirement Legislation | Time Charges | 1,500 | 3,025 | 1,838 | 6,363 \$ | 83,710 |
| Gabriel Roeder Smith & Company | Retirement Consulting/Actuarial Analysis | Time Charges | 6,013 | 2,868 | 9,403 | 18,283 \$ | 7,830 |
| Mid Dakota Clinic | Retirement Disability Consultant | Time charges | | | | - \$ | - |
| <u>RHIC:</u> | | | | | | | |
| Gabriel Roeder Smith & Company | RHIC Actuarial Valuation | Fixed Fee | | | | - \$ | - |
| Gabriel Roeder Smith & Company | GASB 74/75 (RHIC) Valuation | Fixed Fee | | | | - \$ | 5,000 |
| Gabriel Roeder Smith & Company | RHIC | Time Charges | | | | - \$ | - |
| <u>All Plans:</u> | | | | | | | |
| Nexus | IT Consulting | Per Hour Fee | | | | - \$ | 31,200 |
| <u>Audit Fees:</u> | | | | | | | |
| UHY | Annual Audit Fee | Fixed Fee | | | | - \$ | 25,891 |
| <u>Legal Fees:</u> | | | | | | | |
| ND Attorney General | Legal Fees on All Plans | Time charges | 3,070 | 4,374 | 5,246 | 12,690 \$ | 18,802 |
| Ice Miller - Federal Tax Consultant | Legal Fees on All Plans | Time charges | 16,073 | 7,106 | 26,969 | 50,148 \$ | 18,644 |
| <u>Investment Fees:</u> | | | | | | | |
| SIB - Investment Fees | Retirement (DB) | % Allocation | 467,155 | 705,717 | 1,062,719 | 2,235,591 \$ | 3,796,823 |
| SIB - Investment Fees | Ret Health Credit | % Allocation | 2,298 | 3,631 | 140,183 | 146,112 \$ | 249,474 |
| SIB - Investment Fees | Insurance | % Allocation | 7,422 | 1,315 | 14,555 | 23,292 \$ | 27,774 |
| SIB - Investment Fees | Job Service | % Allocation | 1,090 | 1,680 | 70,281 | 73,051 \$ | 143,164 |
| SIB - Administrative Fees | Retirement (DB) | % Allocation | 62,551 | 95,557 | 71,748 | 229,856 \$ | 389,567 |
| <u>Administrative Fee:</u> | | | | | | | |
| Sanford Health Plan | Health Plan | Fixed fee | 1,265,750 | 1,265,983 | 1,269,769 | 3,801,502 \$ | 6,144,620 |



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Memorandum

TO: NDPERS Board

FROM: Rebecca

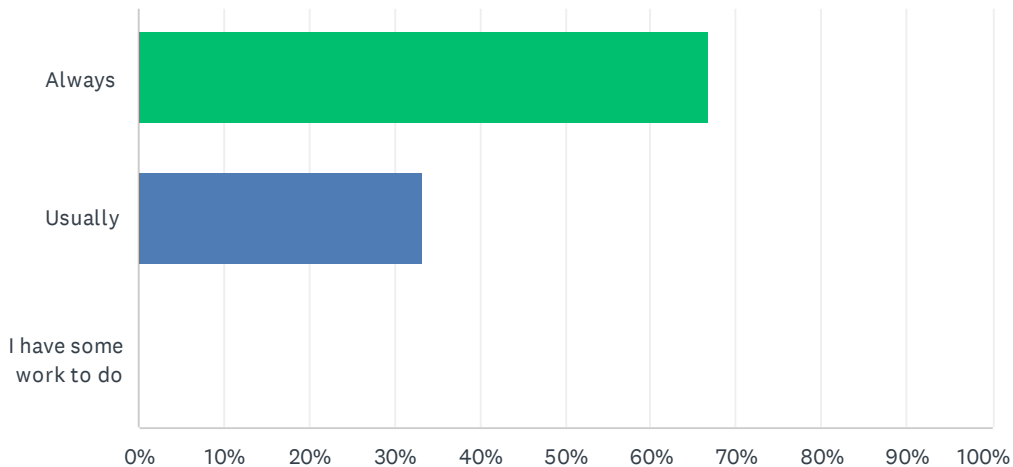
DATE: September 10, 2024

SUBJECT: Board Self-Evaluation Results

Attached are the results of the Board's annual self-evaluation. Please remember the purpose of this is to reflect on how each of you fulfills your own responsibility, and evaluate yourself to see if there are ways you as an individual and the Board as a whole can become better trustees.

Q1 I understand the authority that has been retained by the NDPERS Board and what duties have been delegated to staff.

Answered: 9 Skipped: 0

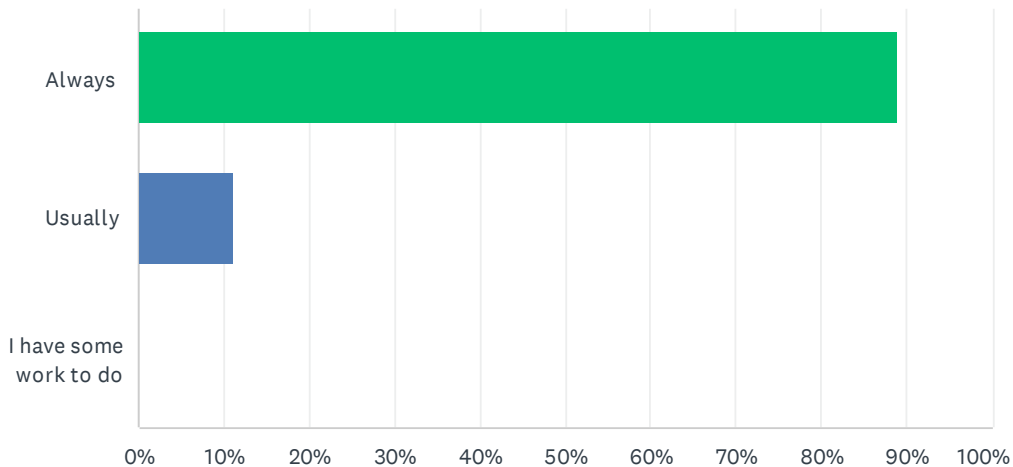


| ANSWER CHOICES | RESPONSES |
|------------------------|-----------|
| Always | 66.67% 6 |
| Usually | 33.33% 3 |
| I have some work to do | 0.00% 0 |
| TOTAL | 9 |

| # | PLEASE PROVIDE ANY SPECIFIC FEEDBACK REGARDING YOUR RATING. | DATE |
|---|---|------|
| | There are no responses. | |

Q2 I work with other Board members and staff in a fair, respectful and professional manner.

Answered: 9 Skipped: 0

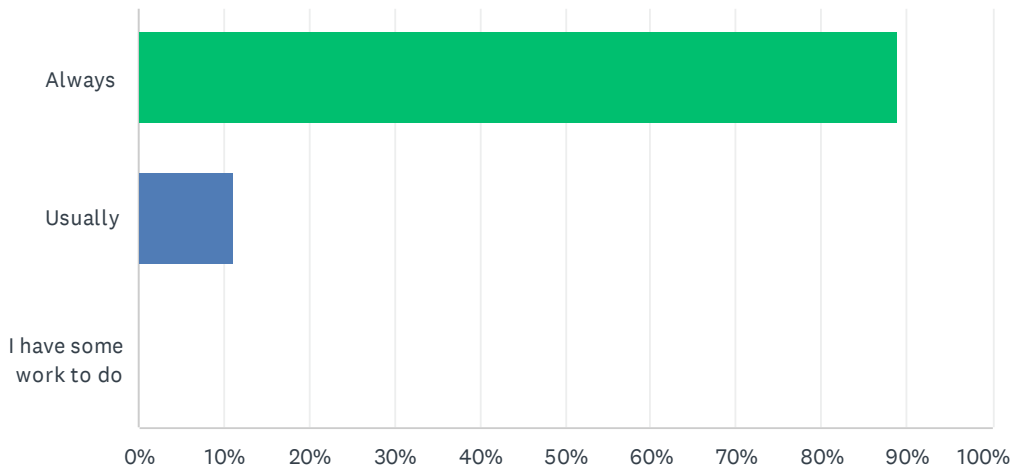


| ANSWER CHOICES | RESPONSES |
|------------------------|-----------|
| Always | 88.89% 8 |
| Usually | 11.11% 1 |
| I have some work to do | 0.00% 0 |
| TOTAL | 9 |

| # | PLEASE PROVIDE ANY SPECIFIC FEEDBACK REGARDING YOUR ANSWER. | DATE |
|---|---|-------------------|
| 1 | I feel I always do but this question needs both parties to agree on always. | 7/10/2024 3:48 PM |

Q3 I actively engage in Board meetings by contributing to the discussions in a meaningful and appropriate way and listening to others.

Answered: 9 Skipped: 0

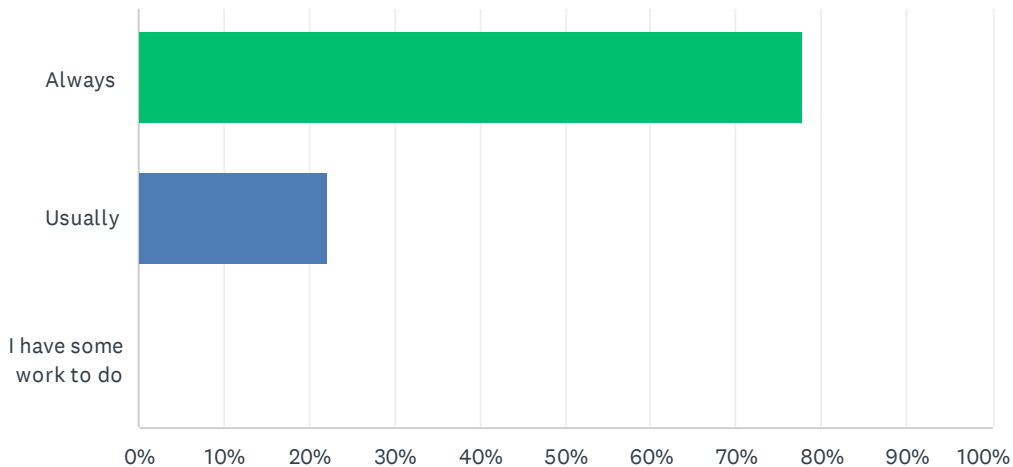


| ANSWER CHOICES | RESPONSES |
|------------------------|-----------|
| Always | 88.89% 8 |
| Usually | 11.11% 1 |
| I have some work to do | 0.00% 0 |
| TOTAL | 9 |

| # | PLEASE PROVIDE ANY SPECIFIC FEEDBACK REGARDING YOUR RATING. | DATE |
|---|---|------|
| | There are no responses. | |

Q4 I make an effort to become educated on any NDPERS program(s) that I do not understand.

Answered: 9 Skipped: 0

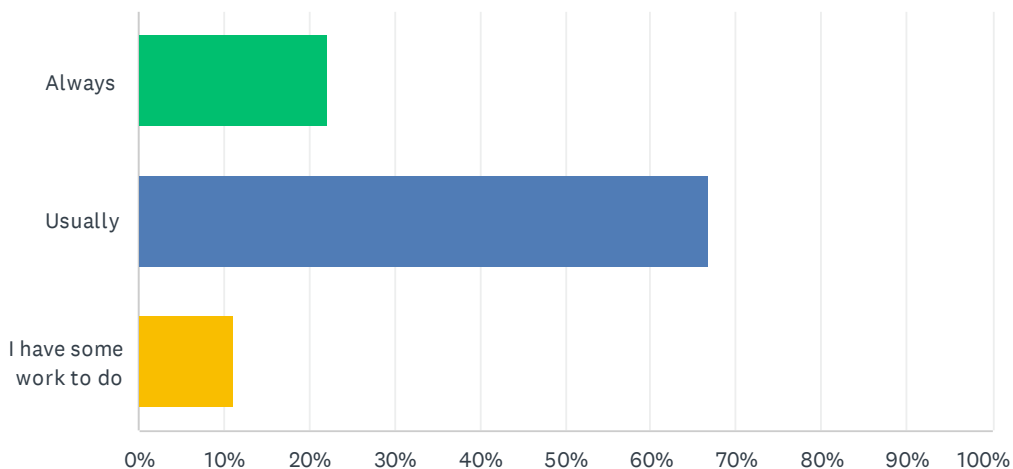


| ANSWER CHOICES | RESPONSES |
|------------------------|-----------|
| Always | 77.78% 7 |
| Usually | 22.22% 2 |
| I have some work to do | 0.00% 0 |
| TOTAL | 9 |

| # | PLEASE PROVIDE ANY SPECIFIC FEEDBACK REGARDING YOUR RATING. | DATE |
|---|---|------|
| | There are no responses. | |

Q5 I am comfortable with the amount of time I devote as a Board member.

Answered: 9 Skipped: 0

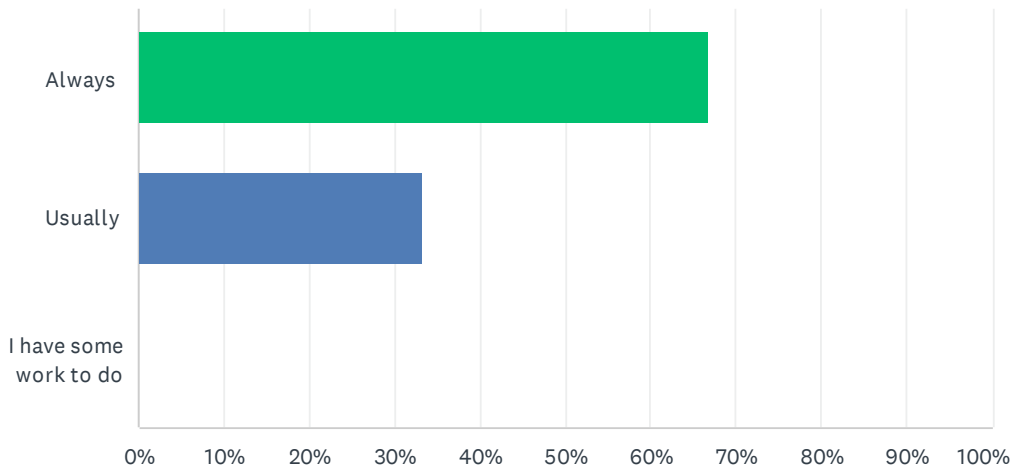


| ANSWER CHOICES | RESPONSES |
|------------------------|-----------|
| Always | 22.22% 2 |
| Usually | 66.67% 6 |
| I have some work to do | 11.11% 1 |
| TOTAL | 9 |

| # | PLEASE PROVIDE ANY SPECIFIC FEEDBACK REGARDING YOUR RATING. | DATE |
|---|---|------|
| | There are no responses. | |

Q6 I attend the Board and Sub-committee meetings I am expected to attend.

Answered: 9 Skipped: 0

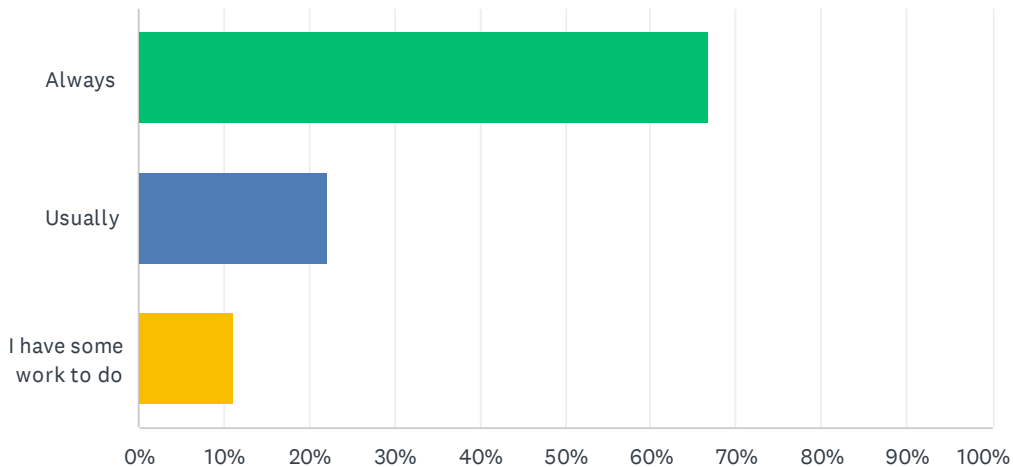


| ANSWER CHOICES | RESPONSES |
|------------------------|-----------|
| Always | 66.67% 6 |
| Usually | 33.33% 3 |
| I have some work to do | 0.00% 0 |
| TOTAL | 9 |

| # | PLEASE PROVIDE ANY SPECIFIC FEEDBACK REGARDING YOUR RATING. | DATE |
|---|---|-------------------|
| 1 | I have needed to miss some meetings for family matters, however I place a high priority on attending PERS meetings. | 7/10/2024 3:48 PM |

Q7 I am prepared for Board meetings by reading and considering the information in advance.

Answered: 9 Skipped: 0

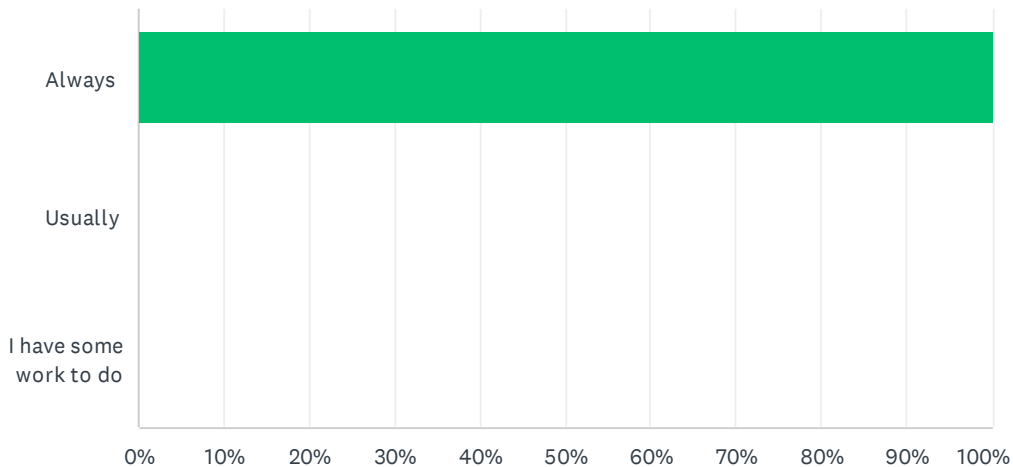


| ANSWER CHOICES | RESPONSES | |
|------------------------|-----------|----------|
| Always | 66.67% | 6 |
| Usually | 22.22% | 2 |
| I have some work to do | 11.11% | 1 |
| TOTAL | | 9 |

| # | PLEASE PROVIDE ANY SPECIFIC FEEDBACK REGARDING YOUR RATING. | DATE |
|---|---|------|
| | There are no responses. | |

Q8 I understand the NDPERS Board’s Code of Conduct requirements, abide by them, and avoid conflicts of interest.

Answered: 9 Skipped: 0

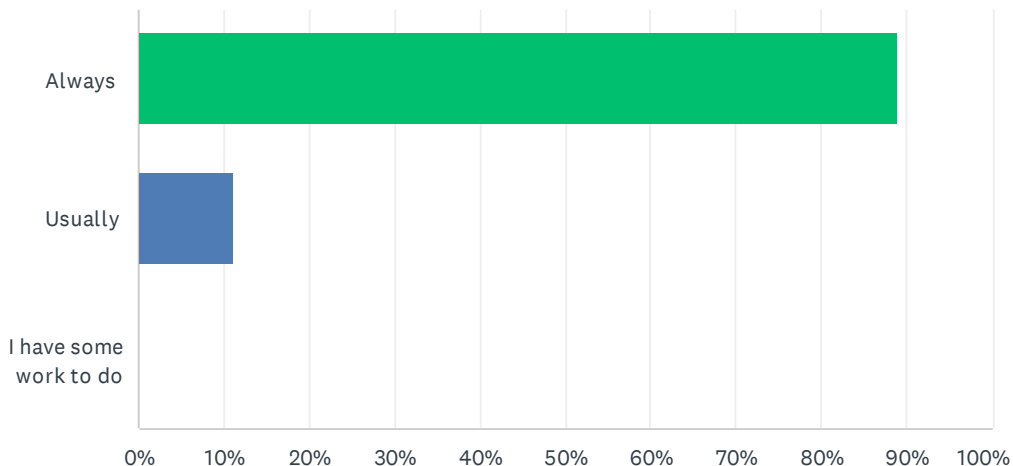


| ANSWER CHOICES | RESPONSES | |
|------------------------|-----------|----------|
| Always | 100.00% | 9 |
| Usually | 0.00% | 0 |
| I have some work to do | 0.00% | 0 |
| TOTAL | | 9 |

| # | PLEASE PROVIDE ANY SPECIFIC FEEDBACK REGARDING YOUR RATING. | DATE |
|---|---|------|
| | There are no responses. | |

Q9 I understand the legal duties and responsibilities required of me as a fiduciary, and act for the exclusive benefit of our members and beneficiaries.

Answered: 9 Skipped: 0

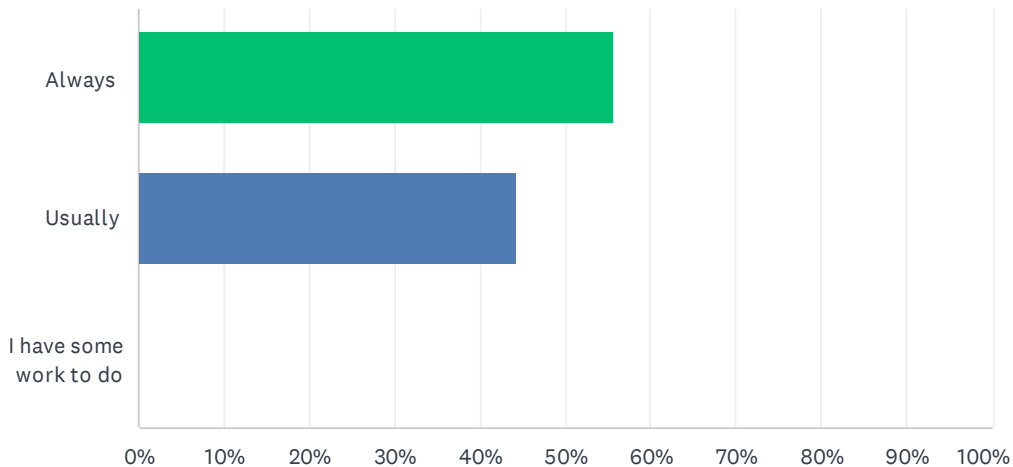


| ANSWER CHOICES | RESPONSES |
|------------------------|-----------|
| Always | 88.89% 8 |
| Usually | 11.11% 1 |
| I have some work to do | 0.00% 0 |
| TOTAL | 9 |

| # | PLEASE PROVIDE ANY SPECIFIC FEEDBACK REGARDING YOUR RATING. | DATE |
|---|---|------|
| | There are no responses. | |

Q10 I sufficiently understand all financial reports and seek clarification when necessary.

Answered: 9 Skipped: 0

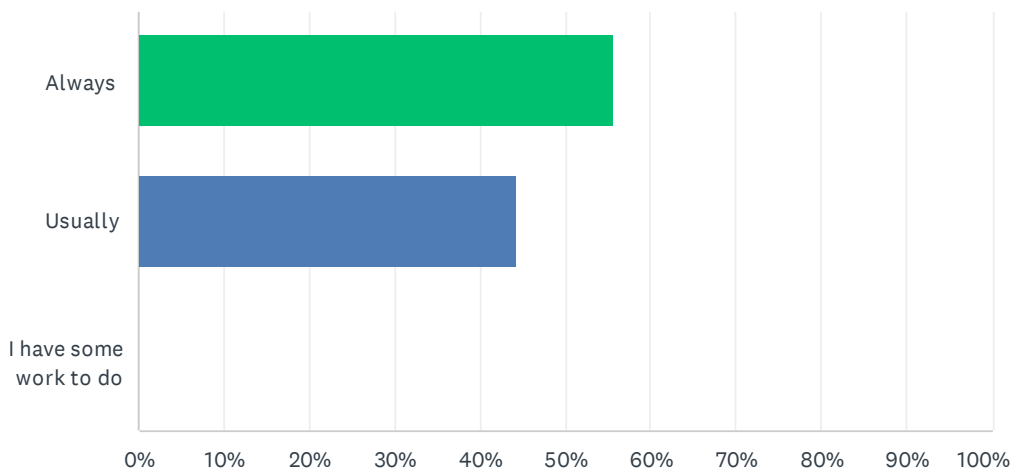


| ANSWER CHOICES | RESPONSES |
|------------------------|-----------|
| Always | 55.56% 5 |
| Usually | 44.44% 4 |
| I have some work to do | 0.00% 0 |
| TOTAL | 9 |

| # | PLEASE PROVIDE ANY SPECIFIC FEEDBACK REGARDING YOUR RATING. | DATE |
|---|--|-------------------|
| 1 | I feel I am getting a better grasp of the complexity of the PERS operation so not ready to claim always for this one, however the staff are always willing to provide clarification when I've asked. | 7/10/2024 3:48 PM |

Q11 I find my participation on the Board to be stimulating and rewarding.

Answered: 9 Skipped: 0

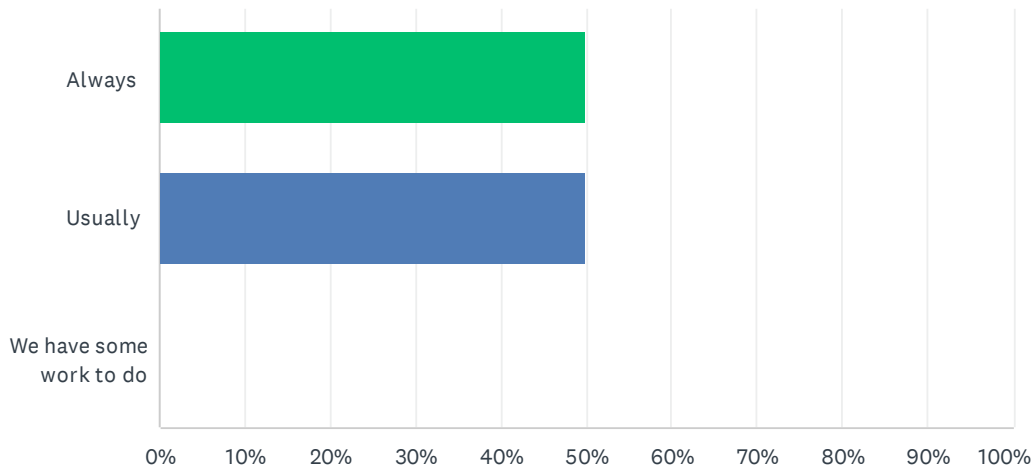


| ANSWER CHOICES | RESPONSES |
|------------------------|-----------|
| Always | 55.56% 5 |
| Usually | 44.44% 4 |
| I have some work to do | 0.00% 0 |
| TOTAL | 9 |

| # | PLEASE PROVIDE ANY SPECIFIC FEEDBACK REGARDING YOUR RATING. | DATE |
|---|---|------|
| | There are no responses. | |

Q12 Board members are consistently prepared for meetings and remain engaged.

Answered: 8 Skipped: 1

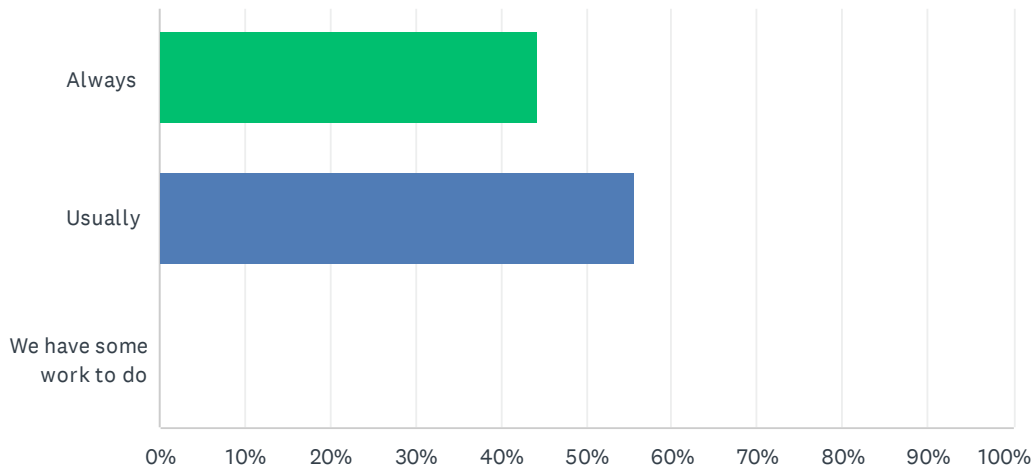


| ANSWER CHOICES | RESPONSES |
|-------------------------|-----------|
| Always | 50.00% 4 |
| Usually | 50.00% 4 |
| We have some work to do | 0.00% 0 |
| TOTAL | 8 |

| # | PLEASE PROVIDE ANY SPECIFIC FEEDBACK REGARDING YOUR RATING. | DATE |
|---|---|------|
| | There are no responses. | |

Q13 The Board is engaged and has healthy discussions on a topic before making a well-informed decision.

Answered: 9 Skipped: 0

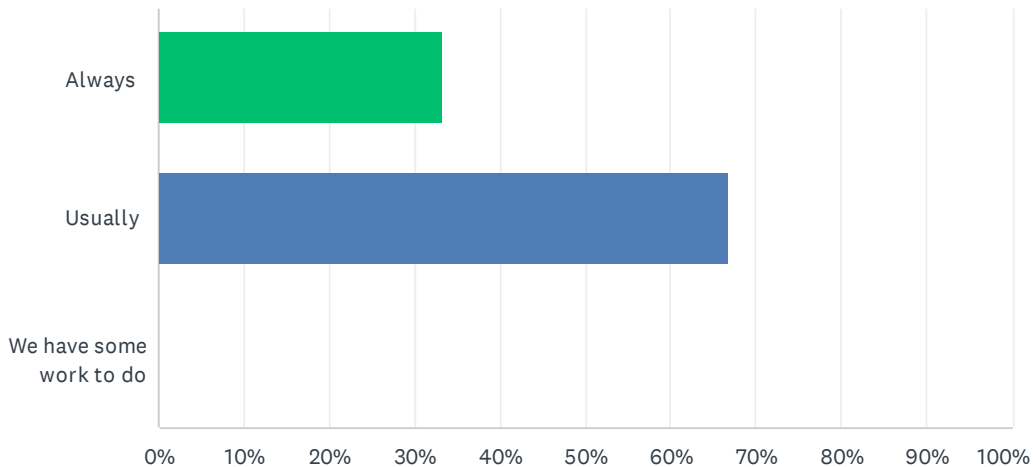


| ANSWER CHOICES | RESPONSES |
|-------------------------|-----------|
| Always | 44.44% 4 |
| Usually | 55.56% 5 |
| We have some work to do | 0.00% 0 |
| TOTAL | 9 |

| # | PLEASE PROVIDE ANY SPECIFIC FEEDBACK REGARDING YOUR RATING. | DATE |
|---|---|------|
| | There are no responses. | |

Q14 The Board recognizes the authority it has retained and what has been delegated to staff.

Answered: 9 Skipped: 0

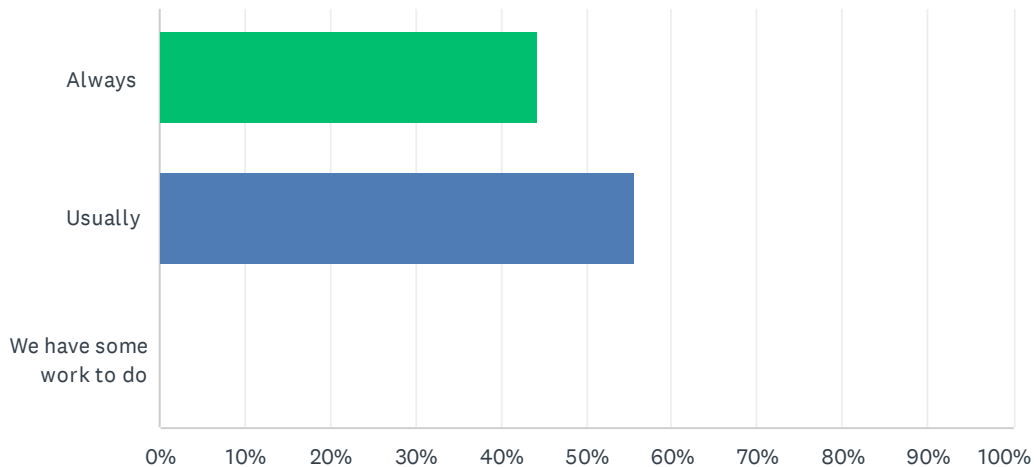


| ANSWER CHOICES | RESPONSES |
|-------------------------|-----------|
| Always | 33.33% 3 |
| Usually | 66.67% 6 |
| We have some work to do | 0.00% 0 |
| TOTAL | 9 |

| # | PLEASE PROVIDE ANY SPECIFIC FEEDBACK REGARDING YOUR RATING. | DATE |
|---|---|------|
| | There are no responses. | |

Q15 The Board is informed of issues and prepared to deal with acute situations.

Answered: 9 Skipped: 0

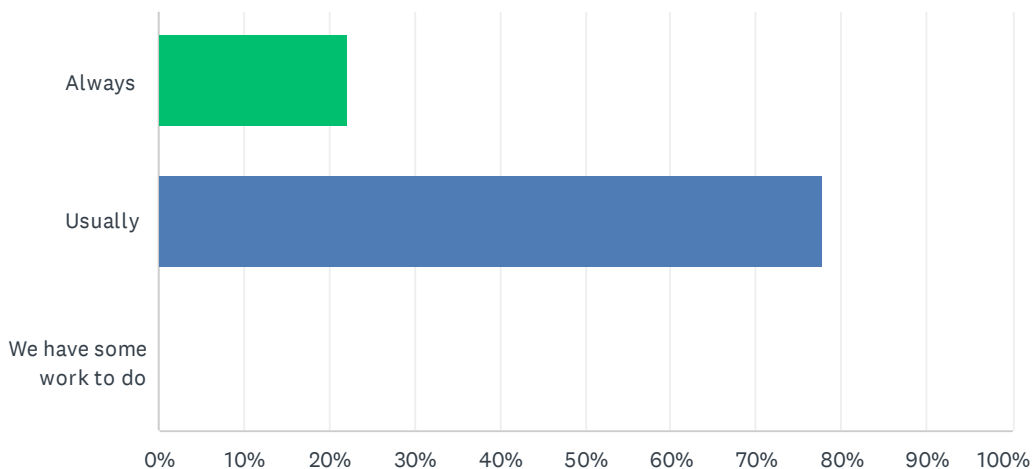


| ANSWER CHOICES | RESPONSES |
|-------------------------|-----------|
| Always | 44.44% 4 |
| Usually | 55.56% 5 |
| We have some work to do | 0.00% 0 |
| TOTAL | 9 |

| # | OTHER (PLEASE SPECIFY) | DATE |
|---|-------------------------|------|
| | There are no responses. | |

Q16 All Board members regularly attend Board and Committee meetings.

Answered: 9 Skipped: 0

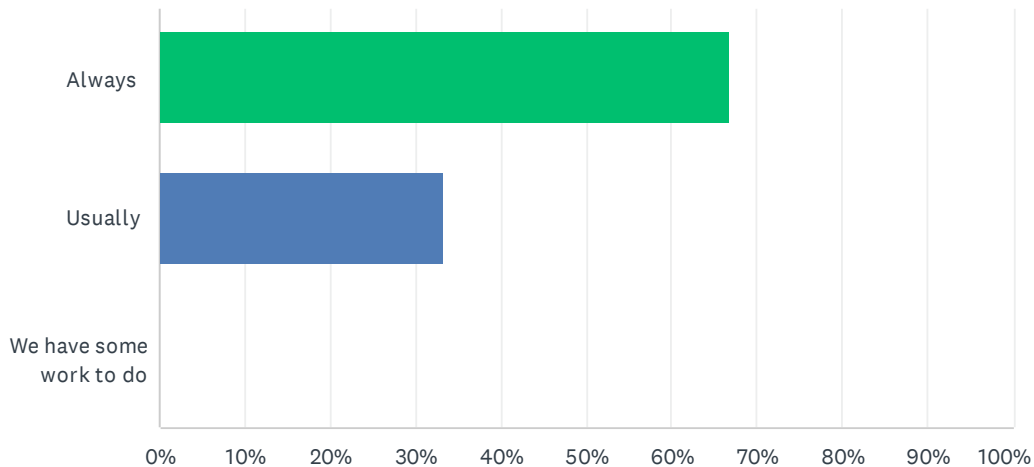


| ANSWER CHOICES | RESPONSES |
|-------------------------|-----------|
| Always | 22.22% 2 |
| Usually | 77.78% 7 |
| We have some work to do | 0.00% 0 |
| TOTAL | 9 |

| # | PLEASE PROVIDE ANY SPECIFIC FEEDBACK REGARDING YOUR RATING. | DATE |
|---|---|------|
| | There are no responses. | |

Q17 Board meetings are generally well-run and make good use of members' time.

Answered: 9 Skipped: 0

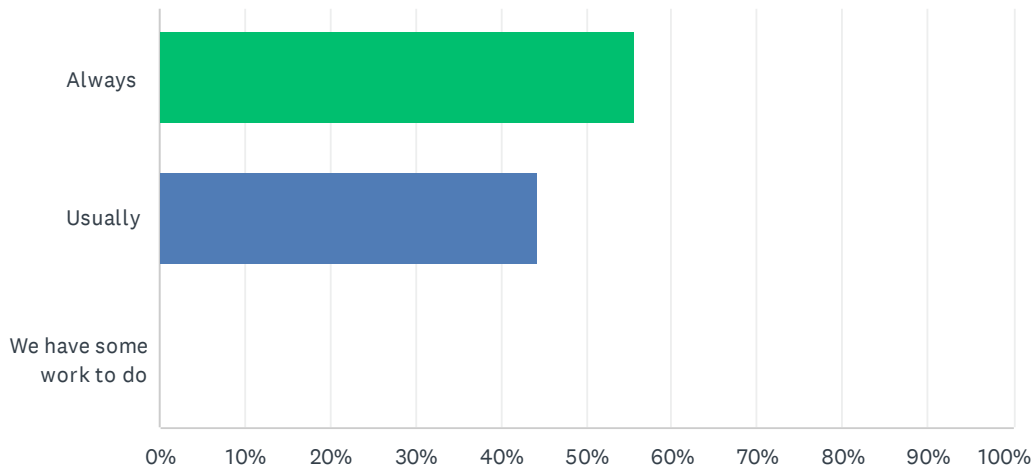


| ANSWER CHOICES | RESPONSES |
|-------------------------|-----------|
| Always | 66.67% 6 |
| Usually | 33.33% 3 |
| We have some work to do | 0.00% 0 |
| TOTAL | 9 |

| # | PLEASE PROVIDE ANY SPECIFIC FEEDBACK REGARDING YOUR RATING. | DATE |
|---|---|------|
| | There are no responses. | |

Q18 Board meetings have the right allocation of time between Board discussions and presentations.

Answered: 9 Skipped: 0

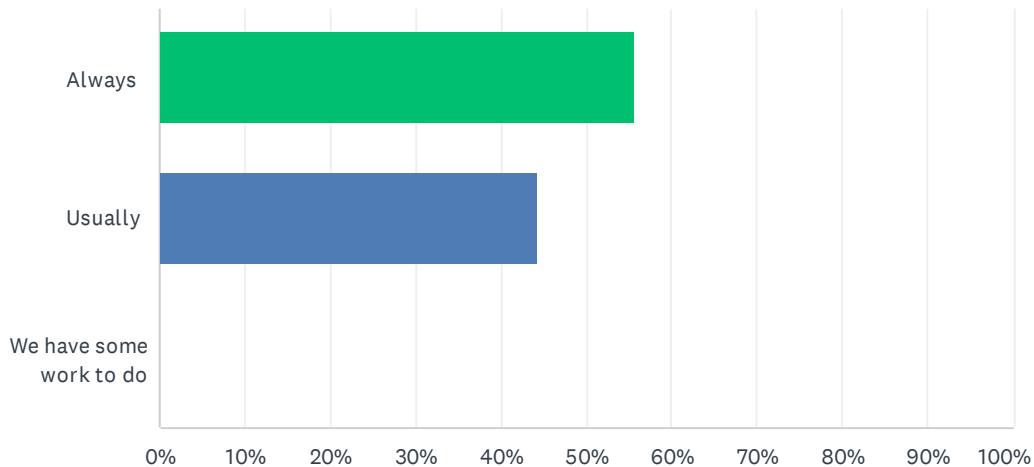


| ANSWER CHOICES | RESPONSES |
|-------------------------|-----------|
| Always | 55.56% 5 |
| Usually | 44.44% 4 |
| We have some work to do | 0.00% 0 |
| TOTAL | 9 |

| # | PLEASE PROVIDE ANY SPECIFIC FEEDBACK REGARDING YOUR RATING. | DATE |
|---|---|------|
| | There are no responses. | |

Q19 The Board receives useful information upon which it make its decisions.

Answered: 9 Skipped: 0



| ANSWER CHOICES | RESPONSES |
|-------------------------|-----------|
| Always | 55.56% 5 |
| Usually | 44.44% 4 |
| We have some work to do | 0.00% 0 |
| TOTAL | 9 |

| # | PLEASE PROVIDE ANY SPECIFIC FEEDBACK REGARDING YOUR RATING. | DATE |
|---|---|------|
| | There are no responses. | |

Q20 Are there any critical issues that you feel the Board should address?

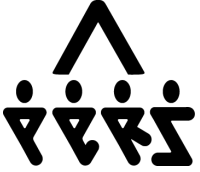
Answered: 4 Skipped: 5

| # | RESPONSES | DATE |
|---|--|--------------------|
| 1 | No. Most issues have been resolved with new leadership. | 7/24/2024 2:37 PM |
| 2 | Staff is doing a great job keeping on top of issues as they arise. | 7/16/2024 11:04 AM |
| 3 | No | 7/11/2024 2:24 PM |
| 4 | Not at this time. | 7/10/2024 3:53 PM |

Q21 Are there any areas in the Board self-evaluation that you would like to see addressed in the future?

Answered: 4 Skipped: 5

| # | RESPONSES | DATE |
|---|---|--------------------|
| 1 | N/A | 7/24/2024 2:37 PM |
| 2 | No areas that need to be addressed at this time. | 7/16/2024 11:04 AM |
| 3 | No | 7/11/2024 2:24 PM |
| 4 | No concerns - this is still a relatively young board considering the length of short time some of us have served. | 7/10/2024 3:53 PM |



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Memorandum

TO: NDPERS Board

FROM: Rebecca

DATE: September 10, 2024

SUBJECT: Contracts under \$10,000

Attached is a document that shows the contracts under \$10,000 that have been signed since the last update. Please let me know if you have any questions on any of these contracts.

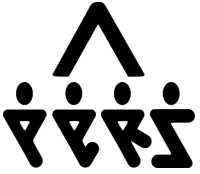
This topic is informational only.

All Contracts Signed During 2024:

| Vendor | Amount | Notes |
|--|-------------|--|
| CliftonLarsonAllen | \$ - | GASB 68 & 75 Representation Lettess |
| TIAA | \$ - | Termination notice due to recordkeeper award |
| BND | \$ 909.00 | Staff Years of Service Awards (Gift Cards) |
| City of Berthold | \$ - | Joined Life Insurance Plan 3/1/2024 |
| Mandaree Public Schools | \$ - | Joined Deferred Compensation Plan 3/1/2024 |
| Interoffice | \$ 1,179.44 | Office Chair |
| Emmons County | \$ - | Joined Public Safety Plan 4/1/2024 |
| City of Leeds | \$ - | Joined Defined Benefit Plan 4/1/2024 |
| City of Leeds | \$ - | Joined Deferred Compensation Plan 4/1/2024 |
| City of Emerado | \$ - | Joined Public Safety Plan 2/1/2024 |
| City of Riverdale | \$ - | Joined Defined Benefit Plan 4/1/2024 |
| City of Riverdale | \$ - | Joined Deferred Compensatoion Plan 4/1/2024 |
| Fireside | \$ 3,079.80 | 5 year total lease on multi-function printer |
| Advanced Business Methods | \$ 5,713.20 | 5 year total lease on document scanner |
| Eddy County | \$ - | Joined Life Insurance Plan 5/1/2024 |
| Galliard Fund Agreements | \$ - | Lowering the share class in the Galliard investments in the 401(a) & 457 Plans |
| Larimore Public School | \$ - | Joined Deferred Compensation Plan 1/1/2025 |
| TIAA Deconversion Guide | \$ - | Strategy guide with TIAA for deconverting to Empower |
| TIAA Letter of Direction | \$ - | Direction to pay out RMDs & scheduled installments early with TIAA prior to blackout |
| Empower Letter of Instruction | \$ - | Letter of instruction on brokerage account in 457 and 401(a) plans |
| Empower Brokerage Application | \$ - | Application on brokerage account in 457 and 401(a) plans |
| TIAA Custodial Agreement Terminations | \$ - | Termination of Custodial Agreements with TIAA for both the 457 and 401(a) Plans |
| TIAA Record Keeper Amendment | \$ - | Authorization for TIAA to pull recordkeeper fees through June 2024 |
| Beulah Public School # 27 | \$ - | Joined Deferred Compensation Plan 7/1/2024 |
| TIAA Brokerage Re-Registration Letter | \$ - | Authorizes the transfer of brokerage accouts on both the 457 and 401(a) Plans |
| Empower Brokerage Transfer Request Form | \$ - | Authorizes the transfer of brokerage accouts on both the 457 and 401(a) Plans |
| Empower Plan Asset Transfer & Investment Direction | \$ - | Directs the investments of brokerage accouts on both the 457 and 401(a) Plans |
| Inter Office | \$ 824.76 | Rising legs for standing desk |
| Advanced Business Methods | \$ 3,930.00 | 5 year total lease on multi-function printer |
| Steele County | \$ - | Joined Public Safety Plan 7/1/2024 |
| City of Grand Forks | \$ - | Joined Deferred Compensation Plan 9/1/2024 |
| Fargo Public Schools | \$ - | Joined Deferred Compensation Plan 1/1/2025 |
| Garrison Public Schools | \$ - | Joined Deferred Compensation Plan 7/1/2024 |
| Empower | \$ - | Staff setup on plan sponsor website |
| Oliver Mercer Special Education | \$ - | Joined Deferred Compensation Plan 7/1/2024 |
| Central Cass School District | \$ - | Joined Deferred Compensation Plan 7/1/2024 |
| Grand Forks Public Library | \$ - | Joined Deferred Compensation Plan 9/1/2024 |
| Tri-County Water District | \$ - | Joined Defined Benefit Plan and Deferred Compensation Plan 8/1/2024 |
| Inter-office | \$ 1,206.66 | Office Chair |
| Northern Cass School District | \$ - | Joined Deferred Compensation Plan 1/1/2025 |
| Empower | \$ - | 401(a) NDPERS Admin Fee Agreement |
| Oakes Public School District | \$ - | Joined Deferred Compensation Plan 1/1/2025 |

Contracts Signed Since Last Reported:

| Vendor | Amount | Notes |
|--|--------|---|
| Western Education Regional Cooperative | \$ - | Joined Defined Benefit Plan, Deferred Compensation Plan and Life Plan 10/1/2024 |
| Parshall School District | \$ - | Joined Defined Benefit Plan 9/1/2024 |



**North Dakota
Public Employees Retirement System**
1600 East Century Avenue, Suite 2 • PO Box 1657
Bismarck, North Dakota 58502-1657

Rebecca Fricke
Executive Director
(701) 328-3900
1-800-803-7377

Fax (701) 328-3920 Email ndpers-info@nd.gov Website www.ndpers.nd.gov

Memorandum

TO: NDPERS Board

FROM: Rebecca

DATE: September 10, 2024

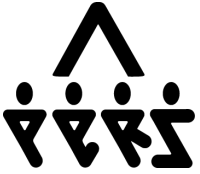
SUBJECT: Board Meetings During Legislative Session and Quorum Requirement

Staff would like to begin discussions with the Board regarding how to handle monthly Board meetings during the upcoming 2025 Legislative Session given the recently passed quorum requirement.

As a reminder, NDCC 54-52-03(6) requires that eight of the eleven members constitute a quorum. Six votes are necessary for resolution or action by the Board at any meeting.

Given there are four legislators on the Board who will have responsibilities during session, the Board may wish to consider whether staff should look for opportunities for the Board to meet outside of normal working hours or other options.

This item is informational and doesn't require any action of the Board at this time.



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Memorandum

TO: NDPERS Board

FROM: Rebecca Fricke

DATE: September 10, 2024

SUBJECT: Update Regarding Letter From Industrial Commission

This is a place-holder regarding a letter, Attachment 1, received from the North Dakota Industrial Commission that was last discussed at the February Board meeting. Attachment 2 is the response provided to the Industrial Commission following that meeting. Staff will provide information regarding recent updates and advice from our federal tax consultant, Ice Miller.



Industrial Commission of North Dakota

Doug Burgum
Governor

Drew H. Wrigley
Attorney General

Doug Goehring
Agriculture Commissioner

January 4, 2024

To: North Dakota Public Employees Retirement System Board of Trustees

Re: Inquiry related to NDPERS Defined Benefit Plan Over-Contributions, IRC 401(a)(17)

Dear Chair Kommer and NDPERS Board Members,

In January of 2023, the Office of the Industrial Commission was made aware of an issue related to the calculation of retirement benefits for at least two Industrial Commission agency executives and was advised to contact the NDPERS Board of Trustees. A letter was sent to the NDPERS Board on March 29, 2023.

The original letter included numerous questions to which the North Dakota Industrial Commission was seeking answers. A request was made of the NDPERS Board to facilitate the gathering and communication of information that would then be reported to the Industrial Commission, which is made up of the Governor, the Attorney General, and the Agriculture Commissioner.

It is my understanding that the Board directed then Executive Director Scott Miller to respond to the inquiry, and his responses were presented at the May 2023 NDPERS Board meeting and subsequently sent to me.

The Industrial Commission members found the responses to be incomplete and directed the Office of the Industrial Commission to contract for the services of an employment and labor law specialist to conduct an inquiry and assess the impact of NDPERS operational and procedural conditions on Industrial Commission agencies and executives, and to make a report to the Industrial Commission.

While the services of an outside consultant with employment and labor law expertise are being pursued, it is my hope that the NDPERS Board will revisit this matter and the questions that were presented, and the NDPERS team will conduct a thorough analysis and work in a spirit of cooperation to develop a comprehensive response to a matter that has had serious, negative consequences for Industrial Commission agency executives.

To convey the magnitude of the problem, beginning in January of 2023, one agency executive's estimated monthly benefit dropped by approximately \$6,000 per month. Understandably, such

a dramatic and unexpected reduction in projected monthly retirement benefits has been exceedingly disruptive for this executive and his family.

Based on records related to Special Assistant Attorneys General (SAAG) appointments, it appears that in the 4th quarter of 2021 into January of 2022, NDPERS contracted with numerous SAAGs to “provide the North Dakota Public Employees Retirement System with legal advice and counsel regarding federal tax code compliance, employee benefits, and qualifications”. Perhaps the results of this work can assist with the responses to the Industrial Commission’s questions, the development of an understanding of what transpired to create the current circumstances, and what retrospective and prospective solutions are appropriate.

I respectfully submit for your reconsideration the following summary of the matter and the questions to which the Industrial Commission seeks answers:

The Office of the Industrial Commission has received information indicating at least one former and one current Industrial Commission agency executive have been detrimentally impacted by procedures related to the administration of IRC Section 401(a)(17) annual compensation limits that affect plan contribution and distribution levels. The Industrial Commission would like to gain an understanding of the operational systems and/or procedural conditions that have led to a protracted period during which over-contributions to the NDPERS Defined Benefit Plan were allowed, resulting in the distribution of inaccurate information regarding retirement benefits to participants in the Plan, including inaccurate annual statements and inaccurate official benefit estimates, and potentially leading to current and future monetary damages.

The Office of the Industrial Commission respectfully requests answers to the following questions, which do not include any request for confidential financial information related to a specific plan participant:

- 1. When were the Section 401 (a)(17) annual compensation limits adopted and when, how, and with what frequency was this information communicated to state agency payroll administrators and participants that are enrolled in the NDPERS Defined Benefit Retirement Plan?**
- 2. When employees were provided the option to change from the NDPERS Defined Contribution Plan to the NDPERS Defined Benefit Plan, were the Section 401 (a)(17) annual compensation limits identified, communicated, and factored into the estimated benefit information provided to employees by NDPERS at that time?**
- 3. When employees have purchased years of service, have the Section 401 (a)(17) annual compensation limits been factored into the calculation of Final Average Salary that is used to determine the cost of the purchase by NDPERS?**
- 4. If years of service have been purchased based on inaccurate information and calculations that resulted in an overpayment by a plan participant, how have these transactions been corrected?**

5. **When, how, and with what frequency has NDPERS communicated with non-central payroll agencies regarding 401(a)(17) limits to facilitate systems and procedural compliance?**
6. **It would appear that in the first half of 2021, leading up to the retirement of a former Industrial Commission agency executive, NDPERS was aware of a procedure condition that could result in over-contributions to the Defined Benefit plan. What communication was provided to the Industrial Commission and the agency payroll administrator at that time regarding the 401(a)(17) limits, as the issue could reasonably be expected to continue to impact the employing Industrial Commission agency and the retiree's successor?**
7. **In general terms, how did NDPERS correct this issue for the executive that has retired?**
8. **To the extent over-contributions were repaid to the retired executive and the Industrial Commission agency, how and by whom were those calculations determined?**

The assistance of the NDPERS Board of Trustees in facilitating a thorough response to this inquiry would be greatly appreciated. The response and any questions can be directed to:

Karen Tyler, Interim Executive Director and Secretary, North Dakota Industrial Commission, ktyler@nd.gov, 328-4702.

Sincerely,



Karen Tyler
Interim Executive Director
North Dakota Industrial Commission



February 13, 2024

Organization ID: 040500

Karen Tyler
Interim Executive Director
Industrial Commission of North Dakota
600 E Boulevard Ave
Bismarck ND 58505-0840

Dear Interim Executive Director Tyler:

Thank you for your letter dated January 4th, 2024. We have also reviewed your questions originally received on March 29th, 2023, and the NDPERS response issued on May 15th, 2023. While we are unable to add any additional substance to the answers previously provided, we hope it may be helpful to provide additional context. We are also prevented from addressing individual members' information with employers, and hope that the information that follows is helpful to understanding the root cause of the discrepancy between the estimated and actual retirement benefit.

What is a highly compensated employee under 401(a)(17)?

Section 415 of the Internal Revenue Code ("Code") provides for dollar limitations on benefits and contributions under qualified retirement plans. Section 415(d) requires that the Secretary of the Treasury annually adjust these limits for cost-of-living increases. The Code provides that various other dollar amounts are to be adjusted at the same time and in the same manner as the dollar limitation of section 415(b)(1)(A). The 2022 annual compensation limit under section 401(a)(17) was increased from \$305,000 to \$330,000 for calendar year 2023.

How many highly compensated members participate in NDPERS retirement plans?

In 2023, there were ten highly compensated members subject to the 401(a)(17) limits within the NDPERS defined benefit plan population of just over 58,000 members.

How do payroll systems control for annual compensation limits under 401(a)(17)?

There are a number of payroll systems used by NDPERS' employers, and NDPERS has no authority nor responsibility for the accuracy of these payroll systems' specifications, including compliance with 401(a)(17) annual compensation limits. With the proper specifications, the payroll system should

automatically cease retirement contributions once the annual compensation limit is reached.

The State Mill & Elevator administers its own payroll and is thus responsible for ensuring compliance with all relevant local, state and federal laws, including compliance with 401(a)(17) limits.

As the result of NDPERS ongoing monthly audit of new retirees, NDPERS became aware that the payroll system used by the Mill and Elevator did not have the proper specifications in place to cease retirement contributions once the annual compensation limit was reached, resulting in a) over-contributions; b) inflated retirement benefit estimates for those members affected. Following an internal review to determine the members affected, the Mill and Elevator was notified of its error and was advised to implement the annual compensation limit.

How were retirement benefit estimates communicated to highly-compensated employees?

Prior to June 2023, all members could receive their retirement benefit estimates by:

- 1) Using the Member Self Service (MSS) portal
- 2) Requesting a benefit estimate from the NDPERS office
- 3) Reviewing their Annual Statement on the MSS portal, available late July/early August

Although the circumstance was not a result of error by NDPERS, and although not required, NDPERS made enhancements in June 2023 including:

- 1) Implementing additional restrictions on the ability for highly compensated members to generate a benefit estimate in Member Self Service (MSS) -- in these cases, the member must contact the NDPERS office to process benefit estimates and service purchase calculations.
- 2) Consulting with IRS and legal experts to implement further improvements to the manner in which compensation limits are managed
- 3) Ensuring that benefit estimates prepared by NDPERS staff are verified by a second party trained on the 401(a) 17 limits prior to the estimate being distributed to the member.
- 4) Confirming all final calculations of highly compensated employees prior to the individual being paid their initial benefit payment by Internal Audit.
- 5) Adding language to the Annual Statement for those individuals flagged as highly compensated individuals, that due to the IRS 401(a)(17) Annual Compensation Limits, the individual needs to contact NDPERS directly to receive projected monthly retirement benefit information.
- 6) Adding language to the Annual Statement for individuals that are not flagged as highly compensated individuals, that if their salary exceeds the annual IRS maximum limits under 401(a)(17), the benefit amount on the statement will be overstated.

- 7) Continuing to place warnings on all benefits estimates generated to clarify that they are estimates only and are subject to validation at the time you retire.

What is the process for member appeals?

While we are unable to comment on individual members' circumstances, members may appeal a denial of benefits per the provisions found in North Dakota Administrative Code 71-02-09. Specifically, NDAC 71-02-09-01 and 02 set out an appeal process. Generally, this review provides that a member has 30 days to file a written request to the executive director for a review of the decision by the PERS Board. The PERS board has 120 days to provide a written decision to the applicant. If the decision by the board is adverse, the applicant can file a request for a formal hearing pursuant to NDCC ch. 28-32, conducted by an administrative law judge. That decision may be appealed to district court.

To ensure accuracy of NDPERS records, staff will be performing an additional review of any highly compensated employee's purchase of service, if paid or in payment, to ensure they were appropriately charged and if overcharged, refunded.

NDPERS is firmly committed to serving its members with excellence. As a result we have invested in a number of discretionary improvements to enhance the member experience. We hope that this additional context is informative and helps address your concerns.

Regards,



Michelle Kommer
NDPERS Board Chair

X. MEMBER **EXECUTIVE SESSION

A. Insurance Appeal Case # 880

**Executive Session pursuant to N.D.C.C. §44-04-19.2, §44-04-19.2(1) and/or §54-52-26 to discuss confidential records or confidential member information.

Confidential material will be sent under separate cover.

X. MEMBER **EXECUTIVE SESSION

B. Unforeseeable Financial Hardship Case # 881

**Executive Session pursuant to N.D.C.C. §44-04-19.2, §44-04-19.2(1) and/or §54-52-26 to discuss confidential records or confidential member information.

Confidential material will be sent under separate cover.