

# NDPERS BOARD MEETING

## Agenda

**Bismarck Location:**  
ND Association of Counties  
1661 Capitol Way  
**Fargo Location:**  
BCBS, 4510 13<sup>th</sup> Ave SW

**September 17, 2009**

**Time: 8:30 AM**

### **I. MINUTES**

A. August 20, 2009

### **II. GROUP INSURANCE**

- A. Medica Presentation
- B. OPEB Valuation – Sparb (Information)
- C. Diabetes Management Program - Jayme (Information)
- D. BCBS Audit – Sparb (Information)
- E. Pharmacy Benefit Manager Audit – Sparb (Board Action)
- F. Medicare Part D Renewal – BCBS (Board Action)
- G. 2009 – 2011 Plan Projections – Sparb (Information)
- H. 2009 – 2011 Plan Design – Sparb (Information)
- I. Wellness Program – Sparb (Board Action)
- J. Tobacco Cessation Grant – Kathy (Information)
- K. Surplus Affordability Update – Bryan (Information)

### **III. RETIREMENT**

- A. Job Service Level Income Option – Kathy (Board Action)
- B. Retirement Benefits – Aaron (Board Action)
- C. Communication Plan – Sparb (Board Action)
- D. PERS Benefits Committee – Sparb (Information)

### **IV. DEFERRED COMPENSATION**

- A. Defined Contribution/Def. Comp RFP Review – Sparb (Board Action)
- B. Second Quarter Investment Report – Bryan (Information)

### **V. MISCELLANEOUS**

- A. October Meeting and December Retreat – Sparb (Board Action)
- B. Administrative Rules – Deb (Information)
- C. SIB Agenda

---

Any individual requiring an auxiliary aid or service must contact the NDPERS ADA Coordinator at 328-3900, at least 5 business days before the scheduled meeting.



**North Dakota  
Public Employees Retirement System**  
400 East Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502-1657

**Sparb Collins**  
Executive Director  
(701) 328-3900  
1-800-803-7377

FAX: (701) 328-3920 • EMAIL: [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov) • [www.nd.gov/ndpers](http://www.nd.gov/ndpers)

# Memorandum

**TO:** PERS Board  
**FROM:** Sparb  
**DATE:** September 10, 2009  
**SUBJECT:** Medica

Mark Halvorson will be at the next meeting to give you an update on Medica. He previously appeared before the Board at the July 2008 meeting. Medica is a health insurance company that is expanding its coverage into North Dakota and is the second largest carrier in our state.

The following information is from their website:

## **Medica Fact Sheet**

Medica is a non-profit corporation that includes a family of businesses: Medica Health Plans, Medica Health Plans of Wisconsin, Medica Insurance Company, Medica Self-Insured, Medica Health Management, LLC, and the Medica Foundation. Medica has the highest accreditation status, Excellent, from the National Committee for Quality Assurance (NCQA©) for its Minnesota Medicaid HMO plans and commercial health plans in Minnesota and North Dakota. Medica also has achieved Quality Plus Distinction for Physician and Hospital Quality from the NCQA.

## **History**

Medica was founded by physicians in 1975 as Physicians Health Plan. It was the first open-access health plan in the state. In 1991, PHP merged with Share to become Medica. And in 1994, Medica merged with HealthSpan to form Allina Health System, an integrated organization offering both health care coverage and medical services. Medica became an independent health plan in 2001.

## **Membership**

Medica provides health coverage to 1.3 million members. Its coverage is available to individuals, employers, third-party administrators and government programs in Minnesota and select counties in Wisconsin, North Dakota and South Dakota.

## **Provider Network**

Medica's broadest regional provider network includes 27,000 providers at more than 4,000 offices, clinics and hospitals in Minnesota, Wisconsin, North Dakota and South Dakota. More than 96% of Minnesota providers participate in this network. Medica also offers a health plan with coverage that features access to a large national network of nearly 500,000 providers and 5,000 hospitals. In addition, Medica offers several plans that feature smaller, cost-efficient networks.

## **Financials**

In 2006, Medica generated \$2.4 billion in revenue. Nearly 91 percent of fully insured premium revenue was used to pay health care expenses.

### **Community Involvement**

In 2007, Medica employees raised a grand total of \$277,345 to support local charities, social services and various health initiatives in the community. The Medica Foundation provides funding to community-based initiatives and programs that support the needs of Medica's customers and the greater community by improving their health and removing barriers to health care services. In 2006, the Medica Foundation provided \$1.5 million in grants to community-based and statewide projects that address behavioral health issues, disparities in health care, healthy living and health care literacy, prevention and preventive services and support for seniors. Medica Foundation Annual Reports are available online.

Medica also partners with several community projects designed to improve the health of all Minnesotans. These include:

*Minnesota Community Measurement* — organization offering quality comparisons among provider groups and clinics  
*Institute for Clinical Systems Improvement* — collaboration of health care organizations provides evidence-graded practical guidelines and technology assessment reports  
*Minnesota Health Information Exchange* – technology partnership that connects doctors, hospitals and clinics across health care systems so they can quickly access medical records needed for patient treatment during a medical emergency or for delivering routine care

### **Health Improvement**

Medica offers an integrated approach for employers and members to improve health and manage the costs of care. Health improvement programs provide personalized solutions that focus on the whole person, and include a comprehensive set of preventive, fitness, employee assistance, disease management and care coordination programs.

### **Number of Medica Employees**

1,150

### **Company Locations**

Headquarters:  
401 Carlson Parkway  
Minnetonka, MN 55305

Fulfillment Center:  
141 Cheshire Lane  
Plymouth, MN 55441

#### **Regional Offices:**

Duluth:  
130 W. Superior St.  
Duluth, MN 55802

Fargo:  
1711 Gold Drive South, Suite 210  
Fargo, ND 58103

Sioux Falls:  
110 South Phillips Ave., Suite 200  
Sioux Falls, SD, 57104

St. Cloud / Waite Park:  
878 2nd Street South, Suite 160  
Waite Park, MN 56387



**North Dakota**  
**Public Employees Retirement System**  
400 East Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502-1657

**Sparb Collins**  
Executive Director  
(701) 328-3900  
1-800-803-7377

---

FAX: (701) 328-3920 • EMAIL: [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov) • [www.nd.gov/ndpers](http://www.nd.gov/ndpers)

# Memorandum

**TO:** PERS Board  
**FROM:** Sparb  
**DATE:** September 10, 2009  
**SUBJECT:** OPEB Valuation

Attached for your review and information is the draft OPEB valuation for 2009 completed by Van Iwaarden Associates. Representatives from the firm will be at the next Board meeting to go over the report with you.

**NORTH DAKOTA  
PUBLIC EMPLOYEES RETIREMENT SYSTEM**

*July 1, 2009 Actuarial Valuation of  
Retiree Health Insurance Implicit Subsidy  
Under GASB Statement No. 45*

September 10, 2009

# North Dakota Public Employees Retirement System

July 1, 2009 Actuarial Valuation of Retiree Health Insurance Implicit Subsidy

## Table of Contents

	<u>Page</u>
<b><u>Summary</u></b>	
Introduction, Commentary and Actuarial Certification.....	1
Summary of Results.....	2
<b><u>Data</u></b>	
Valuation Census Data.....	3
<b><u>Accounting Information</u></b>	
Statement of Plan's Benefit Obligations.....	4
Historical Reconciliation of Net OPEB Obligation(NOO).....	5
Schedule of Funding Progress and Annual OPEB Cost.....	6
Current and Projected Reconciliation of Net OPEB Obligation.....	7
Projection of Retirees' and NDPERS' OPEB Cash Flows.....	8
<b><u>Other Information</u></b>	
Summary of Plan Provisions.....	9
Actuarial Assumptions.....	10
Accounting Requirements.....	15
Glossary of Selected Terms.....	17

September 10, 2009

*July 1, 2009 Actuarial Valuation of Retiree Health Insurance Implicit Subsidy*

**Introduction, Commentary and Actuarial Certification**

**Introduction:**

The North Dakota Public Employees Retirement System (NDPERS) has hired Van Iwaarden Associates to perform an actuarial valuation of NDPERS' Other Post-Employment Benefits (OPEBs). The 'other' refers to post-employment benefits other than pensions. Accounting for these OPEBs is now required under Government Accounting Standards Board Statement No. 45 (GASB 45).

This valuation has been prepared to present information for financial reporting purposes. It is important to recognize that calculations performed for other purposes may yield significantly different results.

In conducting the valuation, we have used:

- the provisions of the substantive plan(s) including: Medical in effect as of July 1, 2009,
- personnel data as of July 1, 2009, and
- premium information as of July 1, 2009.

All premium and census data were provided by NDPERS personnel.

The premium information and census data were used with a review of reasonableness but without formal audit. The health care claims analysis was performed in conjunction with Health Risk Strategies, LLC.

**Commentary:**

NDPERS first measured its implicit subsidy GASB 45 OPEB liability and implemented GASB 45 accounting requirements in fiscal year 2008. There have been several changes in actuarial assumptions and plan experience since the July 1, 2007 valuation which have had a significant impact on the plan's accrued liability. These changes include 1) updated census data and demographic assumptions such as retirement and withdrawal rates, 2) large increases in medical claims and premiums, and 3) changes in the method used to value projected future medical claims costs. Due to the highly leveraged nature of the plan's net liability, the combined effect of these changes was to increase the actuarial accrued liability from \$30.7 million in 2007 to \$53.7 million in 2009.

**Certification:**

The valuation has been conducted in accordance with generally accepted actuarial principles and practices. In our opinion, the actuarial assumptions represent reasonable expectations of anticipated plan experience.

To fulfill the applicable accounting requirements, each actuarial assumption should be management's "best estimate" solely with respect to that individual assumption.

We are available to answer questions on the material contained in the report or to provide explanations or further detail, as may be appropriate.

The undersigned credentialed actuaries are members of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

Mark W. Schulte, FSA  
Consulting Actuary

Mark D. Meyer, JD, FSA  
Consulting Actuary

Mary P. Ratelle, FSA  
(For claims cost analysis only)

September 10, 2009

September 10, 2009

**North Dakota Public Employees Retirement System**  
*July 1, 2009 Actuarial Valuation of Retiree Health Insurance Implicit Subsidy*

**Summary of Results**

<b>A. Valuation Census Data</b>	<u>July 1, 2007</u>	<u>July 1, 2009</u>
1. Active employees		
a. Records with active status code		20,300
b. Records without status code paying active premiums		5,182
c. Records with leave of absence status code and paying active premiums		16
d. Records with suspended retiree status code and paying active premiums		7
e. Records with terminated status code and paying active premiums		<u>1,070</u>
f. Total	24,125	26,575
2. Disabled		79
3. Covered retirees and beneficiaries	<u>5,650</u>	<u>5,828</u>
4. Total records in valuation	29,775	32,482
5. Excluded records		
a. Records with terminated status code paying COBRA premiums		75
b. Records without status code paying COBRA premiums		125
c. Records for actives hired after 7/1/2009		<u>106</u>
d. Total	1,608	306
6. Total records in original data (4. + 5.d.)	31,383	32,788
 <b>B. GASB 45 Funded Status</b>		
1. Actuarial Accrued Liability (AAL)		
a. Implicit Rate Subsidy	30,733,000	53,690,000
b. Direct Subsidy	<u>0</u>	<u>0</u>
c. Total	30,733,000	53,690,000
2. Market Value of Assets	0	0
3. Unfunded Accrued Liability (UAL) (1. - 2.)	30,733,000	53,690,000
 <b>C. Reconciliation of Net OPEB Obligation (NOO)</b>		
1. Net OPEB obligation as of July 1, 2009	0	3,485,000
2. Annual OPEB cost	4,020,000	6,969,000
3. Estimated NDPERS contributions to be made during fiscal 2010		
a. Contributions to OPEB trust	0	0
b. Direct (explicit) subsidy	0	0
c. Implicit subsidy	<u>1,542,000</u>	<u>1,994,000</u>
d. Total (a. + b. + c.)	1,542,000	1,994,000
4. Estimated net OPEB obligation as of June 30, 2010 (1. + 2. - 3.)	2,478,000	8,460,000
 <b>D. Key Assumptions</b>		
1. Discount rate for liabilities (expected long-term investment return)	5.00%	5.00%
2. Health care cost trend rate	11% to 6% in 10 years	10% to 6% in 8 years
3. Average expected retirement age for active employees		59.47
4. Percentage of employees expected to continue health coverage at retirement		see page 12

## Valuation Census Data

This section presents the demographic information for the active and retired participants included in the OPEB valuation. The actuarial valuation was based on July 1, 2009 census data provided by NDPERS. The following exhibits summarize the personnel characteristics of the data used for the study.

	Either Family or Single Coverage	Family Coverage	Single Coverage	Total
<b>A. Retired Participants and Widow(er)s</b>				
1. Number under age 65				
a. Covered under Dakota Plan	11	272	659	942
b. Covered under Dakota Retiree Plan	0	139	127	266
2. Number over age 65	<u>6</u>	<u>1,673</u>	<u>2,941</u>	<u>4,620</u>
3. Total	17	2,084	3,727	5,828
4. Average age				72.76
<b>B. Disabled Participants</b>				
1. Number under age 65				
a. Covered under Dakota Plan		3	6	9
b. Covered under Dakota Retiree Plan		11	59	70
2. Number over age 65		<u>0</u>	<u>0</u>	<u>0</u>
3. Total		14	65	79
4. Average age				56.60
<b>C. Active Participants</b>				
1. OPEB				
a. Number under age 65				
i. Covered under Dakota Plan				25,648
ii. Covered under Dakota Retiree Plan				1
b. Number over age 65				<u>926</u>
c. Total				26,575
d. Average age				46.99
<b>D. Total Participants in valuation</b>				
				32,482
<b>E. Excluded records</b>				
1. Records with terminated status code paying COBRA premiums				75
2. Records without status code paying COBRA premiums				125
3. Records for actives hired after 7/1/2009				<u>106</u>
4. Total				306
<b>F. Total records in original data</b>				
				32,788

\*Participants who have not yet reached the retirement age and service requirements.

Note: Any participants over age 65 or enrolled in the Dakota Retiree Plan were assumed to have no implicit subsidy liability.

**North Dakota Public Employees Retirement System**  
*July 1, 2009 Actuarial Valuation of Retiree Health Insurance Implicit Subsidy*

**Statement of Plan's Benefit Obligations**

	<u>July 1, 2007</u>	<u>July 1, 2009</u>
1. Total actuarial present value of OPEB		
a. Pre-65 gross liability		\$710,275,000
b. Post-65 gross liability		<u>2,026,442,000</u>
c. Total gross liability	\$2,120,039,000	2,736,717,000
2. Present value of future employee contributions		
a. Pre-65 present value of employee contributions		\$605,541,000
b. Post-65 present value of employee contributions		<u>2,026,442,000</u>
c. Total present value of employee contributions	2,053,705,000	2,631,983,000
3. NDPERS-funded actuarial present value (1.c. - 2.c.)	66,334,000	104,734,000
4. Postretirement benefit obligation attributable to future service	<u>35,601,000</u>	<u>51,044,000</u>
5. Actuarial Accrued Liability (AAL) on July 1, 2009 (3. - 4.)	30,733,000	53,690,000
6. AAL Summary		
a. Summary by Status		
i. Inactives	5,415,000	4,262,000
ii. Actives	<u>25,318,000</u>	<u>49,428,000</u>
v. Total AAL	30,733,000	53,690,000
b. Summary by Implicit Rate Subsidy and Direct Subsidy		
i. Implicit Rate Subsidy Only	30,733,000	53,690,000
ii. Direct Subsidy	<u>0</u>	<u>0</u>
iii. Total AAL	30,733,000	53,690,000
c. Summary by per-capita liability		
i. Actives		
a. Active AAL	25,318,000	49,428,000
b. Participants with implicit subsidy liability	23,352	25,648
c. Active per capita liability (a. / b.)	1,084	1,927
ii. Inactives (Retirees and Disabled)		
a. Inactive AAL		4,262,000
b. Participants with implicit subsidy liability		951
c. Active per capita liability (a. / b.)		4,482
7. Estimated AAL on June 30, 2010		58,985,000

July 1, 2009 Actuarial Valuation of Retiree Health Insurance Implicit Subsidy

**Historical Reconciliation of Net OPEB Obligation(NO0)**

The following tables show the balance sheet figures if the NDPERS followed GASB 45 accounting for the prior two years. The NDPERS provided the actual employer contributions and benefit payments.

**A. Reconciliation of Net OPEB Obligation (NOO) for Fiscal 2009**

1. Net OPEB obligation as of July 1, 2008	\$2,478,000
2. Annual OPEB cost	4,144,000
3. Employer contributions	
a. Employer contributions to OPEB trust	0
b. Benefit payments by employer (not from trust)	
i. Direct (explicit) subsidy	0
ii. Implicit subsidy	<u>3,137,000</u>
iii. Total (i)+(ii)	3,137,000
c. Total employer contributions (a) + (b)	<u>3,137,000</u>
4. Net OPEB obligation as of June 30, 2009 (1. + 2. - 3.)	3,485,000

**B. Reconciliation of Net OPEB Obligation (NOO) for Fiscal 2008**

1. Net OPEB obligation as of July 1, 2007	0
2. Annual OPEB cost	4,020,000
3. Employer contributions	
a. Employer contributions to OPEB trust	0
b. Benefit payments by employer (not from trust)	
i. Direct (explicit) subsidy	0
ii. Implicit subsidy	<u>1,542,000</u>
iii. Total (i)+(ii)	1,542,000
c. Total employer contributions (a) + (b)	<u>1,542,000</u>
4. Net OPEB obligation as of June 30, 2008 (1. + 2. - 3.)	2,478,000

July 1, 2009 Actuarial Valuation of Retiree Health Insurance Implicit Subsidy

**Schedule of Funding Progress and Annual OPEB Cost**

The following tables show the income statement figures if NDPERS follows GASB 45 accounting. The unfunded accrued liability is amortized as a level percent of payroll over 30 years beginning July 1, 2007 (i.e. 28 years remaining at July 1, 2009). Assumptions and methods used are described in subsequent sections.

**A. Schedule of funding progress**

1. Actuarial valuation date	July 1, 2009
2. Plan assets at fair value	\$0
3. Actuarial accrued liability (AAL)	53,690,000
4. Unfunded AAL (UAAL) (3. - 2.)	53,690,000
5. Funded ratio (2. / 3.)	0.00%
6. Covered payroll	\$1,328,750,000
7. UAAL as a percentage of covered payroll (4. / 6.)	4.04%

**B. Annual Required Contribution (ARC)\***

1. Normal cost	\$4,433,000
2. Amortization of UAAL over 28 years	2,175,000
3. Interest to the end of the year	<u>330,000</u>
4. Total year-end ARC	6,938,000

**C. Annual OPEB Cost**

1. Annual required contribution as of June 30, 2010	6,938,000
2. Interest on net OPEB obligation (NOO)	174,000
3. Adjustment to ARC (amortization of NOO)	<u>(143,000)</u>
4. Annual OPEB cost (expense) (1. + 2. + 3.)	6,969,000

**D. Three year history of OPEB information**

Fiscal Year Ended	Annual OPEB Cost	Annual Plan Sponsor Contribution **	Percentage of Annual OPEB Cost Contributed	Net OPEB Obligation
6/30/2008	4,020,000	1,542,000	38%	2,478,000
6/30/2009	4,144,000	3,137,000	76%	3,485,000
6/30/2010	6,969,000	1,994,000	29%	8,460,000

\*This is a misleading term, but it is prescribed by GASB 45. No contribution is actually required to be made in cash.

\*\* Estimated contribution for fiscal year.

## July 1, 2009 Actuarial Valuation of Retiree Health Insurance Implicit Subsidy

## Current and Projected Reconciliation of Net OPEB Obligation

The following tables show the balance sheet figures when the NDPERS follows GASB 45 accounting. Assumptions and methods used are described in subsequent sections.

**A. Reconciliation of estimated Net OPEB Obligation (NOO) for Fiscal 2010**

1. Net OPEB obligation as of July 1, 2009		3,485,000
2. Annual OPEB cost		
a. Annual required contribution	6,938,000	
b. Interest on net OPEB obligation	174,000	
c. Adjustment to ARC (amortization of NOO)	(143,000)	
d. Total (a. + b. + c.)		6,969,000
3. Contributions made including implicit subsidy (estimated)		
a. Contributions to OPEB trust	0	
b. Direct (explicit) subsidy	0	
c. Implicit subsidy	1,994,000	
d. Total (a. + b. + c.)		<u>1,994,000</u>
4. Estimated net OPEB obligation as of June 30, 2010 (1. + 2. - 3.)		8,460,000

**B. Reconciliation of estimated NOO for Fiscal 2011**

1. Estimated net OPEB obligation as of July 1, 2010		8,460,000
2. Annual OPEB cost		
a. Annual required contribution	7,295,000	
b. Interest on net OPEB obligation	423,000	
c. Adjustment to ARC (amortization of NOO)	(357,000)	
d. Total (a. + b. + c.)		7,361,000
3. Contributions made including implicit subsidy (estimated)		
a. Contributions to OPEB trust	0	
b. Direct (explicit) subsidy	0	
c. Implicit subsidy	3,965,000	
d. Total (a. + b. + c.)		<u>3,965,000</u>
4. Estimated net OPEB obligation as of June 30, 2011 (1. + 2. - 3.)		11,856,000

**North Dakota Public Employees Retirement System**

*July 1, 2009 Actuarial Valuation of Retiree Health Insurance Implicit Subsidy*

**Projection of Retirees' and NDPERS' OPEB Cash Flows**

Fiscal Year	OPEB			
	(a)	(b)	(c)	(a) - (b) - (c)
<u>Ending</u>	<u>Annual Retiree OPEB Claims</u>	<u>Retiree Paid Premiums</u>	<u>NDPERS Paid Premiums</u>	<u>Implicit Subsidy</u>
2010	\$33,415,000	\$31,421,000	\$0	\$1,994,000
2011	37,826,000	33,861,000	0	3,965,000
2012	46,878,000	43,615,000	0	3,263,000
2013	54,184,000	50,337,000	0	3,847,000
2014	62,425,000	57,892,000	0	4,533,000
2015	70,812,000	65,635,000	0	5,177,000
2016	79,427,000	73,622,000	0	5,805,000
2017	88,438,000	82,026,000	0	6,412,000
2018	96,746,000	89,910,000	0	6,836,000
2019	104,622,000	97,536,000	0	7,086,000
2020	112,895,000	105,512,000	0	7,383,000
2021	121,155,000	113,601,000	0	7,554,000
2022	129,817,000	122,041,000	0	7,776,000
2023	138,513,000	130,577,000	0	7,936,000
2024	147,141,000	139,100,000	0	8,041,000
2025	155,072,000	147,188,000	0	7,884,000
2026	163,229,000	155,449,000	0	7,780,000
2027	171,251,000	163,611,000	0	7,640,000
2028	178,971,000	171,566,000	0	7,405,000
2029	187,022,000	179,760,000	0	7,262,000
2030	194,876,000	187,816,000	0	7,060,000
2031	203,068,000	196,062,000	0	7,006,000
2032	211,470,000	204,410,000	0	7,060,000
2033	220,037,000	212,848,000	0	7,189,000
2034	227,763,000	220,611,000	0	7,152,000
2035	234,611,000	227,668,000	0	6,943,000
2036	240,927,000	234,209,000	0	6,718,000
2037	246,890,000	240,365,000	0	6,525,000
2038	252,378,000	245,976,000	0	6,402,000
2039	257,077,000	250,851,000	0	6,226,000
2040	261,283,000	255,143,000	0	6,140,000

Note: Projections are based on a "closed group": current participants only, no future entrants.

July 1, 2009 Actuarial Valuation of Retiree Health Insurance Implicit Subsidy

**Summary of Plan Provisions**

This section describes the "substantive plan" upon which the valuation was based. This summary reflects relevant provisions used as the basis for the actuarial valuation.

**Eligibility for Participation** An employee of the North Dakota Public Employees Retirement System that is covered by an employment contract which provides for post-retirement benefits.

<u>Employee Type</u>	<u>Eligibility Requirements</u>
Main System	Employee must be at least 55 years of age with 3 years of service.
Judges	Employee must be at least 55 years of age with 5 years of service.
National Guard	Employee must be at least 50 years of age with 3 years of service.
Law Enforcement	Employee must be at least 50 years of age with 3 years of service.
Highway Patrol	Employee must be at least 50 years of age with 10 years of service.

Members receiving retirement benefits from NDTFFR or TIAA-CREF are also eligible for retiree medical coverage.

**Premium paid by NDPERS** The employee is responsible for paying the entire premium.  
Members are eligible for COBRA coverage when enrolled in the Dakota Plan as an active employee and not eligible for Medicare. The member is eligible for COBRA premiums for 18 months or until eligible for Medicare.

**Total monthly premium**

<u>Dakota Plan (Non-Medicare Retiree)</u>				<u>Non-Medicare COBRA Rates</u>			
	<u>7/1/2007</u>	<u>7/1/2009</u>	<u>Percent</u>		<u>7/1/2007</u>	<u>7/1/2009</u>	<u>Percent</u>
<u>Coverage</u>	<u>Premium</u>	<u>Premium</u>	<u>Increase</u>	<u>State Agencies</u>			
Single	\$475.34	\$600.08	26.2%	Single	\$324.58	\$408.06	25.7%
Family	946.44	1,200.16	26.8%	Married	779.22	982.10	26.0%
Family (3+)	1,181.98	1,500.20	26.9%				
				<u>Political Subdivisions</u>			
				Single	\$346.27	\$433.46	25.2%
				Married	833.85	1,047.14	25.6%
<u>Dakota Plan (Medicare Retiree)</u>							
	<u>7/1/2007</u>	<u>7/1/2009</u>	<u>Percent</u>				
<u>Coverage</u>	<u>Premium</u>	<u>Premium</u>	<u>Increase</u>				
Single	\$214.20	\$231.86	8.2%				
Employee and Spouse	418.46	460.92	10.1%				

The 7/1/2009 premiums above were assumed to stay level through June 30, 2011 and increase with medical trend thereafter.

The pre-Medicare retiree premiums are established by North Dakota state law as 150% of the active single rate or 200% of the active single rate for single and family coverage, respectively.

July 1, 2009 Actuarial Valuation of Retiree Health Insurance Implicit Subsidy

**Actuarial Assumptions**

This section describes the actuarial assumptions and methods used in this valuation of postretirement benefit costs.

**Discount Rate** 5% per year

**Salary Increase** Salaries are assumed to increase 4% per year

**Retirement Rates**

Main System:

Rule of 85		All other	Rule of 85		All other
Age	Eligible Rate	Retirements	Age	Eligible Rate	Retirements
55	4%	4%	63	25%	20%
56-59	6%	4%	64	25%	20%
60	8%	6%	65	40%	30%
61	15%	12%	66-69	20%	20%
62	35%	25%	70	100%	100%

Judges:

Age	Rate
62-64	35%
65-69	50%
70	100%

National Guard and Law Enforcement:

100% at age 60

Highway Patrolmen:

Rule of 80		All other
Age	Eligible Rate	Retirements
50-54	100%	50%
55 & Over	100%	100%

**Disability**

Sample rates for PERS members as follows:

Age	Male	Female
30	0.05%	0.03%
40	0.09%	0.07%
50	0.25%	0.18%
60	0.68%	0.49%

Sample rates for Highway Patrolmen as follows:

Age	Male	Female
30	0.12%	0.12%
40	0.30%	0.30%
50	0.38%	0.38%
60	0.37%	0.37%



July 1, 2009 Actuarial Valuation of Retiree Health Insurance Implicit Subsidy

**Actuarial Assumptions (continued)**

**Withdrawal (continued)**

National Guard and Law Enforcement:

Age	Year of Employment				
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
29 & Under	23%	20%	17%	16%	15%
30-39	17%	15%	13%	12%	11%
40 & Over	15%	12%	10%	8%	6%

After 5 years of employment:		<u>Age</u>	<u>Male</u>	<u>Female</u>
		20-24	12.0%	12.0%
		25-29	8.0%	10.0%
		30-34	5.0%	8.0%
		35-39	4.0%	6.0%
		40-44	3.0%	5.0%
		45-49	3.0%	4.0%
		50 & Over	2.0%	3.0%

Withdrawal decrements are assumed to cease once a participant is eligible to retire.

**Participation Rate**

Main System, National Guard  
and Law Enforcement

Judges and Highway Patrol

<u>Years of Service</u>	<u>Participation Rate</u>
Under 3	0%
3-4	25%
5-9	50%
10-14	70%
15-19	80%
20-24	95%
25 & Over	100%

<u>Years of Service</u>	<u>Participation Rate</u>
Under 5	0%
5-9	50%
10-14	70%
15-19	80%
20-24	95%
25 & Over	100%

Current and future retirees are assumed to participate for life at the rates shown above.

No active employees are assumed to participate if they withdraw for reasons other than retirement.

**Spouse participation**

Current retirees are assumed to continue on the coverage type they are currently electing (single or family). Active employees are assumed to have spouse coverage based on the retiree population. Consistent with the prior valuation, we have assumed 55% of male employees and 34% of female employees will elect spouse coverage at retirement.

July 1, 2009 Actuarial Valuation of Retiree Health Insurance Implicit Subsidy

**Actuarial Assumptions (continued)**

**Spouse ages** If spouse birthdate was provided for current retirees, then actual spouse age was used. For current retirees without a spouse birthdate and all future retirees, the assumptions below were used.

Males are assumed to be four years older than female spouses for Main System employees.

Males are assumed to be three years older than female spouses for Highway Patrol Employees.

Males are assumed to be five years older than female spouses for all others.

**Health Trend Rates**

<u>Fiscal Year</u>	<u>Trend Rates</u>
2010	10.00%
2011	9.50%
2012	9.00%
2013	8.50%
2014	8.00%
2015	7.50%
2016	7.00%
2017	6.50%
2018+	6.00%

**Age-based Monthly OPEB Costs**

Claims experience from January 2006 through June 2009 was used to develop the age-based monthly claims costs used in the valuation. Claims experience for each reporting period was trended to the valuation date and then a weighted average of these amounts was used to develop an average-age per-capita claims cost. This amount was then age-adjusted based on a participant's assumed benefit age and brought forward to each projection year using the assumed medical trend rates. Sample rates are shown in the table below.

<u>Age</u>	<u>Annual Cost</u>
35	\$3,254.50
40	3,791.21
45	4,416.43
50	5,144.75
55	6,169.62
60	7,434.38
65	9,045.07

	<u>7/1/2007</u>	<u>7/1/2009</u>	<u>Percent Increase</u>
Average age claims cost: Employee	\$6,264	\$7,617	21.6%
Spouse	5,856	7,617	30.1%

The net implicit subsidy liability for participants eligible for Medicare was assumed to be zero. This is because we have assumed that the premiums for participants enrolled in the Dakota Retiree plan are self-supporting.

*July 1, 2009 Actuarial Valuation of Retiree Health Insurance Implicit Subsidy*

**Actuarial Assumptions (continued)**

<b>Actuarial Method</b>	OPEB benefits were calculated under the Projected Unit Credit cost method with a 30-year amortization of unfunded liability (closed basis) beginning July 1, 2007. OPEB benefits were attributed linearly to each assumed decrement age based on the ratio of a participant's accrued service on the valuation date to their projected service at each decrement age.
<b>Valuation Date</b>	July 1, 2009
<b>Data assumptions</b>	<p>We have determined whether an active participant is a state employee or a member of a political subdivision based on the premiums they are currently paying for medical coverage. If they have not elected coverage, we assumed they were a state employee.</p> <p>We have assumed that participants paying Medicare premium amounts are covered under the Dakota Retiree health plan and are not valued in the implicit subsidy calculations.</p> <p>Participants with a status code of terminated were valued as an active employee if they are currently paying active premiums and as a retiree if they are currently paying retiree premiums.</p> <p>Participants with a status code of terminated were excluded from the calculations if they are currently paying COBRA premiums.</p> <p>We have assumed that actives becoming disabled will be covered under Medicare and are not valued in the implicit subsidy calculations.</p> <p>Participants listed without a status code but paying COBRA premiums were excluded from the liabilities.</p>
<b>Changes since prior valuation</b>	<p>The assumed retirement and withdrawal rates were updated to be consistent with those used in the July 1, 2008 Retiree Health Credit Plan valuation. Disability incidence and disability mortality assumptions were also added for this reason.</p> <p>The assumed premiums and medical claims costs were updated to reflect recent plan experience. We also changed the method for valuing medical claims costs from an average age method to a method which age-adjusts the assumed medical claims costs based on each participant's projected age at benefit receipt.</p>

*July 1, 2009 Actuarial Valuation of Retiree Health Insurance Implicit Subsidy***Accounting Requirements**

This section presents the actuarial calculations used to fulfill the applicable accounting requirements for the plan.

***Accounting Information under GASB 43 and GASB 45***

The Governmental Accounting Standards Board (GASB) finalized Statements No. 43 (GASB 43 for funded OPEB plans) and 45 (GASB 45 for employers) in 2004. The statements' objectives are to establish uniform standards of financial reporting by state and local governmental entities for postemployment benefit plans other than pension benefits (OPEB plans). This includes benefits such as postemployment healthcare benefits, dental insurance and life insurance.

For OPEB plans sponsored by governmental entities, these GASB Statements require certain standards and disclosures of plan and fund information including financial reporting of plan assets, liabilities of plan, changes in net assets, funded status and funding progress of the plan, and contributions to the plan in comparison to the annual required contributions of the employer (ARC).

***Valuing Postretirement Health Benefits***

Determining the value of future health care benefits is challenged by the fact that assumptions must be made about many future events that are especially hard to predict. Future increases in health care costs are affected by many factors, including:

- OPEB inflation
- Changes in utilization patterns
- Technological advances
- Cost shifting (i.e., increases in private plans' costs in non-managed programs due to uninsured claims, changes in the Medicare payment structure, and increased emphasis on managed care programs)
- Cost leveraging (i.e., erosion of fixed deductibles and out-of-pocket maximums)
- Changes to government medical programs, such as Medicare, when applicable. Under the Medicare Modernization Act of 2003 (MMA), a new prescription drug program called Medicare Part D was established. GASB requirements state that the determination of the actuarial accrued liabilities, the annual required contribution, and the annual OPEB cost should be done without reduction for Medicare Part D payments.

**Accounting Requirements (continued)**

OPEB obligations are also heavily influenced by demographic assumptions such as:

- Withdrawal rates (i.e., employees terminating before receiving benefits)
- Retirement rates (i.e., employees retiring at various ages and subsidy levels)
- Participation (i.e., retirees electing coverage, the percentage married, and elections to contribute for coverage of spouses)
- Mortality rates (i.e., how long employees and spouses will receive benefits)

The Actuarial Assumptions section outlines the assumptions used in this valuation.

***Estimating Health Care Costs***

In addition to estimating future increases in health care claims costs, it is necessary to develop a starting claims cost value on a per covered individual basis for self-insured plans and even some insured plans.

For insured plans, the premiums represent a blended average cost of both active and retired individuals. Since older, pre-65 retirees generally incur higher claims than younger active employees, GASB requires employers to value retiree liability based on estimated retiree costs rather than premiums. Age-adjusted claims are developed and used to value the OPEB liability.

*July 1, 2009 Actuarial Valuation of Retiree Health Insurance Implicit Subsidy*

### **Glossary of Selected Terms**

This section provides the definitions of applicable terminology in the actuarial valuation, with references to both the Governmental Accounting Standards Nos. 43 (GASB 43) and 45(GASB 45).

**Actuarial Cost Method** - a procedure for determining the actuarial present value of benefits and for developing an allocation of such value to time periods.

**Actuarial Present Value** - the value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a set of actuarial assumptions.

**Actuarial Accrued Liability** - the portion of the actuarial present value which is not provided for by future normal costs, determined under the actuarial cost method.

**Annual OPEB Cost** - the OPEB expense recognized in the employer's financial statements.

**ARC** - the Annual Required Contribution (ARC) - the basis for the annual OPEB cost shown in the employer's financial statements. This term is misleading: no annual cash contribution is actually required to fund OPEB benefits.

**Discount Rate** - the interest rate used to adjust liabilities and obligations for the time value of money.

**GASB Statement No. 43** - the Governmental Accounting Standards Statement Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans

**GASB Statement No. 45** - the Governmental Accounting Standards Statement Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions

**Implicit Subsidy or Implicit Rate Subsidy** - the difference between the actual and apparent cost of OPEB coverage. The actual cost for early retirees is higher than the average per-person premium for the active/retiree group. Plans in which retirees pay the average active/retiree rate (the apparent cost) give rise to an implicit rate subsidy: the employer pays the difference between the actual and apparent cost.

**Net OPEB obligation** - the OPEB liability (asset) at transition, if any and the cumulative difference since the effective date of Statement No. 45 between annual OPEB cost and the employer's contributions.

**Normal Cost** - the portion of the actuarial present value which is allocated to the valuation year by the actuarial cost method.

**Valuation Date** - the date as of which assets and liabilities are measured in determining the OPEB liability of the plan.

# **NDPERS**

**July 1, 2009 GASB 45 Actuarial Valuation**

**Discussion of Preliminary Results**

**September 10, 2009**

# Table of Contents

- Liability Summary
- Assumption Changes
- Methodology Changes
- Data Summary

# Liability Summary

Scenario	Actual	Expected	Actual
Valuation Date	<u>July 1, 2007</u>	<u>July 1, 2009</u>	<u>July 1, 2009</u>
Gross EPBO			
- Pre-65 Gross EPBO			710.3
- Post-65 Gross EPBO			<u>2,026.4</u>
- Total Gross EPBO	2,120.0	2,181.5	2,736.7
EPBO Retiree Premiums			
- Pre-65 retiree premiums			(605.6)
- Post-65 retiree premiums			<u>(2,026.4)</u>
- Total retiree premiums	(2,053.7)	(2,113.3)	(2,632.0)
Net EPBO	66.3	68.3	104.7
Cost Share %			
- Pre-65 cost share %			85.3%
- Post-65 cost share %			100.0%
- Total cost share %	96.9%	96.9%	96.2%
Gross APBO	1,179.1	1,337.6	1,518.1
APBO Retiree Premiums	<u>(1,148.4)</u>	<u>(1,302.8)</u>	<u>(1,464.4)</u>
Net APBO	30.7	34.9	53.7

Summary of changes between result sets:

Scenario	<u>Expected</u>	<u>Actual 2009</u>
Census	Expected	Actual
Assumptions	Expected	Actual
Spouse Claims	Lower than Employee	Same as Employee
Claims/Premiums	Expected	Actual
Claims Cost Method	Average Age	Age Adjusted

Notes:

- All results shown above are rounded to the nearest million dollars.
- Liability changes are due to pre-65 implicit subsidy liabilities only (i.e., the final post-65 liabilities are used throughout) in order to isolate the effect of changes.

# Methodology Changes

- Claims cost methodology changed from “Average Age” method to “Age-Adjusted” method.
  - “Average Age” method uses the same base claims cost for all future benefit ages
  - “Age-adjusted” method takes the average-age claims cost and adjusts it for each participant’s assumed age at benefit receipt.
- Example: Average-age is between 60 and 61 with average cost = \$7,617 per year.
  - Average-age claims cost generally overestimates cost in early years and underestimates costs in later years.
  - Over benefit receipt period, claims cost projections (ignoring medical trend) would be as follows:

<b>Comparison of Methodologies</b>			
<u>Age</u>	<u>Average-Age</u>	<u>Age-Adjusted</u>	<u>Difference</u>
55	7,617	6,170	-19.0%
56	7,617	6,404	-15.9%
57	7,617	6,647	-12.7%
58	7,617	6,900	-9.4%
59	7,617	7,162	-6.0%
60	7,617	7,434	-2.4%
61	7,617	7,732	1.5%
62	7,617	8,041	5.6%
63	7,617	8,363	9.8%
64	7,617	8,697	14.2%

# Assumption Changes

- To be consistent with the July 1, 2008 Retiree Health Credit Plan valuation:
  - Assumed retirement rates were updated.
  - Assumed withdrawal rates were updated.
  - Withdrawal rates assumed to end upon retirement eligibility.
  - Disability incidence and mortality assumptions were added.
- Spouse age difference was clarified and spouse claims costs were assumed to equal employee claims costs.
- Updated claims cost assumptions based on recent experience.
- Other assumptions remained unchanged. These included:
  - Employee and spouse participation rates. Note that Spouse participation rates are different from Retiree Health Credit plan, but are based on current retiree percentages in census file.
  - Medical trend rates remained unchanged.
  - Discount rate of 5.0%

# Data Summary

## Valuation Census Data

	<u>July 1, 2007</u>	<u>July 1, 2009</u>
1. Active employees		
a. Records with active status code		20,300
b. Records without status code paying active premiums		5,182
c. Records with leave of absence status code and paying active premiums		16
d. Records with suspended retiree status code and paying active premiums		7
e. Records with terminated status code and paying active premiums		<u>1,070</u>
f. Total	24,125	26,575
2. Disabled		79
3. Covered retirees and beneficiaries		
a. Number under age 65		
i. Covered under Dakota Plan		942
ii. Covered under Dakota Retiree Plan		266
b. Number over age 65		<u>4,620</u>
c. Total	5,650	5,828
4. Total records in valuation	29,775	32,482
5. Excluded records		
a. Records with terminated status code paying COBRA premiums		75
b. Records without status code paying COBRA premiums		125
c. Records for actives hired after 7/1/2009		<u>106</u>
d. Total	1,608	306
6. Total records in original data file (4. + 5.d.)	31,383	32,788

# Additional Information

## **Contact Information:**

Mark Schulte, FSA  
[marks@vaniwaarden.com](mailto:marks@vaniwaarden.com)  
612.596.5971

Mark Meyer, JD, FSA  
[markm@vaniwaarden.com](mailto:markm@vaniwaarden.com)  
507.726.6279

Van Iwaarden Associates  
840 Lumber Exchange  
10 South Fifth Street  
Minneapolis, MN 55402  
[www.vaniwaarden.com](http://www.vaniwaarden.com)  
1.888.596.5960

All results shown in this document are based on the data, assumptions, methods, and plan provisions shown in the July 1, 2009 valuation report for the retiree medical implicit subsidy plan. If you have any questions about the results, please feel free to contact either of the consultants above.



**North Dakota  
Public Employees Retirement System**  
400 East Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502-1657

**Sparb Collins**  
Executive Director  
(701) 328-3900  
1-800-803-7377

---

FAX: (701) 328-3920 • EMAIL: [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov) • [www.nd.gov/ndpers](http://www.nd.gov/ndpers)

# Memorandum

**TO:** PERS Board  
**FROM:** Sparb  
**DATE:** September 10, 2009  
**SUBJECT:** Diabetes Program

Attached is a memo from Jayme Steig discussing some proposals relating to the diabetes disease management program. Staff is seeking your guidance on these concepts.

## **Staff Recommendation**

1. To approve using this data subject to executing the necessary agreements insuring compliance with state confidentiality laws and HIPAA.
2. Approve subject to modifying the appropriate agreements.
3. Disapprove. Staff is concerned with promoting this program at the pharmacy since it will highlight our program in a public setting which will contrast a benefit that is available to public employees and not to nonpublic employees. We feel that our existing communications appropriately targets public employees

## **Board Action Requested**

Approve/disapprove the above three recommendations.

# ND Disease State Management of Diabetes Additional Enrollment Topics

**To:** Sparb Collins, NDPERS Executive Director

**From:** Jayme Steig, Clinical Coordinator

**Re:** Proposal for methods to increase program enrollment/promotion

Mr. Collins,

During the contract renewal discussion for the diabetes management program at the May and June NDPERS board meetings, questions were raised regarding the enrollment numbers and promotion of the program. In response to those questions and concerns, I propose the following options to provide additional promotion and incentives for the program in an attempt to increase participation from eligible PERS members.

1. Permission to use data – the NDPSC would like to do their own initial analysis of clinical and humanistic outcomes of year 1 data. This would be an independent analysis outside of the NDPERS RFP and would not include economic data. Results would be published and made available to the public. Having validated, published data available on health outcomes could create additional interest in the program.
2. Include diabetic testing supplies in the member copay incentives – An integral part to the self-management of diabetes is self monitored blood glucose. Our providers encourage patients to monitor their blood glucose in order to adjust diet/medication therapy as needed. Including testing supplies (test strips and lancets) in the copay incentives would help defray the cost to the member and encourage them to self monitor. A cost estimate from BCBS from the first and second quarters of 2009 estimates the quarterly expense of adding this incentive at \$4500.00 (\$18,000 annually).
3. Put posters with the PERS logo in our provider locations – the “pers poster” attachment is a draft for review and comment. Comments on poster were taken directly from Patient Satisfaction Surveys administered to program participants. Having these posters in our provider (pharmacy) locations can assist in starting discussions between PERS members and our provider regarding the program which may lead to additional enrollments.

Sincerely,



Jayme Steig, PharmD, RPh  
Clinical Coordinator



**Attention  
NDPERS  
members!**

EXCELLENT PROGRAM-  
THANK YOU!

*Diabetes has improved at  
least 50%*

*THIS IS AN AMAZING PROGRAM  
AND IT HAS HELPED ME IMMENSELY.*

*VERY HELPFUL*

*Wish this program would have been  
available 10-20 years ago.*

The word is out about the  
**Diabetes Management Program**  
sponsored by NDPERS.

Learn more by asking a staff member here or  
by visiting *[www.aboutthepatient.net](http://www.aboutthepatient.net)*



Disease State Management Provider Network  
“Empowering patients to self-manage and improve their health”



**North Dakota  
Public Employees Retirement System**  
400 East Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502-1657

**Sparb Collins**  
Executive Director  
(701) 328-3900  
1-800-803-7377

---

FAX: (701) 328-3920 • EMAIL: [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov) • [www.nd.gov/ndpers](http://www.nd.gov/ndpers)

# Memorandum

**TO:** PERS Board  
**FROM:** Sparb  
**DATE:** September 9, 2009  
**SUBJECT:** BCBS Audit

The following is the link to the recent audit of BCBS performed by the North Dakota Insurance Department for your review and information:

<http://www.nd.gov/ndins/uploads/resources/537/exam-report---noridian.pdf>



**North Dakota  
Public Employees Retirement System**  
400 East Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502-1657

**Sparb Collins**  
Executive Director  
(701) 328-3900  
1-800-803-7377

---

FAX: (701) 328-3920 • EMAIL: [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov) • [www.nd.gov/ndpers](http://www.nd.gov/ndpers)

# Memorandum

**TO:** PERS Board  
**FROM:** Sparb  
**DATE:** September 10, 2009  
**SUBJECT:** PBM Audit

Previously we discussed doing an audit of the BCBS PBM. The PERS Audit Committee has been considering such an audit and has developed the attached RFP for your consideration and approval. Also attached is a list of potential vendors.

## **Staff Recommendation**

Approve issuing the attached RFP.

## **Board Action Requested**

To decide if PERS should do an audit of the BCBS PBM, and if so approve the attached RFP.



**North Dakota**  
**Public Employees Retirement System**  
400 E. Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502 - 1657

**Sparb Collins**  
Executive Director  
(701) 328-3900  
1-800-803-7377

---

FAX: (701) 328-3920 • EMAIL: [NDPERS@nd.gov](mailto:NDPERS@nd.gov) • [discovernd.com/NDPERS](http://discovernd.com/NDPERS)

# REQUEST FOR PROPOSAL

FOR

## North Dakota Public Employees Retirement System

### Pharmacy Benefit Manager Audit

September 2009

- 
- |                                    |                                  |                                   |
|------------------------------------|----------------------------------|-----------------------------------|
| • FlexComp Program                 | • Retirement Programs            | • Retiree Health Insurance Credit |
| • Employee Health & Life Insurance | - Public Employees               | • Deferred Compensation Program   |
| • Dental/Vision Program            | - Highway Patrol                 | • Long Term Care Program          |
|                                    | - National Guard/Law Enforcement |                                   |
|                                    | - Judges                         |                                   |
|                                    | - Prior Service                  |                                   |
|                                    | - Job Services                   |                                   |

## SECTION 1 – INTRODUCTION

---

This Request for Proposal (RFP) is for soliciting services to do a claims and rebate audit of the Pharmacy Benefit Manager (PBM) that provides services to the North Dakota Public Employees Retirement System (NDPERS). NDPERS is a fully insured plan with BCBS but our contract provides for our plan to be accounted for separately. At the end of the contract period if there is surplus in the account each party shares in the gain pursuant to the contract. While BCBS selects the PBM it is in PERS interest to insure that all claims are properly paid by that vendor and all rebates are returned to the PERS account pursuant to the guidelines agreed upon. PERS is seeking a firm to do an audit to insure that these arrangements are proceeding as expected.

Following is a sequence of major activities:

September 2009	RFP is issued
November 2009	Proposals due
December/January 2009	Audit firm selected
January – April 2010	Project work
May 2010	Draft report due
June 2010	Final report

The following is the outline of this proposal:

Section 1 - Page 2	Introduction
Section 2 - Page 3	Background
Section 3 - Page 4	Scope of Services
Section 4 - Page 7	Technical Proposal
Section 5 - Page 10	Cost Proposal
Section 6 - Page 11	Submission of Proposals
Section 7 - Page 13	Review Process

## SECTION 2 - BACKGROUND

---

**A. The Agency:**

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

PERS is managed by a Board comprised of seven members:

- 1-Chairman appointed by the Governor
- 1-Member appointed by the Attorney General
- 1-Member elected by retirees
- 3-Members elected by active employees
- 1-State Health Officer

PERS 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.

**B. Group Health:**

The Uniform Group Health Insurance Plan is a fully insured plan with BCBSND. All state employees are eligible to be covered under the plan, including the professional staff at colleges and universities. Political subdivisions may participate in the health plan at their option. The following is the plan statistics:

<b>AGENCY</b>	
State	96
Counties	39
School Dist	27
Cities	57
Others	64
	<b>283</b>
<b>EMPLOYEES</b>	
State	13,984
Counties	1,791
School Dist	1,217
Cities	991
Others	511
Legislators	126
Retirees	5,462
COBRA	554
	<b>24,636</b>

## **SECTION 3 SCOPE OF SERVICES**

---

### **Scope of Services/Plan Design**

North Dakota Public Employees Retirement System (“NDPERS”) is requesting an audit of rebates by conducting an on-site evaluation of certain Prime Therapeutics’ (“Prime”) manufacturer contracts to ensure rebate reimbursement to NDPERS is accurate. NDPERS is also requesting an audit of pharmacy claims to ensure adjudication accuracy and to verify spread pricing is not occurring. Prime provides pharmacy benefit management services for Blue Cross Blue Shield of North Dakota (“BCBSND”). NDPERS is an employer group of BCBSND. See Attachment 1 for a description of the pharmacy benefit.

### **Timeline**

NDPERS anticipates the audit to take place during the month of February of 2010. In February, the most current closed quarter for audit rebates will be the fourth quarter of 2008. Review of the manufacturer contracts must be conducted at Prime’s corporate headquarters in Eagan, MN. The audit of pharmacy claims may or may not be conducted on-site at the time manufacturer contract review takes place.

### **Audit Agreement**

Prime will require the auditor to sign an audit agreement specifying that the information disclosed during the audit is confidential and to be used solely for the purpose of conducting the immediate audit and the information may not be used outside of the immediate audit.

### **Audit Scope Methodology**

The formulary rebate audit will determine if Prime is complying with the contractual terms related to formulary rebates and that NDPERS has received the rebate amounts. The audit of pharmacy claims will determine if Prime is adjudicating claims accurately and verify that spread pricing is not occurring.

#### **1. REBATE AUDIT**

- Request and review a copy of the prescription drug program contract between BCBSND and Prime to confirm the rebate agreement.
- Request and review quarterly rebate reports and the annual reconciliation report for the audit period.
- Use the rebate reports to identify the top 8 manufacturers that were used to fill prescriptions for NDPERS’ membership. Verify with Prime that the manufacturers identified allow Prime to share the terms of the manufacturer agreement with third parties.

- Conduct an on-site rebate audit at Prime's corporate facility to review relevant portions of the selected manufacturer contracts for four to five rebateable drugs and validate the rebates applied and reimbursed to NDPERS were, in fact, consistent with the contract terms.
- Compare audit results with the actual reported results to determine Prime's reimbursement accuracy.

## **2. PHARMACY CLAIMS AUDIT**

- Request and review fourth quarter 2008 NDPERS pharmacy claims to confirm adjudication accuracy and, in the same process, confirm that spread pricing is not occurring.
- A full pharmacy claims data set with all fields required to complete a claims audit will be provided, unless specific data field are requested by the chosen vendor.
- The pharmacy claims portion of the audit may or may not occur on-site at Prime's corporate headquarters in Eagan, MN at the same time the Rebate portion takes place. This decision will be NDPERS to make.

### **Reports**

A draft audit report will be provided to the auditee (Prime) for comments within approximately 30 days of the on-site visit. A final report will be issued approximately 30 days after the draft report has been reviewed by the auditee (Prime).

The resulting audit report will become a matter of public record because NDPERS is a government entity. The final report will include only information needed to communicate the audit results while protecting the confidentiality of the information, Prime and the manufacturers' contracts, as agreed upon in advance by all parties. Please confirm your agreement with this concept.

### **Data**

Per PERS request, Prime has pulled NDPERS Top 10 brands by Ingredient Cost, Top 10 brands by Volume and Top 5 Manufacturers for 4Q2008. NDPERS will choose 4 to 5 drugs to audit.

Due to contractual obligations with pharmaceutical manufactures, Prime will need to obtain manufacturer written permission prior to conducting the rebate audit.

<b>Top 10 brands by Ing Cost</b>	<b>Top 10 brands by Volume</b>	<b>Top 5 Mfgs</b>	<b>Drug</b>
Lipitor	Lipitor	GlaxoSmithKline	Wellbutrin XL
Effexor XR	Effexor XR	Johnson & Johnson	Aciphex
Advair Diskus	Lexapro	Merk & Co. Inc.	Singulair
Copaxone	Singulair	Pfizer Inc.	Lipitor
Enbrel	Advair Diskus	Wyeth Pharmaceuticals	Protonix
Singulair	Synthroid		
Plavix	Crestor		
Lexapro	Proair HFA		
Avonex	Cymbalta		
Aciphex	Plavix		

## SECTION 4 – Technical Proposal

---

**Technical Proposal** – The proposal shall be formatted as identified in this section and contain specific responses to the information requested. This shall be bound separately and label “**Technical Proposal**”

1. **Management Summary.** This section should include a brief synopsis of the offeror’s understanding of the Board’s requested services. It should also describe the resources that will be used to fulfill the requirements of this RFP.
2. **Technical Approach - Proposed Services.** This Section should present a detailed description of the offeror’s services. The sequence should follow the order described in Section 3. This Section must clearly indicate whether the offeror’s proposal satisfies each specification of the RFP. The offeror’s refusal or inability to accept all the terms and conditions of this RFP and meet each requirement must be clearly noted and explained. Offerors are advised, however, that any such exception may result in its proposal being deemed unacceptable. The offeror shall identify in this Section each task that will be performed in response to this RFP and a timeline for each. The detailing of the scope of work by the offeror is critical in demonstrating an understanding of the effort.
3. **Ownership/Structure**
  - What is your company’s legal name including parent/holding company, subsidiaries and affiliates? Include the address and phone number for each listed.
  - Please provide an overview of your company with regard to ownership and management structure including key executives and the account management team who will be responsible for the relationship, including qualifications.
  - Is your organization independently or publicly owned? If publicly owned, please list the top shareholders and provide the names of shareholders' who own 25% or more of the company. If independently owned, please provide details of funding sources.
  - Provide a brief history of your organization and your status with respect to any merger/acquisition activity that your organization has been involved in over the past two years or which may currently be in process.
  - Please provide an overview of your company with regard to number of years in business, number of employees, number of locations, number of clients, etc.
  - What is your mission statement or main objective?
  - Does your company have any operational, financial, regulatory or legal constraints to conduct business in the United States? Please describe.

- Does your company have ownership stake in any health insurance companies, pharmacies, pharmacy benefit managers (PBM), and pharmaceutical manufacturers? If so, please list and provide details.
- Do any pharmacies, pharmacy benefit management companies or pharmaceutical companies have ownership stake with your organization? If so, please list and provide details.

#### **4. Financial Health**

- Provide a copy of your firm's audited financial statements for the last 2 years (Income Statement, Statement of Assets and Liabilities, and a Statement of Cash Flow). If you are a publicly traded firm and your annual report is available electronically via your web, please provide the URL to obtain the annual report.
- Provide detailed information about money owed to and the relationship with venture capital organizations at the end of 2007.
- What general and professional liability insurance does your company have in place? Please be prepared to provide a copy or certification of all your insurance in place if requested to do so. Please also state the retention levels of Services / Contracts.
- Provide detail on any current or potential litigation in which your organization is involved that could have a significant impact on finances or operations.
- Detail if your company, its parent, subsidiary, affiliate or any of your employees or subcontractors have been: (i) charged with a criminal offense or had any government or regulatory actions taken against your company, (ii) listed by a federal governmental agency as debarred, (iii) proposed for disbarment or suspension, (iv) fined or sanctioned by a federal, state or local agency, or (v) otherwise excluded from federal program participation.

#### **5. Experience**

- What audit areas or industries does your organization focus on?
- Does your organization have experience in auditing pharmacy rebates and pharmacy claims? If so, how many rebate and/or claims audits have been performed in the past three years? For who?
- What differentiates your company and/or your services from your competitor?

#### **6. Standard Vendor Contract**

Please provide a copy of your standard contract template and any attachments / schedules.

## **7. Staffing**

This Section should include individual resumes for the personnel who are to be assigned to the project if the offeror is awarded the contract, and should indicate the proposed project role or assignment of each individual. The offeror shall provide a table at the beginning of this Section that shows the number of hours they are assigned to this effort. The project team should include staff with experience in these types of audits. In addition please provide/discuss:

- Staffing requirements for an audit project of this nature.
- Summary of the qualifications of the staff that would perform this audit.
- Former employees of Prime or BCBS will not be allowed to perform this audit. Identify any staff members who have worked at Prime or BCBS.

## **8. Sample Report**

Provide an outline of the final report and a sample report.

## SECTION 5 – Cost Proposal - Fees/Hours

---

The cost proposal shall be bound separately from the technical proposal and labeled “**Cost Proposal**”.

### **Compensation and Expenses**

Based on your experience with similar projects:

- Please confirm the hours estimated in the Project Definition are reasonable given the scope and objectives of the audit.
- Estimate your consulting fee for the proposed audit, as shown below:

<u>Scope of services</u>	<u>Professional Fees</u>
• <u>Manufacturer Rebate Audit</u>	\$ _____
• <u>Pharmacy Claims Audit</u>	\$ _____
• <u>Reimbursable Expenditures</u>	\$ _____
<u>Total Service Fees</u>	\$ _____

- Provide the hourly rates for each proposed staff member assigned and the estimated number of hours they are assigned to each of the above. Please note that the reimbursable expenditures for travel must be approved by the PERS Executive Director prior to being incurred.
- If the scope of services or the assigned staffing or requirements changes, compensation will only be adjusted in advance by mutual agreement.
- Please confirm your understanding that reimbursable expenditures are limited to those that comply with North Dakota state expense policy.

**THE COST PROPOSAL SHALL BE UNDER SEPARATE COVER AND NOT PART OF THE  
RESPONSES TO THE OTHER INFORMATION REQUESTS.**

## SECTION 6 - SUBMISSION OF PROPOSAL

---

- A. Proposals should be prepared in a straightforward manner to satisfy the requirements of this RFP. Emphasis should be on completeness and clarity of content. Costs for developing proposals are entirely the responsibility of the proposer and shall not be chargeable to PERS.
- B. Address or deliver the RFP to:  
Mr. Sparb Collins, Executive Director  
North Dakota Public Employees Retirement System  
400 E. Broadway, Suite 505  
PO Box 1657  
Bismarck, ND 58501  
(701) 328-3900

Questions concerning the RFP shall be directed, in writing, to the above individual by 5:00 p.m. CST on October 23, 2009. Responses will be posted on the PERS web site ([www.nd.gov/ndpers](http://www.nd.gov/ndpers)) by November 4, 2009 under "Request for Proposals". If you would like a copy emailed to you please notify us at [cstocker@nd.gov](mailto:cstocker@nd.gov).

- C. Ten (10) copies of the proposal must be received at the above listed location by **5:00 p.m. CST on November 20, 2009**. The package the proposal is delivered in must be plainly marked "PROPOSAL TO PROVIDE AUDIT SERVICES".

A proposal shall be considered late if received at any time after the exact time specified for return of proposals.

- D. The policy of the PERS Board is to solicit proposals with a bona fide intent to award a contract. This policy will not affect the right of the PERS Board to reject any or all proposals.
- E. The PERS Board may request that representatives of your organization appear before them for interviewing purposes. Travel expenses and related costs will be the responsibility of the organization being interviewed.
- F. The PERS Board will award the contract for services no later than the end of January, 2010.
- G. In evaluating the proposals, price will not be the sole factor. The Board may consider any factors it deems necessary and proper, including but not limited to: price, quality of service, response to this request, experience, staffing and general reputation.
- H. The failure to meet all procurement policy requirements shall not automatically invalidate a proposal or procurement. The final decision rests with the Board.

## **SECTION 7 - REVIEW PROCESS**

---

Proposals will be evaluated in a three-step approach. The first step will be done by a review team composed of PERS staff and will be an initial screening of each proposal to determine if it is sufficiently responsive to the RFP to permit a valid comparison and meets the minimum qualifications of having completed past projects similar to the efforts requested herein. The qualifying factor will be on a Yes/No basis. The proposal will be dropped from consideration if a majority of viewers respond "No".

The proposals that pass the initial screening will then be reviewed by the same review team. Each individual will review the proposal for all areas but price. Every proposal will be awarded points for specified areas by the reviewers. Points for price are awarded automatically. Following is the weighting factor for each area:

- |                                     |           |
|-------------------------------------|-----------|
| • Technical Approach ( Section 4.2) | 30 Point  |
| • Prior Experience (Section 4.5)    | 10 points |
| • Staffing (Section 4.7)            | 10 Points |
| • Sample product (Section 4.8)      | 5 points  |
| • Organization (Sections 4.3, 4.4)  | 10 points |
| • Pricing (Section 5)               | 35 points |

The NDPERS Attorney will also review Section 4.6, the proposed contract. The offeror shall provide a contact person for the NDPERS attorney to contact to discuss proposed contract language. This step will be going on concurrently with the review and will be separate report to the board which they will consider as well as the above ratings. The final step will be a review by the PERS Board. The PERS Board will use any and all information in making its determination and will use the staff's review and the attorney's review as a guide in making its decision.



**North Dakota  
Public Employees Retirement System**  
400 East Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502-1657

**Sparb Collins**  
Executive Director  
(701) 328-3900  
1-800-803-7377

---

FAX: (701) 328-3920 • EMAIL: [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov) • [www.nd.gov/ndpers](http://www.nd.gov/ndpers)

# Memorandum

**TO:** PERS Board  
**FROM:** Sparb  
**DATE:** September 9, 2009  
**SUBJECT:** Medicare Part D Renewal

Attached is the proposed renewal for Medicare Part D for 2010. Part D is the Medicare retiree Rx coverage. The good news is that the proposed renewal has no increase in premiums.

I have sent this on to GBS for comment. Since we just received the renewal, I will bring their comments to the Board meeting for your consideration.

**Board Action Requested**

To approve or disapprove the attached renewal.

## North Dakota Public Employees Retirement System

2009 Renewal for Group Prescription Drug Plan  
Based on Current Plan Design

Enrollment on 6/30/2008	2008		2009		Rate Increase
	Monthly Premium	Annual Income	Monthly Premium	Annual Income	
6,201	56.40	\$4,196,837	63.70	\$4,740,044	12.9%

### Notes for 2009 Renewal:

- The Centers for Medicare and Medicaid Services (CMS) reported on August 14, 2008 the national average monthly bid amount for standard Part D individual coverage of \$84.33 and the Part D base beneficiary premium for 2008 (average individual premium) of \$30.36. These amounts are increases from those used in 2008, which were \$80.52 and \$27.93 respectively.

Further information on this topic can be found at the CMS website:

<http://www.cms.hhs.gov/medicareadvtspeccratestats/Downloads/PartDandMABenchmarks2009.pdf>

- Direct CMS subsidy payments, which account for more than half of expected claim costs for the NDPERS GPDP, are derived from bidding averages discussed above. For the 2009 NDPERS GPDP rating estimated total CMS payments are expected to **decrease by 12.4%** from that assumed in the 2008 GPDP rating.
- The NDPERS Group Prescription Drug Plan (GPDP) has been rated for 2009 based on prior claim experience from 2007 and the first half of 2008.

**North Dakota Public Employees Retirement System**  
 2009 Renewal Rate Calculation for Group Prescription Drug Plan  
 Based on 2008 Plan Design

1A. Allowed Claims Amounts (Incurred 1-1-07 thru 12-31-07, paid thru 7-25-08)	12,140,460
1B. Benefit Adjustment to Current Period [ (1) x 0.900 ]	10,926,414
2A. Allowed Claims Amounts (Incurred 1-1-08 thru 6-30-08, paid thru 7-25-08)	6,156,709
2B. Benefit Adjustment to Current Period [ (2) x 0.990 ]	6,095,142
3. Incurred Allowed Claims [ (1B) + (2B) ]	17,021,556
4. Member Months Exposed (1-1-07 thru 6-30-08)	109,661
5. Adjusted Experience Period Allowed Claims PMPM [ (3) / (4) ]	155.22
6. Trend [ 21 months @ 7.5% annual ]	1.13125
7. Rating Period Allowed Claims PMPM [ (5) x (6) ]	175.59
8. Rating Period Plan Paid PMPM [ (7) x 0.661 ]	116.07
9. Rating Period Member Cost Share PMPM [ (7) - (8) ]	59.53
10. Estimated 2009 Rx Drug Rebate PMPM	18.00
11. 2009 Plan Payments PMPM [ (8) - (10) ]	98.07
12. 2009 Anticipated Loss Ratio	85%
13. 2009 Gross Premium to BCBSND [ (11) / (12) ]	115.38
14. CMS Payments to BCBSND	51.72
15. Calculated Member Premium [ (13) - (14) ]	63.66
16. Rounded to Nearest \$0.10	63.70



**North Dakota  
Public Employees Retirement System**  
400 East Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502-1657

**Sparb Collins**  
Executive Director  
(701) 328-3900  
1-800-803-7377

---

FAX: (701) 328-3920 • EMAIL: [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov) • [www.nd.gov/ndpers](http://www.nd.gov/ndpers)

# Memorandum

**TO:** PERS Board  
**FROM:** Sparb  
**DATE:** September 10, 2009  
**SUBJECT:** Health Plan Projections

Attached for your information and review are draft planning projections for the health plan. We projected under four different medical/Rx trend scenarios for both the current and next biennium:

- 6% trend
- 8% trend
- 10% trend
- 12% trend

Page 5 shows the projected deficit/surpluses for the current biennium (without NDPERS administrative costs, disease management fees or settlement of existing contingency margin provision) for each of the four trend scenarios.

Pages 6, 7, 8, and 9 show the potential premium increases with the above trends.

Staff will be continuing to work with these projections and will refine them further for your review at the October meeting.

## NDPERS

### Development of Projected Medical & Rx Incurred Claims and Retention For Plan Year July 1, 2009 through June 30, 2011

#### DRAFT

1. Development of 2009 - 2011 Projected Medical & Rx Incurred Claims and Retention **6% Trend**
2. Development of 2009 - 2011 Projected Medical & Rx Incurred Claims and Retention **8% Trend**
3. Development of 2009 - 2011 Projected Medical & Rx Incurred Claims and Retention **10% Trend**
4. Development of 2009 - 2011 Projected Medical & Rx Incurred Claims and Retention **12% Trend**
5. Development of Projected Deficit/Surplus
6. Development of 2011 - 2013 Projected Medical & Rx Incurred Claims and Retention **6% Trend**
7. Development of 2011 - 2013 Projected Medical & Rx Incurred Claims and Retention **8% Trend**
8. Development of 2011 - 2013 Projected Medical & Rx Incurred Claims and Retention **10% Trend**
9. Development of 2011 - 2013 Projected Medical & Rx Incurred Claims and Retention **12% Trend**
10. Trend Analysis - Active and Non-Medicare Retirees
11. Trend Analysis - Medicare Retirees

This analysis is for illustrative purposes only, and is not a guarantee of future expenses, claims costs, managed care savings, etc. There are many variables that can affect future health care costs including utilization patterns, catastrophic claims, changes in plan design, health care trend increases, etc. This analysis does not amend, extend, or alter the coverage provided by the actual insurance policies and contracts. Please see your policy or contact us for specific information or further details in this regard.

**NDPERS**  
**Development of Projected Medical & Rx Incurred Claims and Retention 6% Trend**  
**For Biennium July 1, 2009 through June 30, 2011**

Biennium Rate Development	Active & Non-Medicare Retiree			Medicare Retiree	Total NDPERS
	Medical	Rx	Total	Medical	
1. Current Subscribers	20,221	20,221	20,221	4,926	25,147
2. Current Membership	50,536	50,536	50,536	6,434	56,970
3. Total Paid Claims (7/1/2008 to 6/30/2009)	\$138,116,129	\$22,902,080	\$161,018,209	\$6,467,827	\$167,486,036
6. Incurred But Not Reported (IBNR) Adjustment	1.40%	0.00%	1.20%	1.50%	1.21%
7. Estimated Incurred Claims	\$140,049,755	\$22,902,080	\$162,951,835	\$6,564,844	\$169,516,679
6. Average Exposure Units (Membership)	50,019	50,019	50,019	6,292	56,311
7. Incurred Claims / Member / Month	\$233.33	\$38.16	\$271.48	\$86.95	\$250.86
10. Trend Factor (1)	9.1%	9.1%	9.1%	9.1%	9.1%
11. Trended Medical & Rx Paid Claims / Member / Month	\$254.64	\$41.64	\$296.28	\$94.89	\$273.54
12. Benefit Adjustments (Wellness Additions & Benefit Reductions) (2)	(\$3.76)	(\$0.49)	(\$4.25)	\$0.00	(\$3.77)
13. Adjusted Medical & Rx Paid Claims / Member / Month	\$250.88	\$41.15	\$292.03	\$94.89	\$269.77
14. Conversion to Per Employee Per Month			\$729.85	\$123.94	\$611.16
15. Claims Retention - BCBSND / Employee / Month (3)			\$36.34	\$36.34	\$36.34
<b>16. Needed Medical &amp; Rx Premium / Employee / Month</b>			<b>\$766.19</b>	<b>\$160.28</b>	<b>\$647.50</b>
<b>17. Current Net Premium / Employee / Month (4)</b>			<b>\$799.63</b>	<b>\$236.56</b>	<b>\$689.33</b>
<b>18. Surplus/(Deficit)</b>			<b>\$16,229,750</b>	<b>\$9,018,304</b>	<b>\$25,248,055</b>

(1) Annual Trend Factors	6.0%	6.0%	6.0%	6.0%	6.0%
Months of Trend	18.0	18.0	18.0	18.0	18.0

(2) Based on PEPM benefit change values given by BCBSND and converted to PEPM.

(3) Claims retention includes administration, risk, and conversion. Other administration costs not included in the premium projection are

- a) NDPERS Admin \$2.80
- b) Disease Management & Wellness \$4.25
- c) Contingency Margin \$6.99

(4) Based upon July 2009 billing received from NDPERS, which represents the amount paid to BCBSND before NDPERS Administration or Wellness/DM charges. Excludes Medicare Part D premiums for Medicare subscribers.

**NDPERS**  
**Development of Projected Medical & Rx Incurred Claims and Retention 8% Trend**  
**For Biennium July 1, 2009 through June 30, 2011**

Biennium Rate Development	Active & Non-Medicare Retiree			Medicare Retiree	Total NDPERS
	Medical	Rx	Total	Medical	
1. Current Subscribers	20,221	20,221	20,221	4,926	25,147
2. Current Membership	50,536	50,536	50,536	6,434	56,970
3. Total Paid Claims (7/1/2008 to 6/30/2009)	\$138,116,129	\$22,902,080	\$161,018,209	\$6,467,827	\$167,486,036
6. Incurred But Not Reported (IBNR) Adjustment	1.40%	0.00%	1.20%	1.50%	1.21%
7. Estimated Incurred Claims	\$140,049,755	\$22,902,080	\$162,951,835	\$6,564,844	\$169,516,679
6. Average Exposure Units (Membership)	50,019	50,019	50,019	6,292	56,311
7. Incurred Claims / Member / Month	\$233.33	\$38.16	\$271.48	\$86.95	\$250.86
10. Trend Factor (1)	12.2%	12.2%	12.2%	12.2%	12.2%
11. Trended Medical & Rx Paid Claims / Member / Month	\$261.88	\$42.82	\$304.71	\$97.59	\$281.31
12. Benefit Adjustments (Wellness Additions & Benefit Reductions) (2)	(\$3.76)	(\$0.49)	(\$4.25)	\$0.00	(\$3.77)
13. Adjusted Medical & Rx Paid Claims / Member / Month	\$258.12	\$42.34	\$300.46	\$97.59	\$277.55
14. Conversion to Per Employee Per Month			\$750.90	\$127.46	\$628.78
15. Claims Retention - BCBSND / Employee / Month (3)			\$36.34	\$36.34	\$36.34
<b>16. Needed Medical &amp; Rx Premium / Employee / Month</b>			<b>\$787.24</b>	<b>\$163.80</b>	<b>\$665.12</b>
<b>17. Current Net Premium / Employee / Month (4)</b>			<b>\$799.63</b>	<b>\$236.56</b>	<b>\$689.33</b>
<b>18. Surplus/(Deficit)</b>			<b>\$6,011,698</b>	<b>\$8,601,667</b>	<b>\$14,613,365</b>

(1) Annual Trend Factors	8.0%	8.0%	8.0%	8.0%	8.0%
Months of Trend	18.0	18.0	18.0	18.0	18.0

(2) Based on PEPM benefit change values given by BCBSND and converted to PEPM.

(3) Claims retention includes administration, risk, and conversion. Other administration costs not included in the premium projection are

- a) NDPERS Admin \$2.80
- b) Disease Management & Wellness \$4.25
- c) Contingency Margin \$6.99

(4) Based upon July 2009 billing received from NDPERS, which represents the amount paid to BCBSND before NDPERS Administration or Wellness/DM charges. Excludes Medicare Part D premiums for Medicare subscribers.

**NDPERS**  
**Development of Projected Medical & Rx Incurred Claims and Retention 10% Trend**  
**For Biennium July 1, 2009 through June 30, 2011**

Biennium Rate Development	Active & Non-Medicare Retiree			Medicare Retiree	Total NDPERS
	Medical	Rx	Total	Medical	
1. Current Subscribers	20,221	20,221	20,221	4,926	25,147
2. Current Membership	50,536	50,536	50,536	6,434	56,970
3. Total Paid Claims (7/1/2008 to 6/30/2009)	\$138,116,129	\$22,902,080	\$161,018,209	\$6,467,827	\$167,486,036
6. Incurred But Not Reported (IBNR) Adjustment	1.40%	0.00%	1.20%	1.50%	1.21%
7. Estimated Incurred Claims	\$140,049,755	\$22,902,080	\$162,951,835	\$6,564,844	\$169,516,679
6. Average Exposure Units (Membership)	50,019	50,019	50,019	6,292	56,311
7. Incurred Claims / Member / Month	\$233.33	\$38.16	\$271.48	\$86.95	\$250.86
10. Trend Factor (1)	15.4%	15.4%	15.4%	15.4%	15.4%
11. Trended Medical & Rx Paid Claims / Member / Month	\$269.19	\$44.02	\$313.21	\$100.31	\$289.16
12. Benefit Adjustments (Wellness Additions & Benefit Reductions) (2)	(\$3.76)	(\$0.49)	(\$4.25)	\$0.00	(\$3.77)
13. Adjusted Medical & Rx Paid Claims / Member / Month	\$265.43	\$43.53	\$308.96	\$100.31	\$285.40
14. Conversion to Per Employee Per Month			\$772.15	\$131.02	\$646.56
15. Claims Retention - BCBSND / Employee / Month (3)			\$36.34	\$36.34	\$36.34
<b>16. Needed Medical &amp; Rx Premium / Employee / Month</b>			<b>\$808.49</b>	<b>\$167.36</b>	<b>\$682.90</b>
<b>17. Current Net Premium / Employee / Month (4)</b>			<b>\$799.63</b>	<b>\$236.56</b>	<b>\$689.33</b>
<b>18. Surplus/(Deficit)</b>			<b>(\$4,301,409)</b>	<b>\$8,181,154</b>	<b>\$3,879,744</b>

(1) Annual Trend Factors	10.0%	10.0%	10.0%	10.0%	10.0%
Months of Trend	18.0	18.0	18.0	18.0	18.0

(2) Based on PEPM benefit change values given by BCBSND and converted to PEPM.

(3) Claims retention includes administration, risk, and conversion. Other administration costs not included in the premium projection are

- a) NDPERS Admin \$2.80
- b) Disease Management & Wellness \$4.25
- c) Contingency Margin \$6.99

(4) Based upon July 2009 billing received from NDPERS, which represents the amount paid to BCBSND before NDPERS Administration or Wellness/DM charges. Excludes Medicare Part D premiums for Medicare subscribers.

**NDPERS**  
**Development of Projected Medical & Rx Incurred Claims and Retention 12% Trend**  
**For Biennium July 1, 2009 through June 30, 2011**

Biennium Rate Development	Active & Non-Medicare Retiree			Medicare Retiree	Total NDPERS
	Medical	Rx	Total	Medical	
1. Current Subscribers	20,221	20,221	20,221	4,926	25,147
2. Current Membership	50,536	50,536	50,536	6,434	56,970
3. Total Paid Claims (7/1/2008 to 6/30/2009)	\$138,116,129	\$22,902,080	\$161,018,209	\$6,467,827	\$167,486,036
6. Incurred But Not Reported (IBNR) Adjustment	1.40%	0.00%	1.20%	1.50%	1.21%
7. Estimated Incurred Claims	\$140,049,755	\$22,902,080	\$162,951,835	\$6,564,844	\$169,516,679
6. Average Exposure Units (Membership)	50,019	50,019	50,019	6,292	56,311
7. Incurred Claims / Member / Month	\$233.33	\$38.16	\$271.48	\$86.95	\$250.86
10. Trend Factor (1)	18.5%	18.5%	18.5%	18.5%	18.5%
11. Trended Medical & Rx Paid Claims / Member / Month	\$276.56	\$45.23	\$321.79	\$103.06	\$297.09
12. Benefit Adjustments (Wellness Additions & Benefit Reductions) (2)	(\$3.76)	(\$0.49)	(\$4.25)	\$0.00	(\$3.77)
13. Adjusted Medical & Rx Paid Claims / Member / Month	\$272.80	\$44.74	\$317.54	\$103.06	\$293.32
14. Conversion to Per Employee Per Month			\$793.60	\$134.61	\$664.51
15. Claims Retention - BCBSND / Employee / Month (3)			\$36.34	\$36.34	\$36.34
<b>16. Needed Medical &amp; Rx Premium / Employee / Month</b>			<b>\$829.94</b>	<b>\$170.95</b>	<b>\$700.85</b>
<b>17. Current Net Premium / Employee / Month (4)</b>			<b>\$799.63</b>	<b>\$236.56</b>	<b>\$689.33</b>
<b>18. Surplus/(Deficit)</b>			<b>(\$14,708,703)</b>	<b>\$7,756,800</b>	<b>(\$6,951,904)</b>

(1) Annual Trend Factors	12.0%	12.0%	12.0%	12.0%	12.0%
Months of Trend	18.0	18.0	18.0	18.0	18.0

(2) Based on PEPM benefit change values given by BCBSND and converted to PEPM.

(3) Claims retention includes administration, risk, and conversion. Other administration costs not included in the premium projection are

a) NDPERS Admin	\$2.80
b) Disease Management & Wellness	\$4.25
c) Contingency Margin	\$6.99

(4) Based upon July 2009 billing received from NDPERS, which represents the amount paid to BCBSND before NDPERS Administration or Wellness/DM charges. Excludes Medicare Part D premiums for Medicare subscribers.

**NDPERS**  
**Development of Projected Deficit/Surplus**  
**For Biennium July 1, 2009 through June 30, 2011**

**Total 2009 - 2011 Expected Premium <sup>(1)</sup> → \$416,029,774**

Trend Assumption			Final Costs	
<u>Active Medical</u>	<u>Active Rx</u>	<u>Retiree Medical</u>	<u>Total Expected Cost (Claims &amp; Retention)</u>	<u>Deficit/Surplus</u>
6.0%	6.0%	6.0%	\$390,781,719	\$25,248,055
8.0%	8.0%	8.0%	\$401,416,409	\$14,613,365
10.0%	10.0%	10.0%	\$412,150,030	\$3,879,744
12.0%	12.0%	12.0%	\$422,981,678	(\$6,951,904)

<sup>(1)</sup> Based upon July 2009 billing received from NDPERS, which represents the amount paid to BCBSND before NDPERS Administration or Wellness/DM charges. Excludes Medicare Part D premiums for Medicare subscribers.

**NDPERS**  
**Development of Projected Medical & Rx Incurred Claims and Retention 6% Trend**  
**For Biennium July 1, 2011 through June 30, 2013**

Biennium Rate Development	Active & Non-Medicare Retiree			Medicare Retiree	Total NDPERS
	Medical	Rx	Total	Medical	
1. Current Subscribers	20,221	20,221	20,221	4,926	25,147
2. Current Membership	50,536	50,536	50,536	6,434	56,970
3. Total Paid Claims (7/1/2008 to 6/30/2009)	\$138,116,129	\$22,902,080	\$161,018,209	\$6,467,827	\$167,486,036
6. Incurred But Not Reported (IBNR) Adjustment	1.40%	0.00%	1.20%	1.50%	1.21%
7. Estimated Incurred Claims	\$140,049,755	\$22,902,080	\$162,951,835	\$6,564,844	\$169,516,679
6. Average Exposure Units (Membership)	50,019	50,019	50,019	6,292	56,311
7. Incurred Claims / Member / Month	\$233.33	\$38.16	\$271.48	\$86.95	\$250.86
10. Trend Factor (1)	22.6%	22.6%	22.6%	22.6%	22.6%
11. Trended Medical & Rx Paid Claims / Member / Month	\$286.11	\$46.79	\$332.90	\$106.62	\$307.35
12. Benefit Adjustments (Wellness Additions & Benefit Reductions) (2)	(\$3.76)	(\$0.49)	(\$4.25)	\$0.00	(\$3.77)
13. Adjusted Medical & Rx Paid Claims / Member / Month	\$282.35	\$46.30	\$328.65	\$106.62	\$303.58
14. Conversion to Per Employee Per Month			\$821.37	\$139.26	\$687.75
15. Claims Retention - BCBSND / Employee / Month (3)			\$46.61	\$46.61	\$46.61
<b>16. Needed Medical &amp; Rx Premium / Employee / Month</b>			<b>\$867.98</b>	<b>\$185.87</b>	<b>\$734.36</b>
<b>17. Current Net Premium / Employee / Month (4)</b>			<b>\$799.63</b>	<b>\$236.56</b>	<b>\$689.33</b>
<b>18. Percent Change</b>			<b>8.5%</b>	<b>-21.4%</b>	<b>6.5%</b>

(1) Annual Trend Factors	<b>6.0%</b>	<b>6.0%</b>	<b>6.0%</b>	<b>6.0%</b>	<b>6.0%</b>
Months of Trend	42.0	42.0	42.0	42.0	42.0

(2) Based on PEPM benefit change values given by BCBSND and converted to PEPM.

(3) Claims retention assumes an 8% increase and includes administration, risk, contingency margin, and conversion. Other administration costs not included in the premium projection are:

a) NDPERS Admin	\$2.80
b) Disease Management & Wellness	\$4.25

(4) Based upon July 2009 billing received from NDPERS, which represents the amount paid to BCBSND before NDPERS Administration or Wellness/DM charges. Excludes Medicare Part D premiums for Medicare subscribers.

**NDPERS**  
**Development of Projected Medical & Rx Incurred Claims and Retention 8% Trend**  
**For Biennium July 1, 2011 through June 30, 2013**

Biennium Rate Development	Active & Non-Medicare Retiree			Medicare Retiree	Total NDPERS
	Medical	Rx	Total	Medical	
1. Current Subscribers	20,221	20,221	20,221	4,926	25,147
2. Current Membership	50,536	50,536	50,536	6,434	56,970
3. Total Paid Claims (7/1/2008 to 6/30/2009)	\$138,116,129	\$22,902,080	\$161,018,209	\$6,467,827	\$167,486,036
6. Incurred But Not Reported (IBNR) Adjustment	1.40%	0.00%	1.20%	1.50%	1.21%
7. Estimated Incurred Claims	\$140,049,755	\$22,902,080	\$162,951,835	\$6,564,844	\$169,516,679
6. Average Exposure Units (Membership)	50,019	50,019	50,019	6,292	56,311
7. Incurred Claims / Member / Month	\$233.33	\$38.16	\$271.48	\$86.95	\$250.86
10. Trend Factor (1)	30.9%	30.9%	30.9%	30.9%	30.9%
11. Trended Medical & Rx Paid Claims / Member / Month	\$305.46	\$49.95	\$355.41	\$113.82	\$328.12
12. Benefit Adjustments (Wellness Additions & Benefit Reductions) (2)	(\$3.76)	(\$0.49)	(\$4.25)	\$0.00	(\$3.77)
13. Adjusted Medical & Rx Paid Claims / Member / Month	\$301.70	\$49.46	\$351.16	\$113.82	\$324.36
14. Conversion to Per Employee Per Month			\$877.62	\$148.67	\$734.83
15. Claims Retention - BCBSND / Employee / Month (3)			\$47.08	\$47.08	\$47.08
<b>16. Needed Medical &amp; Rx Premium / Employee / Month</b>			<b>\$924.70</b>	<b>\$195.75</b>	<b>\$781.91</b>
<b>17. Current Net Premium / Employee / Month (4)</b>			<b>\$799.63</b>	<b>\$236.56</b>	<b>\$689.33</b>
<b>18. Percent Change</b>			<b>15.6%</b>	<b>-17.2%</b>	<b>13.4%</b>

(1) Annual Trend Factors	<b>8.0%</b>	<b>8.0%</b>	<b>8.0%</b>	<b>8.0%</b>	<b>8.0%</b>
Months of Trend	42.0	42.0	42.0	42.0	42.0

(2) Based on PEPM benefit change values given by BCBSND and converted to PEPM.

(3) Claims retention assumes an 8% increase and includes administration, risk, contingency margin, and conversion. Other administration costs not included in the premium projection are:

a) NDPERS Admin	\$2.80
b) Disease Management & Wellness	\$4.25

(4) Based upon July 2009 billing received from NDPERS, which represents the amount paid to BCBSND before NDPERS Administration or Wellness/DM charges. Excludes Medicare Part D premiums for Medicare subscribers.

**NDPERS**  
**Development of Projected Medical & Rx Incurred Claims and Retention 10% Trend**  
**For Biennium July 1, 2011 through June 30, 2013**

Biennium Rate Development	Active & Non-Medicare Retiree			Medicare Retiree	Total NDPERS
	Medical	Rx	Total	Medical	
1. Current Subscribers	20,221	20,221	20,221	4,926	25,147
2. Current Membership	50,536	50,536	50,536	6,434	56,970
3. Total Paid Claims (7/1/2008 to 6/30/2009)	\$138,116,129	\$22,902,080	\$161,018,209	\$6,467,827	\$167,486,036
6. Incurred But Not Reported (IBNR) Adjustment	1.40%	0.00%	1.20%	1.50%	1.21%
7. Estimated Incurred Claims	\$140,049,755	\$22,902,080	\$162,951,835	\$6,564,844	\$169,516,679
6. Average Exposure Units (Membership)	50,019	50,019	50,019	6,292	56,311
7. Incurred Claims / Member / Month	\$233.33	\$38.16	\$271.48	\$86.95	\$250.86
10. Trend Factor (1)	39.6%	39.6%	39.6%	39.6%	39.6%
11. Trended Medical & Rx Paid Claims / Member / Month	\$325.72	\$53.26	\$378.98	\$121.37	\$349.89
12. Benefit Adjustments (Wellness Additions & Benefit Reductions) (2)	(\$3.76)	(\$0.49)	(\$4.25)	\$0.00	(\$3.77)
13. Adjusted Medical & Rx Paid Claims / Member / Month	\$321.96	\$52.78	\$374.74	\$121.37	\$346.12
14. Conversion to Per Employee Per Month			\$936.53	\$158.53	\$784.13
15. Claims Retention - BCBSND / Employee / Month (3)			\$47.57	\$47.57	\$47.57
<b>16. Needed Medical &amp; Rx Premium / Employee / Month</b>			<b>\$984.10</b>	<b>\$206.10</b>	<b>\$831.70</b>
<b>17. Current Net Premium / Employee / Month (4)</b>			<b>\$799.63</b>	<b>\$236.56</b>	<b>\$689.33</b>
<b>18. Percent Change</b>			<b>23.1%</b>	<b>-12.9%</b>	<b>20.7%</b>

(1) Annual Trend Factors	10.0%	10.0%	10.0%	10.0%	10.0%
Months of Trend	42.0	42.0	42.0	42.0	42.0

(2) Based on PEPM benefit change values given by BCBSND and converted to PEPM.

(3) Claims retention assumes an 8% increase and includes administration, risk, contingency margin, and conversion. Other administration costs not included in the premium projection are:

a) NDPERS Admin	\$2.80
b) Disease Management & Wellness	\$4.25

(4) Based upon July 2009 billing received from NDPERS, which represents the amount paid to BCBSND before NDPERS Administration or Wellness/DM charges. Excludes Medicare Part D premiums for Medicare subscribers.

**NDPERS**  
**Development of Projected Medical & Rx Incurred Claims and Retention 12% Trend**  
**For Biennium July 1, 2011 through June 30, 2013**

Biennium Rate Development	Active & Non-Medicare Retiree			Medicare Retiree	Total NDPERS
	Medical	Rx	Total	Medical	
1. Current Subscribers	20,221	20,221	20,221	4,926	25,147
2. Current Membership	50,536	50,536	50,536	6,434	56,970
3. Total Paid Claims (7/1/2008 to 6/30/2009)	\$138,116,129	\$22,902,080	\$161,018,209	\$6,467,827	\$167,486,036
6. Incurred But Not Reported (IBNR) Adjustment	1.40%	0.00%	1.20%	1.50%	1.21%
7. Estimated Incurred Claims	\$140,049,755	\$22,902,080	\$162,951,835	\$6,564,844	\$169,516,679
6. Average Exposure Units (Membership)	50,019	50,019	50,019	6,292	56,311
7. Incurred Claims / Member / Month	\$233.33	\$38.16	\$271.48	\$86.95	\$250.86
10. Trend Factor (1)	48.7%	48.7%	48.7%	48.7%	48.7%
11. Trended Medical & Rx Paid Claims / Member / Month	\$346.92	\$56.73	\$403.65	\$129.28	\$372.67
12. Benefit Adjustments (Wellness Additions & Benefit Reductions) (2)	(\$3.76)	(\$0.49)	(\$4.25)	\$0.00	(\$3.77)
13. Adjusted Medical & Rx Paid Claims / Member / Month	\$343.16	\$56.24	\$399.41	\$129.28	\$368.90
14. Conversion to Per Employee Per Month			\$998.19	\$168.85	\$835.73
15. Claims Retention - BCBSND / Employee / Month (3)			\$48.08	\$48.08	\$48.08
<b>16. Needed Medical &amp; Rx Premium / Employee / Month</b>			<b>\$1,046.27</b>	<b>\$216.93</b>	<b>\$883.81</b>
<b>17. Current Net Premium / Employee / Month (4)</b>			<b>\$799.63</b>	<b>\$236.56</b>	<b>\$689.33</b>
<b>18. Percent Change</b>			<b>30.8%</b>	<b>-8.3%</b>	<b>28.2%</b>

(1) Annual Trend Factors	12.0%	12.0%	12.0%	12.0%	12.0%
Months of Trend	42.0	42.0	42.0	42.0	42.0

(2) Based on PEPM benefit change values given by BCBSND and converted to PEPM.

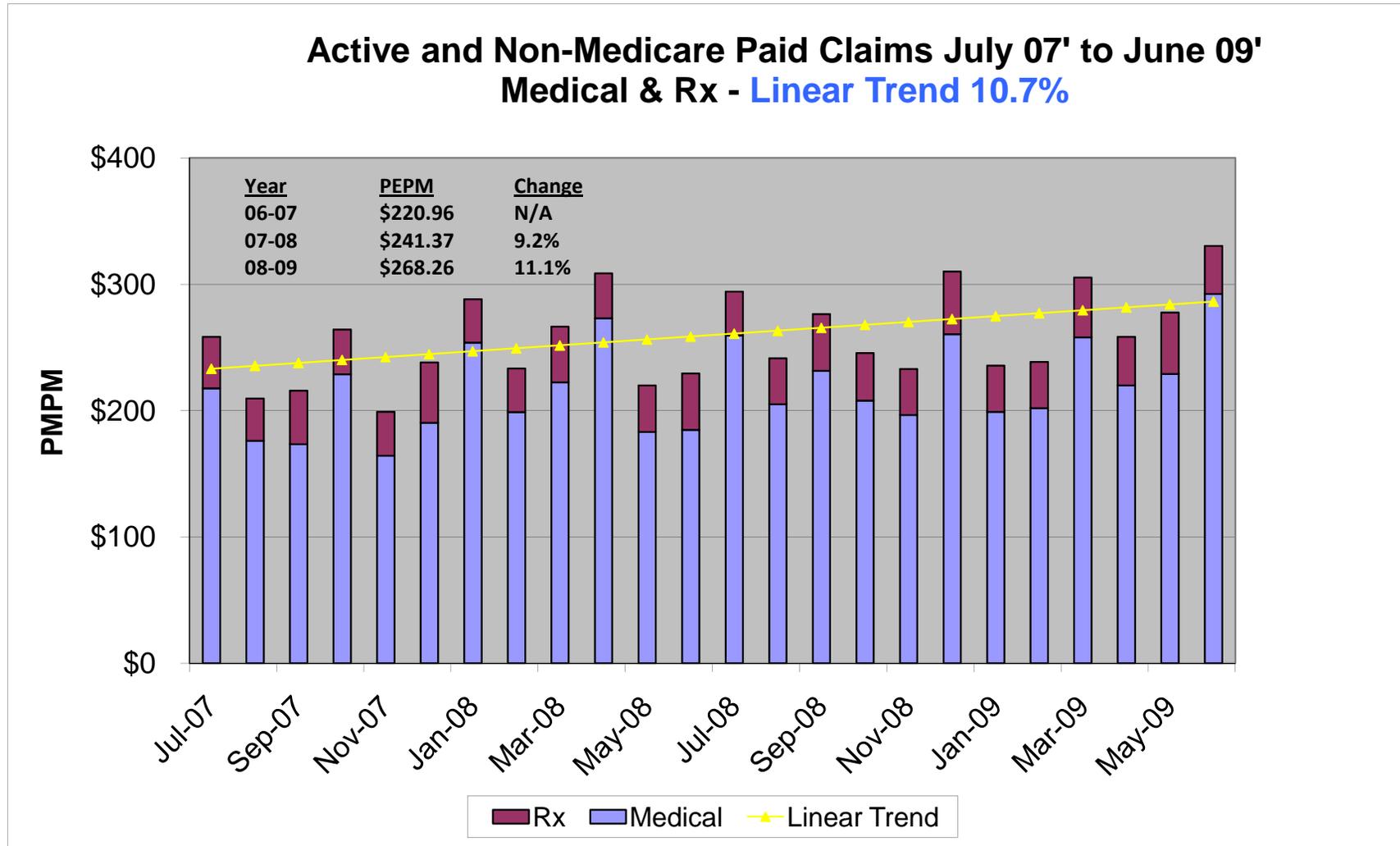
(3) Claims retention assumes an 8% increase and includes administration, risk, contingency margin, and conversion. Other administration costs not included in the premium projection are:

a) NDPERS Admin	\$2.80
b) Disease Management & Wellness	\$4.25

(4) Based upon July 2009 billing received from NDPERS, which represents the amount paid to BCBSND before NDPERS Administration or Wellness/DM charges. Excludes Medicare Part D premiums for Medicare subscribers.

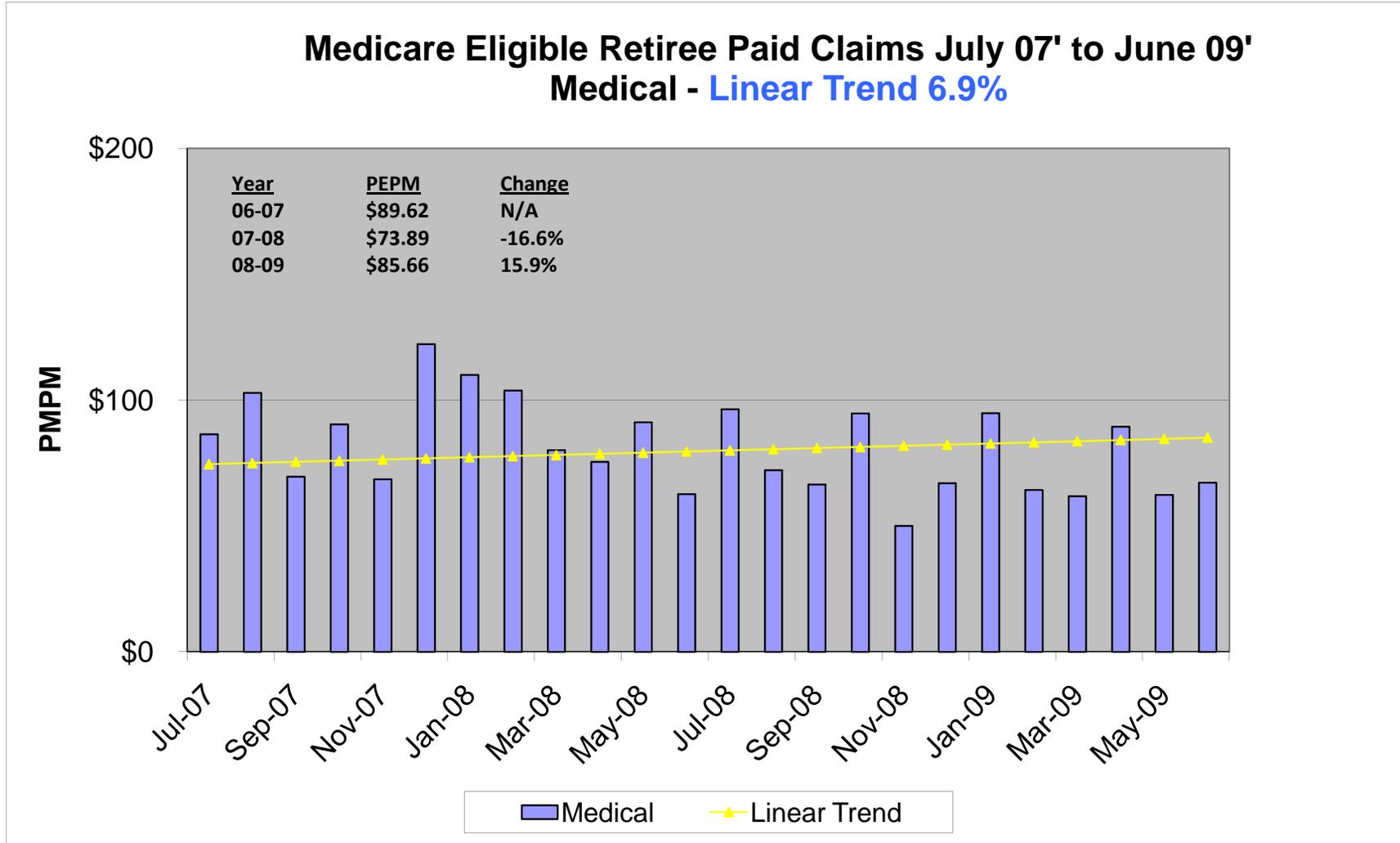
**NDPERS**  
**Historical Paid Claims Trend Analysis - Active and Non-Medicare Combined**

**Active and Non-Medicare Paid Claims July 07' to June 09'**  
**Medical & Rx - Linear Trend 10.7%**



**NDPERS**  
**Historical Paid Claims Trend Analysis - Medicare Eligible Retiree Medical**

**Medicare Eligible Retiree Paid Claims July 07' to June 09'**  
**Medical - Linear Trend 6.9%**





**North Dakota  
Public Employees Retirement System**  
400 East Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502-1657

**Sparb Collins**  
Executive Director  
(701) 328-3900  
1-800-803-7377

---

FAX: (701) 328-3920 • EMAIL: [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov) • [www.nd.gov/ndpers](http://www.nd.gov/ndpers)

# Memorandum

**TO:** PERS Board  
**FROM:** Sparb  
**DATE:** September 10, 2009  
**SUBJECT:** Plan Design

At the last meeting a pre-Medicare retiree appeared before the Board with concerns about his notice relating to plan design changes. We reviewed our communications on this and Attachment #1 is the notice that was included in the newsletter to active members. As you will note it discusses all the changes for the PERS active plan. Attachment #2 is the information in the retiree newsletter. It provides an overview of the plan design changes for retirees.

Prior to this year the actives and retirees had the same plan design. Beginning this year the plan design for retirees was changed to a "Part F" look a like plan (we have had many positive comments about this change). Therefore, you will note the different discussion in the retiree newsletter versus the active newsletter. The pre-Medicare retiree gets the retiree newsletter. There about 700 pre-Medicare retirees and about 6,000 Medicare retirees. However, the pre-Medicare retirees do not get the "Part F" lookalike plan since they do not have Medicare and therefore they are on the active health plan. Consequently, since the pre-Medicare retiree did not get the active newsletter they did not get the explanation mailed directly to them relating to their plan design. This is what gave rise to the issue discussed at the last meeting. Consequently, in the future we will implement a special mailing to pre-Medicare retirees about plan design changes but we will continue to keep them on the retiree newsletter list since that is more applicable to them.

Please note that while we have much discussion with members about rates, this is this first instance that this has been brought to our attention. We appreciate the information since it will help to make sure in the future that we add this step to our notification procedure due to the change in the plan design for Medicare retirees.



**North Dakota  
Public Employees Retirement System**  
400 East Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502-1657

**Sparb Collins**  
Executive Director  
(701) 328-3900  
1-800-803-7377

---

FAX: (701) 328-3920 • EMAIL: [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov) • [www.nd.gov/ndpers](http://www.nd.gov/ndpers)

# Memorandum

**TO:** PERS Board  
**FROM:** Sparb  
**DATE:** September 9, 2009  
**SUBJECT:** Wellness Program

At the May meeting we heard the final report from UND on the pilot wellness program. The result of that study was the four pilot sites had lower overall health costs than our control group. The conclusion was effective employer-based programs help to reduce costs. In recognition of this and the pilot, we have drawn out the following lessons learned relating to the success in the pilot agencies:

1. Support from top management
2. Incentives
3. Agency wellness committees and process
4. Technical assistance and support

In our negotiations with BCBS concerning the health plan renewal and our adoption of their wellness program we have addressed #2.

Concerning #3 and #4 we know these are interrelated. That is, agency-based wellness processes and committees were established in part, due to the support of UND. We also know that the technical support provided by UND helped to keep the committees and processes on track during the 36 month pilot. We have also identified this as an area that we do not presently provide support in our existing program. In the last couple of months

## Wellness Program, Page 2

we have been working with BCBS about a concept of how to address these issues. What we have developed is the idea of having a position a BCBS that would work half-time exclusively on PERS wellness activities. The duties would include the following:

- Establish an inventory of current PERS worksite wellness efforts and identify and promote those programs that are successfully working towards and/or implementing comprehensive worksite wellness programs;
- Develop a toolbox of worksite wellness programs and methods to increase participation in existing programs;
- Identify/implement an appropriate approach for collecting PERS worksite wellness best practice information;
- Create and pilot replicable, cost-effective worksite wellness models for small/medium/large agencies.
- Work closely with NDPERS staff and agency wellness coordinators to drive member engagement into existing BCBSND wellness programs
- Be the expert in supporting our existing wellness tools for NDPERS
- Reporting and analytical support, including determining program outcomes
- Monitor engagement of NDPERS members within these programs by agency to determine opportunities for additional support
- Take advantage of new technology in working with wellness coordinators
- Coordinating ongoing promotion and member communication with wellness coordinators staff

BCBS has estimated the cost of this position to be about \$100,000 per year of which PERS would support half. If the Board agrees with moving forward with this concept, we will develop it further by refining the position description and cost for your consideration at the October meeting.

### **Staff Recommendation**

Staff would recommend moving forward. We know from the UND report that comprehensive wellness efforts help to reduce trends. We also know from the GBS planning projections that health care costs are going to continue to be a major concern. Based upon this information, staff feels we need to move forward with all efforts that will help us to reduce this trend and the cost to our members/employers.

### **Board Action Requested**

To determine if staff should continue to move forward with this effort.



**North Dakota  
Public Employees Retirement System**  
400 East Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502-1657

**Sparb Collins**  
Executive Director  
(701) 328-3900  
1-800-803-7377

---

FAX: (701) 328-3920 • EMAIL: [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov) • [www.nd.gov/ndpers](http://www.nd.gov/ndpers)

# Memorandum

**TO:** NDPERS Board

**FROM:** Kathy

**DATE:** September 8, 2009

**SUBJECT:** Tobacco Cessation Grant

The Health Department has approved the grant request by NDPERS and BCBSND for funding to continue the Tobacco Cessation program for state employees and their eligible dependents. The grant request was in the amount of \$150,000.

The first post card announcing the program was sent out to subscribers home addresses in August.



**North Dakota**  
**Public Employees Retirement System**  
400 East Broadway, Suite 505 • PO Box 1657  
Bismarck, North Dakota 58502-1657

Sparb Collins  
Executive Director  
(701) 328-3900  
1-800-803-7377

FAX: (701) 328-3920 • EMAIL: NDPERS-INFO@ND.GOV • www.nd.gov/ndpers

M E M O R A N D U M

**TO:** NDPERS BOARD  
SPARB COLLINS, NDPERS

**FROM:** BRYAN T. REINHARDT

**DATE:** August 26, 2009

**SUBJECT:** GROUP MEDICAL PLAN - SURPLUS/AFFORDABILITY UPDATE

Here is the July surplus projection and affordability analysis for the NDPERS group medical plan. The plan made it through the 2007-2009 biennium. We will start to analyze the 2009-2011 biennium after about six months.

Premium sent to BCBS in July 2009 was \$17,331,488. In 2007 it was \$13,406,858 and in July 2005 it was \$10,853,370. There are now 25,183 contracts on the NDPERS Health Plan, covering 56,000 over people.

The first settlement for the 2005 - 2007 biennium transferred \$3,672,932 to the NDPERS account. Refunds came in greater than IBNR claims for the 2<sup>nd</sup> year, so there was an additional 7/1/09 settlement for \$375,673. The total was just under \$4.0 million.

The projection for the 2007 - 2009 biennium shows a loss of \$6.2 million. The plan is fully insured by BCBS, so the June 30, 2009 NDPERS estimated gain/loss is \$0. IBNR for this estimate is at \$7.6 million and cash to pay claims is at \$1.4 million.

\$3.0 million of the NDPERS cash was deposited for the 2009-2011. NDPERS still has about \$3.2 million on deposit at BCBS.

If you have any questions or you should need anymore information, please contact me.

# NDPERS - ESTIMATED SURPLUS PROJECTION: 2007-2009 BIENNIUM

July, 2009

The following exhibit summarizes the estimated surplus for the NDPERS group medical plan at the end of the 2007-2009 biennium. The estimate has been updated to include account activity through July, 2009.

1) Preliminary Underwriting Gain/Loss for the 2007-2009 Biennium		(\$6,197,300)
2) Wellness Program Expenses		\$0
3) Estimated Underwriting Gain/Loss for the 2007-2009 Biennium		(\$6,197,300)
4) Projected Interest Accumulation (adjusted for usage as premium)		\$0
5) Refunds and Settlements		
11/30/07 Perform Rebate	(Included as claim rebates)	\$340,034
02/29/08 Perform Rebate	(Included as claim rebates)	\$385,151
05/31/08 Perform Rebate	(Included as claim rebates)	\$328,973
08/31/08 Perform Rebate	(Included as claim rebates)	\$354,915
11/31/08 Perform Rebate	(Included as claim rebates)	\$395,601
02/28/09 Perform Rebate	(Included as claim rebates)	\$270,464
05/31/09 Perform Rebate	(Included as claim rebates)	\$257,188
06/30/09 Perform Rebate		
EPO Settlement Payments 7/07 - 6/08	(No target settlements)	\$0
6) Total Estimated Surplus Held by BCBS		(\$6,197,300)
7) BCBS Portion of Surplus (Half upto \$1,500,000)		\$0
8) PERS Portion of Surplus Held by BCBS		(\$6,197,300)
9) Cash Reserve Account Balance		\$0
Future Contributions:		\$0
Future Interest:		\$0
Total		\$0
10) NDPERS Wellness Accounts		
My Health Connection		\$0
Employer Based Wellness		\$0
Wellness Benefit Program		\$0
SubTotal		\$0
Total Adjusted for Usage		\$0
11) Total Estimated Funds Available to PERS on June 30, 2009		\$0

NDPERS - Projected Underwritten Experience for the 2007-2009 Biennium

July, 2009

MONTH	PREMIUM COLLECTED	PREMIUM ADJUSTMENT	TOTAL PREMIUM INCOME	ADMIN EXPENSE \$29.90/Con	NET PREMIUM	INTEREST ON CASH	CLAIMS INCURRED & PAID TO DATE	ESTIMATED IBNR CLAIMS	TOTAL INCURRED CLAIMS(1)	ESTIMATED GAIN / LOSS
Jul-07	\$13,406,857	\$0	\$13,406,857	\$725,404	\$12,681,453	\$0	\$11,185,517	\$0	\$11,185,517	\$1,495,936
Aug-07	\$13,465,027	\$308	\$13,465,336	\$728,334	\$12,737,002	\$8,720	\$12,180,935	\$0	\$12,180,935	\$564,787
Sep-07	\$13,608,834	\$6,878	\$13,615,713	\$736,018	\$12,879,695	\$32,149	\$10,961,085	\$0	\$10,961,085	\$1,950,759
Oct-07	\$13,577,219	\$7,321	\$13,584,540	\$734,822	\$12,849,718	\$44,159	\$13,058,517	\$0	\$13,058,517	(\$164,640)
Nov-07	\$13,584,631	(\$6,547)	\$13,578,084	\$735,480	\$12,842,604	\$38,392	\$13,207,529	\$0	\$13,207,529	(\$326,533)
Dec-07	\$13,568,728	\$5,601	\$13,574,329	\$734,553	\$12,839,776	\$40,841	\$12,535,056	\$0	\$12,535,056	\$345,561
Jan-08	\$13,582,515	\$3,071	\$13,585,586	\$735,121	\$12,850,465	\$39,733	\$13,725,463	\$0	\$13,725,463	(\$835,265)
Feb-08	\$13,622,093	\$1,733	\$13,623,826	\$737,155	\$12,886,671	\$33,024	\$12,288,054	\$0	\$12,288,054	\$631,641
Mar-08	\$13,620,486	(\$2,685)	\$13,617,801	\$737,125	\$12,880,676	\$25,258	\$13,295,042	\$0	\$13,295,042	(\$389,108)
Apr-08	\$13,626,826	\$1,915	\$13,628,741	\$738,171	\$12,890,570	\$21,216	\$13,298,558	\$0	\$13,298,558	(\$386,772)
May-08	\$13,623,071	\$1,798	\$13,624,869	\$737,992	\$12,886,877	\$17,341	\$12,673,499	\$0	\$12,673,499	\$230,719
Jun-08	\$13,644,570	(\$2,237)	\$13,642,333	\$739,128	\$12,903,205	\$27,130	\$12,841,368	\$0	\$12,841,368	\$88,967
Jul-08	\$13,611,228	(\$4,554)	\$13,606,675	\$737,693	\$12,868,982	\$33,409	\$13,892,027	\$0	\$13,892,027	(\$989,637)
Aug-08	\$13,622,766	\$25,091	\$13,647,857	\$738,052	\$12,909,805	\$29,181	\$13,018,637	\$0	\$13,018,637	(\$79,651)
Sep-08	\$13,750,651	\$3,180	\$13,753,831	\$745,168	\$13,008,663	\$29,890	\$13,080,128	\$0	\$13,080,128	(\$41,575)
Oct-08	\$13,718,593	\$26,952	\$13,745,546	\$744,480	\$13,001,065	\$21,426	\$13,539,554	\$0	\$13,539,554	(\$517,062)
Nov-08	\$13,728,459	\$9,639	\$13,738,098	\$745,497	\$12,992,601	\$19,221	\$12,539,743	\$30,000	\$12,569,743	\$442,080
Dec-08	\$13,733,851	\$566	\$13,734,417	\$745,557	\$12,988,860	\$13,638	\$15,478,251	\$280,000	\$15,758,251	(\$2,755,752)
Jan-09	\$13,810,474	(\$5,691)	\$13,804,783	\$749,862	\$13,054,921	\$9,258	\$12,254,852	\$290,000	\$12,544,852	\$519,327
Feb-09	\$13,811,340	(\$5,048)	\$13,806,292	\$749,952	\$13,056,340	\$6,142	\$11,890,277	\$400,000	\$12,290,277	\$772,206
Mar-09	\$13,815,272	(\$6,974)	\$13,808,298	\$749,892	\$13,058,406	\$7,663	\$13,314,279	\$550,000	\$13,864,279	(\$798,210)
Apr-09	\$13,843,570	(\$6,718)	\$13,836,852	\$751,417	\$13,085,435	\$7,498	\$14,017,806	\$1,000,000	\$15,017,806	(\$1,924,872)
May-09	\$13,823,863	\$30,694	\$13,854,557	\$751,327	\$13,103,229	\$7,229	\$13,378,928	\$1,700,000	\$15,078,928	(\$1,968,470)
Jun-09	\$13,854,872	(\$7,670)	\$13,847,202	\$752,344	\$13,094,858	\$19,742	\$11,826,339	\$3,350,000	\$15,176,339	(\$2,061,739)
BIENNIAL										
TOTAL	\$328,055,797	\$76,623	\$328,132,421	\$17,780,542	\$310,351,879	\$532,261	\$309,481,444	\$7,600,000	\$317,081,444	(\$6,197,304)

(1) Future Months are Estimated based on Projection from NDPERS.



**North Dakota  
Public Employees Retirement System**  
400 East Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502-1657

**Sparb Collins**  
Executive Director  
(701) 328-3900  
1-800-803-7377

---

FAX: (701) 328-3920 • EMAIL: [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov) • [www.nd.gov/ndpers](http://www.nd.gov/ndpers)

# Memorandum

**TO: NDPERS Board**

**FROM: Kathy**

**DATE: September 8, 2009**

**SUBJECT: Administrative Change to Job Service  
Retirement Payment Option**

In the process of developing the new business system, NDPERS staff has identified an inconsistency in the payment procedure relating to the Job Service Uniform Income retirement option. This option provides for the payment of an actuarially adjusted retirement benefit that includes both income from the retirement plan and the projected primary Social Security amount the participant is eligible for at age 62. Upon attainment of age 62, the benefit payment is reduced by the amount of the projected primary Social Security amount. Currently, the retirement benefit is reduced the first of the month following the month in which the member attains age 62. However, the commencement of Social Security payments is subject to the following policy:

1. If a member is born on the 1<sup>st</sup> or 2<sup>nd</sup> day of the month, the Social Security benefit payment will begin on the first day of the month following the birth month.
2. If a member is born on any day after the 2<sup>nd</sup> of the month, then the Social Security benefit payment will begin on the first day of the 2<sup>nd</sup> month following attainment of Social Security age. For example, if a member's birthday is on September 3<sup>rd</sup>, their first Social Security benefit will not be paid until November 1<sup>st</sup>.

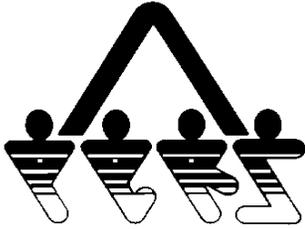
Number 1 above works in conjunction with the current Job Service policy. However, for the majority of the individuals that are subject to the terms as cited in number 2, the reduction in the Job Service benefit occurs one month prior to the payment of Social Security benefits. As a result, for one month the member experiences a decrease in income until the Social Security benefit begins. Thus, the level income payment stream is not maintained.

Staff requests that the Board consider changing the current policy under the Job Service Uniform Income retirement option from the “first of the month following the member’s attainment of age 62” to “the first of the month coincident with commencement of Social Security retirement benefits”. This will eliminate the one-month premature reduction in benefits and ensure a level income payment stream is maintained. Staff recommends that the change be effective October 1, 2009.

The proposed change is consistent with benefits as administered under the PERS Defined Benefit Plan level income option and consistent with criteria established under the new business system.

**Board Action Requested:**

Approve staff’s recommendation to change the reduction date under the Job Service Retirement Plan Level Income retirement option to the first of the month coincident with commencement of Social Security retirement benefits effective October 1, 2009.



**North Dakota  
Public Employees Retirement System**  
400 East Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502-1657

**Sparb Collins**  
Executive Director  
(701) 328-3900  
1-800-803-7377

---

FAX: (701) 328-3920 • EMAIL: [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov) • [www.nd.gov/ndpers](http://www.nd.gov/ndpers)

# Memorandum

**TO:** PERS Board  
**FROM:** Sparb  
**DATE:** September 9, 2009  
**SUBJECT:** Retirement Benefits Legal Review

Aaron Webb will be at the meeting to give an overview of the legal constraints and considerations relating to retirement plan changes and funding.



**North Dakota  
Public Employees Retirement System**  
400 East Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502-1657

**Sparb Collins**  
Executive Director  
(701) 328-3900  
1-800-803-7377

---

FAX: (701) 328-3920 • EMAIL: [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov) • [www.nd.gov/ndpers](http://www.nd.gov/ndpers)

# Memorandum

**TO:** PERS Board  
**FROM:** Sparb  
**DATE:** September 9, 2009  
**SUBJECT:** Communication Plan

At the last meeting it was requested that staff develop a communications concept to inform our members of the funding challenge the plan will be facing in the upcoming years. It was observed that we should not wait until the actuarial information is available in October and the plan should contain immediate steps. Based upon this direction, attached is a letter that could be sent immediately. In that letter it notes what the additional communication plan elements would be:

As the PERS Board moves forward it will:

1. Send you another letter early this winter with updated information from the actuaries and the audited investment numbers.
2. Send to you early next year in our newsletter information on proposals that are being considered to address the funding shortfall caused by the markets recent downturn.
3. Send to you next spring another letter with information on all the legislation submitted.

In addition, we will put on our web site:

1. In November a webcast which will review the funding status in detail.
2. In January a webcast on the proposals that are under consideration.
3. In April a webcast on the proposed legislation.

The cost of sending out a bulk letter such as the attached is \$8,000.

Please note, we have done the following meetings to review the funding data to date (at these meetings we reviewed the same data we had in the last Board material):

1. Meetings with OMB on Dec 8, 2008 and Sept 8, 2009
2. Meeting with Job Service Retirees on Dec 9, 2008 and May 18, 2009
3. Meeting with PERS Benefits Committee Dec 10, 2008 and Sept 2, 2009
4. Meeting with PERS Retiree Subcommittee on Dec 11, 2008
5. Meeting with the League of Cities December 17, 2008

6. Meeting with the State Highway Patrol on December 17, 2008
7. Meeting with the Supreme Court December 18, 2008
8. Meeting with the Association of Counties December 19, 2008
9. Meeting with the School Board Association Dec 23, 2008
10. Meeting with the Association of School Administrators on Dec 29, 2008
11. North Dakota Education Association on January 5, 2008
12. Presentation to a joint meeting of the Senate and House Appropriations Committees on January 7, 2009
13. Presentation to the Legislative Employee Benefits Committee on January 8, 2009
14. North Dakota Public Employees conference January 17, 2009
15. Presentation to the Legislative Employee Benefits Committee on August 6, 2009

**Board Action requested:**

Determine if we should move forward with the communications effort now or wait until the new actuarial information is available.

# PERS RETIREMENT PLAN UPDATE

September 2009

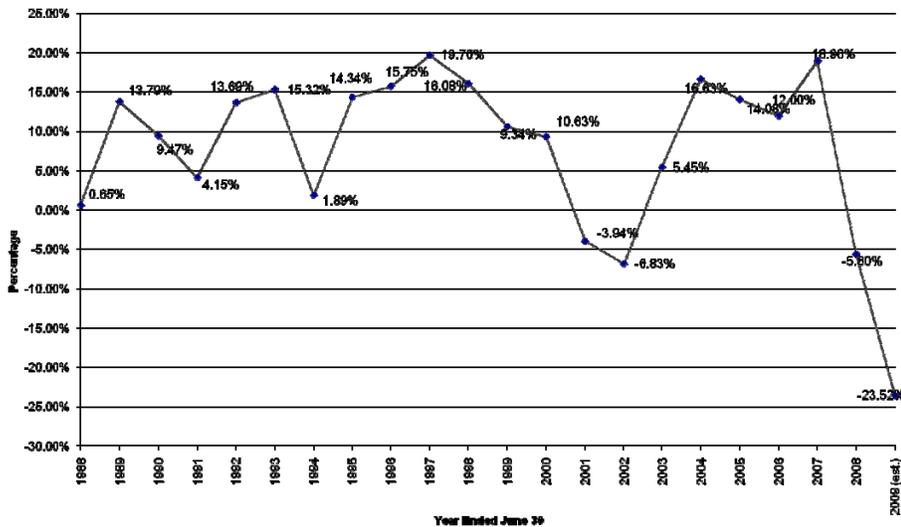
## BACKGROUND

The PERS office has had numerous inquiries about how the retirement plan is doing as a result of the recent downturn in the financial markets. This letter is to give you an update and will be the first in a series of letters/newsletters that will keep you up to date on our situation. In this letter we want to review with you for the PERS system the estimated market return for our fiscal year ending June 30, 2008, its effect on the plan, its implications and the steps going forward.

## INVESTMENT RETURN

The State Investment Officer recently reported the estimated return for the PERS retirement plan to be a negative 23.5%. The following table shows this years estimated return and past years actual returns:

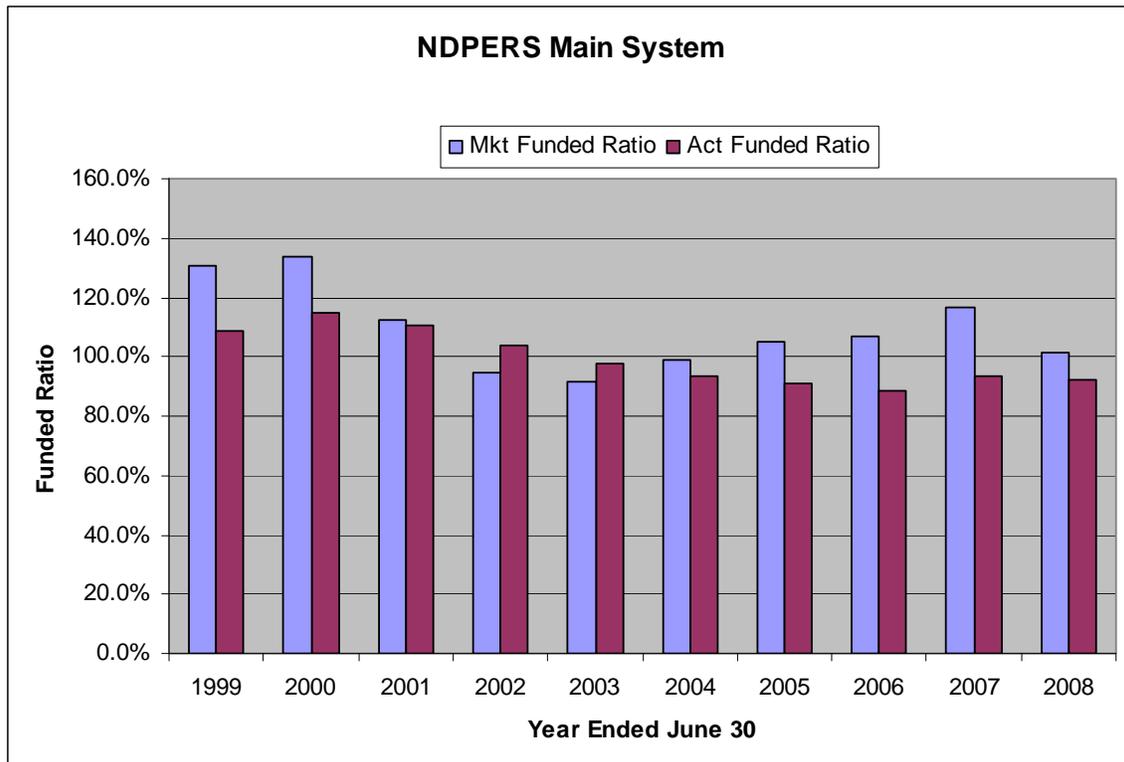
### PERS Annual Investment Performance



As you will note PERS investments have generally been strong but this years return is unlike any the plan has ever experienced.

## EFFECT ON THE PLAN

PERS has always had a strong funded position. Since the mid 1980's our plan has always been funded at over 90% at market value and actuarial value. Funded status refers to amount of assets the plan has compared to the existing cost of the benefits earned. Market value is the actual value of assets at the end of the fiscal year. Actuarial value is calculated by recognizing 20% of a gain or loss in any one year and the remainder over the next four years. Actuarial value is used for planning purposes since it provides a more stable value planning purposes. The following table shows our status over the past 10 years:



With this year's negative 23.5% return, our funded status is projected to drop to 88% at actuarial value and about 70% at market value. If our fund earned 8% every year going forward, our actuarial funded status would also drop to about 70% as well in about 4 more years.

## IMPLICATIONS FOR THE PLAN

Employer contributions to the PERS plan are 4.12% and employee contributions are 4%. Some employers have picked-up the 4% employee contributions but it is still considered an employee contribution by the plan. Unlike most plans, our contribution has remained level and has not changed since 1989 when the employer contribution was decreased 1% and allocated to starting and funding the retiree health credit program. We have been

able to maintain this level contribution for both the employer and employee due to the strong investment returns during the 1980's and 1990's.

With the recent downturn in the markets and the dramatic drop this last year, we asked our actuary to estimate how much contributions would need to increase assuming we make 8% every year going forward. The following is the estimate they gave to the PERS Board:

<b>If Market Return for</b>	<b>FY 2009 is</b>	<b>June 30, 2009</b>	<b>June 30, 2010</b>	<b>June 30, 2011</b>	<b>June 30, 2012</b>	<b>June 30, 2013</b>
	-26%	-3.19%	-4.51%	-5.93%	-7.67%	-8.96%
	-20%	-2.97%	-4.06%	-5.25%	-6.77%	-7.84%

This table shows the estimated contribution deficiency for 2009 to 2013. As the above shows employer/employee contributions could need to increase by about 8% in the next 5-6 years. This would mean that total contributions could need to go from the present rate of 8.12% to about 16%.

## **NEXT STEPS**

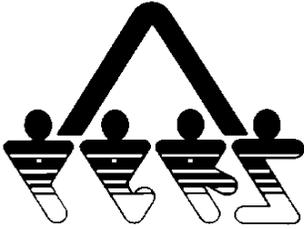
As mentioned at the outset of this letter the above numbers are estimates. This October the PERS Board will get the final numbers in the actuarial report for the year ending June 30, 2009. This will include audited investment return numbers. With this information, we will ask the actuary to again project our future funding needs. With this baseline information the PERS Board will begin a planning process from November of this year to February of 2010 to determine what action to propose to the next legislative session and the Governor for consideration. Pursuant to legislative guidelines PERS must submit its proposed legislation to the Legislative Employee Benefits Committee (LEBC) by March 30, 2010. This starts a process of consideration by that committee including hearings. In addition, the committee asks the actuaries to prepared detail reports on each bill submitted which assesses its technical and actuarial effect. The LEBC concludes its work in late fall of 2010 and adds a report to the proposed legislation with their findings. This report is attached to the bill if it is submitted to the next session for the Legislature's consideration of the proposed bill.

As the PERS Board moves forward it will:

1. Send you another letter early this winter with updated information from the actuaries and the audited investment numbers.
2. Send to you early next year in our newsletter information on proposals that are being considered to address the funding shortfall caused by the markets recent downturn.
3. Send to you next spring another letter with information on all the legislation submitted.

In addition, we will put on our web site:

1. In November a webcast which will review the funding status in detail.
2. In January a webcast on the proposals that are under consideration.
3. In April a webcast on the proposed legislation.



**North Dakota  
Public Employees Retirement System**  
400 East Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502-1657

**Sparb Collins**  
Executive Director  
(701) 328-3900  
1-800-803-7377

FAX: (701) 328-3920 • EMAIL: [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov) • [www.nd.gov/ndpers](http://www.nd.gov/ndpers)

# Memorandum

**TO:** PERS Board  
**FROM:** Sparb  
**DATE:** September 10, 2009  
**SUBJECT:** PERS Benefits Committee

The PERS Benefits Committee met on Sept 3, 2009. The committee reviewed the information we discussed at the last meeting relating to the funded status of the plan. In addition we discussed the range of actions that could be taken to address our funding problem based upon the retirement formula:

$$\text{Benefits} + \text{Adm Costs} = \text{Contributions} + \text{Investments}$$

$$\text{Benefits} = \text{Contributions}$$

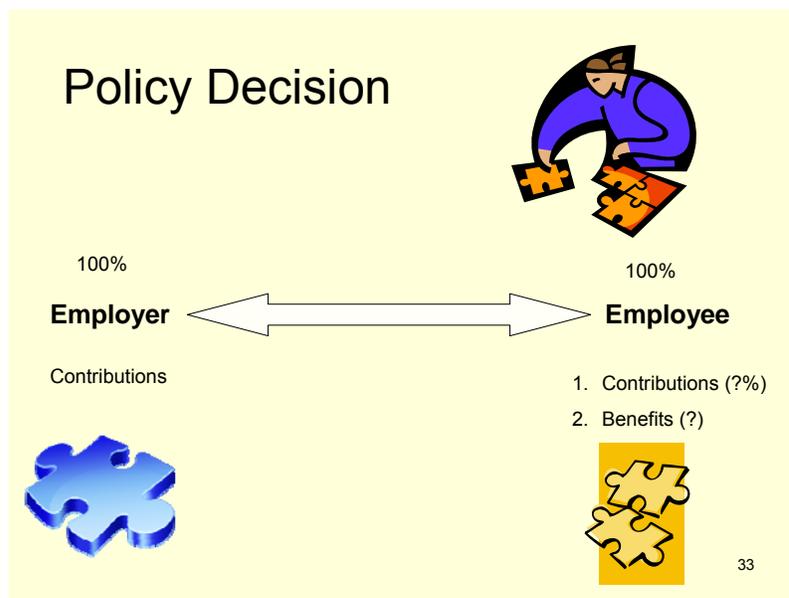


28

In order for our plan to be funded the two sides of the equation need to be in balance. Concerning administrative costs, we reviewed the Board's recent examination of our

investment costs which are 97% of our total adm. cost. We also discussed our investment strategy and the most recent capital market assumptions which indicate that it will be a challenge just to meet our 8% return requirement in upcoming years and that it is unlikely that we can expect much excess return to assist with addressing our funding shortfall. Consequently, we noted that this limits us to addressing this situation to either reducing benefits or increasing contributions.

In recognition of the above, this means the effect of the policy decision range along a continuum of having the employer address 100% of the problem by increasing their contribution to having the employee address 100% of the problem through increased contributions and/or decreased benefits:



The committee then identified and discussed the advantages and disadvantage of having the employer be 100% responsible for solving the funding problem:

## Employer Contribution



Advantages	Disadvantages
Full contribution goes to funding plan	Will likely reduce funding for benefits and salary increases
May be viewed more positively by employees	Public perception
	May be difficult to pass
	If salary increase is sacrificed employee would lose money in the long term
	Groups may drop out of the system
	May prompt a push to DC plan

34

Similarly they identified and discussed the advantages and disadvantages of having the employee address 100% of the funding problem by increased contributions:

## Employee Contribution



Advantages	Disadvantages
Higher FAS (assuming this is an offset to future salary increase)	Less take home pay
Higher Account Balance (assuming this is an offset to future salary increase)	Higher contribution would be required
Can be employer pick-up and done on a pretax basis	May be perceived more negatively by member
Would not effect salary increase or funding of other benefits	More communication
Perceived more positively by public	May cause people to leave/retiree
Once funding level is achieved money would go back to employee	

35

Last, they identified and discussed the advantages and disadvantages of having the employee address 100% of the funding problem by decreasing benefits:

# Benefits



<b>Advantages</b>	<b>Disadvantages</b>
Reduce contribution requirement	Benefit may be lost forever
	Replacement income already not fully adequate this could make is worse
	Retirement plan would be less competitive
	Employee perception
	Effect on retirement planning
	Will cause people to retiree
	Could effect recruitment/retention
	Will create two classes of employee that could cause perceived equity problems

The group discussed the above and generally agreed that benefits should not be reduced. The discussion then focused on who should pay the increased contribution, the employer, the employee or both. No consensus was reached in this area, but it will be discussed further in a future meeting.



**North Dakota  
Public Employees Retirement System**  
400 East Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502-1657

**Sparb Collins**  
Executive Director  
(701) 328-3900  
1-800-803-7377

---

FAX: (701) 328-3920 • EMAIL: [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov) • [www.nd.gov/ndpers](http://www.nd.gov/ndpers)

# Memorandum

**TO:** PERS Board  
**FROM:** Sparb  
**DATE:** September 10, 2009  
**SUBJECT:** Defined Contribution/Deferred Comp RFP's

At the last meeting we discussed the RFP for technical assistance to prepare and analyze a request for proposal for recordkeeping and investment services for the PERS 457 plan and 401(a) defined contribution plan which was issued in August. The due date for responses was Sept 4, 2009. We received six proposals from:

1. The Segal Company
2. SST Benefits Consulting
3. GBS
4. Deloitte
5. Hay Group
6. Buck Consultants

Staff has started its review of the proposals and will forward to you the ratings by Sept 16<sup>th</sup>.



# Memo

**To:** NDPERS Board  
**From:** *BTR*  
Bryan T. Reinhardt  
**Date:** 8/24/2009  
**Re:** 457 Companion Plan & 401(a) plan 2nd Quarter 2009 Reports

---

Here is the 2nd quarter 2009 investment report for the 401(a) & 457 Companion Plan. The reports are available separately on the NDPERS web site. The NDPERS Investment Subcommittee reviewed the 2nd quarter report and has no Board action.

Assets in the 401(a) plan increased to \$14.0 million as of June 30, 2009. The number of participants is at 295, about the same as when the plan started. The largest fund is the Fidelity Managed Income Portfolio with 17% of the assets.

Assets in the 457 Companion Plan increased to \$21.3 million as of June 30, 2009. The number of participants is increasing and is now at 2,645. The largest funds are the Fidelity Freedom 2020 Fund (12% of assets), the Fidelity Managed Income Portfolio, Allianz Small Cap Fund and Fidelity Diversified International (each 9% of assets).

## Benchmarks:

Fund returns for the quarter were all positive. Almost all the returns were in double digits and as high as 28%. These returns were enough to get positive YTD figures, but the 1-year and 3-year averages are still negative due to the market downturn in 2008. **Dreyfus Mid Cap Index, and Fidelity Diversified International** were the only funds that performed lower than their benchmarks for all periods (QTR, Y-T-D, 1-year, 3-year, and 5-year). Note that index funds are expected to slightly underperform their benchmarks because of fund administration fees.

## Fund / Investment News:

The Investment Sub-Committee met last month and reviewed the 2<sup>nd</sup> quarter report from Fidelity. The committee will continue to review international options for the plans. The Investment Sub-Committee marked **Fidelity Blue Chip Growth (FBGRX)**, **Fidelity Mid Cap Stock (FMCSX)**, and **Fidelity Diversified International (FDIVX)** as underperforming for the quarter. The Blue Chip Growth fund now has a new manager.

NDPERS  
Quarterly Investment Report  
2<sup>nd</sup> Quarter  
4/1/2009 – 6/30/2009



North Dakota Public Employees Retirement System  
400 E Bdwy, Suite 505  
Box 1657  
Bismarck, ND 58502

# NDPERS 401(a) Defined Contribution Plan & 457 Companion Plan - Fidelity

## INITIAL OFFERING:

Fidelity Equity-Income Mutual Shares A	Fidelity Spartan US Equity Index Fidelity Dividend Growth	Fidelity Growth Company Fidelity Blue Chip Growth	LARGE
Goldman Sachs Mid Cap Value	Dreyfus Mid Cap Index Fidelity Spartan Ext Mkt Index	Fidelity Mid Cap Stock	MEDIUM
Allianz NFJ Small Cap Value	Dreyfus Small Cap Index	MSIF Small Co Growth B	SMALL
VALUE	BLEND	GROWTH	

BALANCED FUND: Fidelity Puritan Fund  
 INCOME FUNDS: Fidelity Managed Income Portfolio  
 BOND FUNDS: PIMCO Total Return Bond Fund  
 INTERNATIONAL FUNDS: Fidelity Diversified International (Blend Bias)

LIFESTYLE FUNDS: Fidelity Freedom Income  
 Fidelity Freedom 2000  
 Fidelity Freedom 2005  
 Fidelity Freedom 2010  
 Fidelity Freedom 2015  
 Fidelity Freedom 2020  
 Fidelity Freedom 2025  
 Fidelity Freedom 2030  
 Fidelity Freedom 2035  
 Fidelity Freedom 2040, 2045 & 2050

## FUND STYLE CHANGES:

	Fidelity Equity-Income		LARGE
	Goldman Sachs Mid Cap Value		MEDIUM
			SMALL
VALUE	BLEND	GROWTH	

INCOME FUNDS:  
 BOND FUNDS:  
 INTERNATIONAL FUNDS: Fidelity Diversified International (Growth Bias)  
 BALANCED FUNDS:  
 LIFESTYLE FUNDS:

## CURRENT LINEUP:

Mutual Shares A	Fidelity Spartan US Equity Index Fidelity Dividend Growth Fidelity Equity-Income	Fidelity Growth Company Fidelity Blue Chip Growth	LARGE
	Dreyfus Mid Cap Index Fidelity Spartan Ext Mkt Index Goldman Sachs Mid Cap Value	Fidelity Mid Cap Stock	MEDIUM
Allianz NFJ Small Cap Value	Dreyfus Small Cap Index	MSIF Small Co Growth B	SMALL
VALUE	BLEND	GROWTH	

BALANCED FUND: Fidelity Puritan Fund  
 INCOME FUNDS: Fidelity Managed Income Portfolio  
 BOND FUNDS: PIMCO Total Return Bond Fund  
 INTERNATIONAL FUNDS: Fidelity Diversified International (Growth Bias)

LIFESTYLE FUNDS: Fidelity Freedom Income  
 Fidelity Freedom 2000  
 Fidelity Freedom 2005  
 Fidelity Freedom 2010  
 Fidelity Freedom 2015  
 Fidelity Freedom 2020  
 Fidelity Freedom 2025  
 Fidelity Freedom 2030  
 Fidelity Freedom 2035  
 Fidelity Freedom 2040, 2045 & 2050

## NDPERS Investment Benchmarks - 2nd Quarter 2009

	<u>Quarter</u>	<u>Y-T-D</u>	<u>1-Year</u>	<u>3-Year</u>	<u>5-Year</u>
<u>Stable Value Fund</u>					
<b>Fidelity Managed Income Portfolio</b>	0.47%	1.08%	2.67%	3.78%	3.82%
GIC 5 Year	0.50%	1.00%	2.00%	2.74%	3.78%
<u>Fixed Income Fund</u>					
<b>PIMCO Total Return Bond Fund - PTRAX</b>	4.67%	6.16%	8.99%	8.14%	6.10%
Barclays Aggregate Bond Index	1.78%	1.90%	6.05%	6.43%	5.01%
Taxable Bond Fund Universe	7.39%	8.77%	-0.48%	2.95%	3.22%
<u>Balanced Fund</u>					
<b>Fidelity Puritan - FPURX</b>	12.81%	7.71%	-17.25%	-3.43%	0.74%
60% Large Cap Value Univ & 40% Taxable Bond Universe	12.05%	4.89%	-15.98%	-4.69%	0.11%
60% Russell 3000 Value & 40% Lehman Agg Bond Index	10.80%	-1.07%	-14.82%	-4.15%	0.72%
<u>Large Cap Equities - Value</u>					
<b>Fidelity Equity-Income - FEQIX</b>	20.58%	4.49%	-28.70%	-10.99%	-3.36%
<b>Franklin Mutual Shares A - TESIX</b>	17.02%	5.26%	-23.79%	-9.07%	-0.88%
Russell 1000 Value Index	16.70%	-2.87%	-29.03%	-11.11%	-2.13%
Large Cap Value Fund Universe	15.15%	2.31%	-26.31%	-9.79%	-1.96%
<u>Large Cap Equities - Blend</u>					
<b>Fidelity Spartan US Equity Index - FUSEX</b>	15.95%	3.23%	-26.19%	-8.25%	-2.29%
<b>Fidelity Dividend Growth - FDGFX &lt; Under Review 3/2007 &gt;</b>	28.03%	17.16%	-23.34%	-8.52%	-3.61%
S&P 500 Index	14.53%	3.62%	-26.18%	-8.09%	-1.95%
Large Cap Blend Fund Universe	15.53%	5.41%	-26.24%	-8.27%	-1.93%
<u>Large Cap Equities - Growth</u>					
<b>Fidelity Growth Company - FDGRX</b>	15.91%	12.93%	-29.39%	-4.52%	1.13%
Russell 3000 Growth Index	16.82%	11.52%	-24.53%	-5.65%	-1.78%
<b>Fidelity Blue Chip Growth - FBGRX &lt; Under Review 3/2007 &gt;</b>	16.73%	10.83%	-24.29%	-6.16%	-2.88%
Russell 1000 Growth Index	16.32%	11.53%	-24.50%	-5.45%	-1.83%
Large Cap Growth Fund Universe	14.68%	10.81%	-27.19%	-6.80%	-1.59%
<u>Mid Cap Equities - Value</u>					
<b>Goldman Sachs Mid Cap Value - GCMAX</b>	15.85%	5.03%	-30.99%	-8.87%	0.23%
Russell Mid Cap Value	20.94%	3.19%	-30.52%	-11.07%	-0.43%
Mid Cap Value Fund Universe	18.67%	7.29%	-25.40%	-9.02%	-0.65%
<u>Mid Cap Equities - Blend</u>					
<b>Dreyfus Mid Cap Index - PESPX</b>	18.65%	8.45%	-28.16%	-7.85%	0.00%
S&P Mid Cap 400	18.68%	9.63%	-27.36%	-7.21%	0.83%
<b>Fidelity Spartan Extended Mkt Index - FSEMXX</b>	20.64%	8.87%	-27.36%	-8.29%	-0.03%
Wilshire 4500 Index	20.80%	9.54%	-27.52%	-8.39%	-0.10%
Mid Cap Blend Fund Universe	19.14%	11.02%	-27.28%	-8.62%	-0.94%
<u>Mid Cap Equities - Growth</u>					
<b>Fidelity Mid Cap Stock - FMCSX</b>	20.85%	14.35%	-36.22%	-11.09%	-0.99%
Russell Mid Cap Growth	20.67%	16.61%	-30.33%	-7.93%	-0.44%
Mid Cap Growth Fund Universe	16.81%	12.85%	-30.23%	-8.08%	-0.75%

Fund Returns in RED do not meet both benchmarks.

Fund Returns in BLACK meet both benchmarks.

# NDPERS Investment Benchmarks - 2nd Quarter 2009

	Quarter	Y-T-D	1-Year	3-Year	5-Year
<u>Small Cap Equities - Value</u>					
<b>Allianz NFJ Small Cap Value - PVADX</b>	<b>17.17%</b>	<b>1.00%</b>	<b>-23.86%</b>	<b>-4.85%</b>	<b>3.24%</b>
Russell 2000 Value Index	18.00%	-5.17%	-25.24%	-12.07%	-2.27%
Small Value Fund Universe	23.05%	6.05%	-22.04%	-9.86%	-1.09%
<u>Small Cap Equities - Blend</u>					
<b>Dreyfus Small Cap Index - DISSX</b>	<b>20.83%</b>	<b>0.59%</b>	<b>-24.87%</b>	<b>-9.61%</b>	<b>-1.06%</b>
Russell 2000 Index	20.69%	2.64%	-25.01%	-9.89%	-1.71%
S & P 600 Index	21.06%	0.67%	-25.31%	-9.57%	-0.90%
Small Blend Fund Universe	22.19%	7.86%	-24.86%	-10.30%	-1.34%
<u>Small Cap Equities - Growth</u>					
<b>MSI Small Co Growth B - MSSMX</b>	<b>24.96%</b>	<b>19.75%</b>	<b>-19.83%</b>	<b>-8.13%</b>	<b>-0.16%</b>
Russell 2000 Growth Index	23.38%	11.36%	-24.85%	-7.83%	-1.32%
Small Growth Fund Universe	21.15%	11.94%	-26.15%	-9.20%	-1.80%
<u>International Equity Funds</u>					
<b>Fidelity Diversified International - FDIVX</b>	<b>22.83%</b>	<b>8.32%</b>	<b>-34.29%</b>	<b>-7.98%</b>	<b>2.47%</b>
MSCI EAFE	25.61%	8.10%	-31.25%	-7.83%	2.52%
International Stock Fund Universe	25.28%	15.00%	-29.04%	-6.12%	3.96%
<u>Asset Allocation Funds:</u>					
<b>Fidelity Freedom Income - FFFAX</b>	<b>5.03%</b>	<b>3.27%</b>	<b>-2.94%</b>	<b>2.27%</b>	<b>3.07%</b>
Income Benchmark	5.16%	3.09%	-3.00%	1.94%	2.85%
<b>Fidelity Freedom 2000 - FFFBX</b>	<b>5.45%</b>	<b>3.35%</b>	<b>-4.39%</b>	<b>1.69%</b>	<b>2.86%</b>
2000 Benchmark	6.03%	3.29%	-4.57%	1.29%	2.60%
<b>Fidelity Freedom 2005 - FFFVX</b>	<b>9.99%</b>	<b>4.84%</b>	<b>-11.37%</b>	<b>-0.85%</b>	<b>2.07%</b>
2005 Benchmark	10.47%	4.59%	-10.78%	-1.05%	1.97%
<b>Fidelity Freedom 2010 - FFFCX</b>	<b>10.64%</b>	<b>5.06%</b>	<b>-12.01%</b>	<b>-1.13%</b>	<b>1.96%</b>
2010 Benchmark	11.06%	4.76%	-11.64%	-1.38%	1.87%
<b>Fidelity Freedom 2015 - FFFVX</b>	<b>11.32%</b>	<b>5.30%</b>	<b>-13.41%</b>	<b>-1.55%</b>	<b>2.10%</b>
2015 Benchmark	12.01%	5.23%	-12.92%	-1.90%	1.70%
<b>Fidelity Freedom 2020 - FFFDX</b>	<b>13.99%</b>	<b>6.28%</b>	<b>-17.32%</b>	<b>-3.33%</b>	<b>1.36%</b>
2020 Benchmark	14.61%	6.31%	-16.82%	-3.52%	1.13%
<b>Fidelity Freedom 2025 - FFTWX</b>	<b>14.82%</b>	<b>6.49%</b>	<b>-18.58%</b>	<b>-3.84%</b>	<b>1.17%</b>
2025 Benchmark	15.32%	6.47%	-18.12%	-4.07%	0.93%
<b>Fidelity Freedom 2030 - FFFEX</b>	<b>16.56%</b>	<b>6.75%</b>	<b>-21.87%</b>	<b>-5.44%</b>	<b>0.40%</b>
2030 Benchmark	16.99%	6.80%	-21.46%	-5.52%	0.35%
<b>Fidelity Freedom 2035 - FFTHX</b>	<b>17.04%</b>	<b>6.82%</b>	<b>-22.56%</b>	<b>-5.74%</b>	<b>0.31%</b>
2035 Benchmark	17.32%	6.63%	-22.39%	-5.91%	0.20%
<b>Fidelity Freedom 2040 - FFFFX</b>	<b>17.86%</b>	<b>7.39%</b>	<b>-23.45%</b>	<b>-6.20%</b>	<b>0.13%</b>
2040 Benchmark	18.26%	7.52%	-23.31%	-6.33%	0.05%
<b>Fidelity Freedom 2045 - FFFGX</b>	<b>18.08%</b>	<b>7.51%</b>	<b>-23.74%</b>	<b>-6.26%</b>	<b>N/A</b>
2040 Benchmark	18.50%	7.58%	-23.68%	-6.47%	0.02%
<b>Fidelity Freedom 2050 - FFFHX</b>	<b>19.06%</b>	<b>7.69%</b>	<b>-25.05%</b>	<b>-6.91%</b>	<b>N/A</b>
2040 Benchmark	19.12%	7.73%	-24.75%	-6.90%	-0.09%

Income Benchmark is comprised of 20% Wilshire 5000, 35% LB Agg, 5% ML HY Bond, 40% 3 Month T-Bill

2000 Benchmark is comprised of 24% Wilshire 5000, 1% MSCI EAFE, 32% LB Agg, 5% ML HY Bond, 38% 3 Month T-Bill

2005 Benchmark is comprised of 38% Wilshire 5000, 9% MSCI EAFE, 35% LB Agg, 5% ML HY Bond, 13% 3 Month T-Bill

2010 Benchmark is comprised of 40% Wilshire 5000, 10% MSCI EAFE, 35% LB Agg, 5% ML HY Bond, 10% 3 Month T-Bill

2015 Benchmark is comprised of 43% Wilshire 5000, 11% MSCI EAFE, 33% LB Agg, 6% ML HY Bond, 7% 3 Month T-Bill

2020 Benchmark is comprised of 52% Wilshire 5000, 14% MSCI EAFE, 25% LB Agg, 8% ML HY Bond, 1% 3 Month T-Bill

2025 Benchmark is comprised of 55% Wilshire 5000, 15% MSCI EAFE, 22% LB Agg, 8% ML HY Bond

2030 Benchmark is comprised of 63% Wilshire 5000, 17% MSCI EAFE, 12% LB Agg, 8% ML HY Bond

2035 Benchmark is comprised of 65% Wilshire 5000, 18% MSCI EAFE, 10% LB Agg, 7% ML HY Bond

2040 Benchmark is comprised of 67% Wilshire 5000, 18% MSCI EAFE, 5% LB Agg, 10% ML HY Bond

2045 Benchmark is comprised of 67% Wilshire 5000, 19% MSCI EAFE, 4% LB Agg, 10% ML HY Bond

2050 Benchmark is comprised of 68% Wilshire 5000, 21% MSCI EAFE, 1% LB Agg, 10% ML HY Bond

Wilshire 5000 Index	16.79%	4.45%	-26.40%	-8.13%	-1.60%
MSCI EAFE	25.61%	8.10%	-31.25%	-7.83%	2.52%
Lehman Aggregate Bond Index	1.78%	1.90%	6.05%	6.43%	5.01%
ML High Yield Bond Fund Index	23.10%	29.88%	-2.99%	2.06%	4.14%
3 Month T-Bill Index	0.05%	0.09%	0.78%	3.04%	3.02%
Russell 3000 Value Index	16.81%	-3.05%	-28.73%	-11.20%	-2.14%

Fund Returns in RED do not meet both benchmarks.

Fund Returns in BLACK meet both benchmarks.

# NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM DEFINED CONTRIBUTION PLAN INVESTMENT OPTIONS

## PERFORMANCE UPDATE

AS OF JUNE 30, 2009

### UNDERSTANDING INVESTMENT PERFORMANCE

*As you review this update, please remember that the performance data stated represents past performance, which does not guarantee future results. Investment return and principal value of an investment will fluctuate; therefore, you may have a gain or loss when you sell your shares. Current performance may be higher or lower than the performance stated. To learn more or to obtain the most recent month-end performance, call Fidelity at 1-800-343-0860 or visit <https://www.mysavingsatwork.com> (log in, choose plan, select "Investment Choices & Research," and then pick investment option).*

Fund ID	Fund Name	Cumulative Total Returns %		Average Annual Total Returns %				Fund Inception	Short-Term Trading Fee (%/Days)	Expense Ratio
		3 Month	YTD	1 Year	5 Year	10 Year	Life of Fund			
<b>LIFE-CYCLE FUNDS</b>										
FFFBX	Fidelity Freedom 2000	7.72	5.69	-7.20	1.93	2.86	5.13	10/17/96	n/a	0.49
FFVFX	Fidelity Freedom 2005	12.37	7.41	-14.70	1.15	n/a	1.81	11/06/03	n/a	0.63
FFFCX	Fidelity Freedom 2010	13.09	7.75	-15.40	1.13	2.26	5.49	10/17/96	n/a	0.64
FFVFX	Fidelity Freedom 2015	13.67	7.96	-16.63	1.27	n/a	2.13	11/06/03	n/a	0.67
FFFDX	Fidelity Freedom 2020	15.63	8.38	-20.84	0.55	1.33	5.22	10/17/96	n/a	0.72
FFTWX	Fidelity Freedom 2025	16.29	8.52	-22.14	0.28	n/a	1.47	11/06/03	n/a	0.74
FFFEX	Fidelity Freedom 2030	17.41	7.91	-25.34	-0.35	0.41	4.58	10/17/96	n/a	0.76
FFTHX	Fidelity Freedom 2035	17.75	7.92	-26.14	-0.51	n/a	0.88	11/06/03	n/a	0.78
FFFFX	Fidelity Freedom 2040	18.26	7.89	-27.17	-0.71	n/a	-2.52	9/06/00	n/a	0.79
FFFGX	Fidelity Freedom 2045	18.46	7.84	-27.33	n/a	n/a	-7.62	6/01/06	n/a	0.80
FFFHX	Fidelity Freedom 2050	19.11	7.67	-28.85	n/a	n/a	-8.32	6/01/06	n/a	0.82
FFFAX	Fidelity Freedom Income	7.49	5.81	-5.69	2.09	3.11	4.49	10/17/96	n/a	0.48
<b>MANAGED INCOME / ANNUITIES / STABLE VALUE</b>										
00632	Managed Income Portfolio	0.47	1.08	2.67	3.82	4.53	5.47	9/07/89	n/a	n/a
<b>BOND FUNDS</b>										
PTRAX	PIMCO Total Return - Administrative Class	4.67	6.16	8.99	6.10	6.74	7.23	9/08/94	n/a	0.77
<b>BALANCED/HYBRID FUNDS</b>										
FPURX	Fidelity Puritan®	12.81	7.71	-17.25	0.74	2.28	10.87	4/16/47	n/a	0.61
<b>DOMESTIC EQUITY FUNDS - LARGE-CAP VALUE</b>										
FEQIX	Fidelity Equity-Income	20.58	4.49	-28.70	-3.36	-0.88	11.11	5/16/66	n/a	0.71
TESIX	Mutual Shares - A Class	17.02	5.26	-23.79	-0.88	2.71	5.83	11/01/96	n/a	1.08

For explanations of symbols and important disclosures, please see last page(s) of this report.

continued

Turn here™



AS OF JUNE 30, 2009

Fund ID	Name	Cumulative Total Returns %		Average Annual Total Returns %			Life of Fund	Fund Inception	Short-Term Trading Fee (%/Days)	Expense Ratio↔
		3 Month	YTD	1 Year	5 Year	10 Year				
<b>DOMESTIC EQUITY FUNDS - LARGE-CAP BLEND</b>										
FDGFX	Fidelity Dividend Growth	28.03	17.16	-23.34	-3.61	-1.33	8.71	4/27/93	n/a	0.64
FUSEX	Spartan® U.S. Equity Index - Investor Class	15.95	3.23	-26.19	-2.29	-2.32	8.32	2/17/88	n/a	0.10
<b>DOMESTIC EQUITY FUNDS - LARGE-CAP GROWTH</b>										
FBGRX	Fidelity Blue Chip Growth	16.73	10.83	-24.29	-2.88	-3.40	9.12	12/31/87	n/a	0.58
FDGRX	Fidelity Growth Company	15.91	12.93	-29.39	1.13	0.99	11.86	1/17/83	n/a	0.97
<b>DOMESTIC EQUITY FUNDS - MID-CAP VALUEⓈ</b>										
GCMAX	Goldman Sachs Mid Cap Value - Class A	15.85	5.03	-30.99	0.23	5.41	5.60	8/15/97	n/a	1.16
<b>DOMESTIC EQUITY FUNDS - MID-CAP BLENDⓈ</b>										
PESPX	Dreyfus Mid Cap Index	18.65	8.45	-28.16	0.00	4.14	9.97	6/19/91	n/a	0.51
FSEMX	Spartan® Extended Market Index - Investor Class	20.64	8.87	-27.36	-0.03	1.21	2.89	11/05/97	0.75/90	0.10
<b>DOMESTIC EQUITY FUNDS - MID-CAP GROWTHⓈ</b>										
FMCSX	Fidelity Mid-Cap Stock	20.85	14.35	-36.22	-0.99	2.84	9.12	3/29/94	0.75/30	0.73
<b>DOMESTIC EQUITY FUNDS - SMALL-CAP VALUE◆</b>										
PVADX	Allianz NFJ Small Cap Value - Administrative Class	17.17	1.00	-23.86	3.24	8.14	10.05	11/01/95	n/a	1.07
<b>DOMESTIC EQUITY FUNDS - SMALL-CAP BLEND◆</b>										
DISSX	Dreyfus Small Cap Stock Index	20.83	0.59	-24.87	-1.06	4.43	4.96	6/30/97	n/a	0.51
<b>DOMESTIC EQUITY FUNDS - SMALL-CAP GROWTH◆</b>										
MSSMX	MSIF Small Company Growth - P Class	24.96	19.75	-19.83	-0.16	4.03	8.05	1/02/96	2.00/30	1.30
<b>INTERNATIONAL/GLOBAL FUNDS††</b>										
FDIVX	Fidelity Diversified International	22.83	8.32	-34.29	2.47	5.21	8.27	12/27/91	1.00/30	1.04

**MARKET INDICATORS^^**

For comparison purposes only. It is not possible to invest directly in these indicators.

Barclays Capital U.S. Intermediate Government/Credit Bond Index①	1.67	1.62	5.27	4.57	5.66
Dow Jones Industrial Average	11.96	-2.01	-23.00	-1.68	-0.41
MSCI EAFE® Index	25.61	8.10	-31.25	2.52	1.43
Standard & Poor's 500 <sup>SM</sup> Index	15.93	3.16	-26.21	-2.24	-2.22

Total returns are historical and include change in share value and reinvestment of dividends and capital gains, if any. Cumulative total returns are reported as of the period indicated. Life of fund figures are reported as of the inception date to the period indicated. These figures do not include the effects of sales charges, if any, as these charges are waived for contributions made through your company's employee benefit plan. If sales charges were included, returns would have been lower.

With the exception of domestic equity mutual funds, investment options have been assigned to investment categories based on Fidelity's analysis. Fidelity has verified the accuracy of the placement of certain third-party non-mutual funds with either the plan sponsor or the plan sponsor's consultant. Within Domestic Equities, mutual funds are listed according to their actual Morningstar categories as of the date indicated. Morningstar categories are based on a fund's style as measured by its underlying portfolio holdings over the past 3 years and may change at any time. These style calculations do not represent the funds' objectives and do not predict the funds' future styles.

**SPECIFIC FUNDS**

Morningstar, Inc., provided data on the non-Fidelity mutual funds. Although the data is gathered from reliable sources, accuracy and completeness cannot be guaranteed by Morningstar.

↔ For a mutual fund, the expense ratio is the total annual fund or class operating expenses (before waivers or reimbursements) paid by the fund and stated as a percent of the fund's total net assets. Where the investment option is not a mutual fund, the figure displayed in the expense ratio field is intended to reflect similar information. However, it may have been calculated using methodologies that differ from those used for mutual funds. Mutual fund data has been drawn from the most recent prospectus. For non-mutual fund investment options, the information has been provided by the trustee or plan sponsor. When no ratio is shown for these options it is due to the fact that none was available. Nevertheless, there may be fees and expenses associated with the investment option.

Ⓢ These investment options are not mutual funds.

① Formerly known as Lehman Brothers Intermediate U.S. Government/Credit Index.



**North Dakota  
Public Employees Retirement System**  
400 East Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502-1657

**Sparb Collins**  
Executive Director  
(701) 328-3900  
1-800-803-7377

---

FAX: (701) 328-3920 • EMAIL: [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov) • [www.nd.gov/ndpers](http://www.nd.gov/ndpers)

# Memorandum

**TO:** PERS Board

**FROM:** Sparb

**DATE:** September 9, 2009

**SUBJECT:** PERS Board Meetings: October and December

At the last Board meeting we discussed having the October meeting in Fargo at the BCBS office. Some Board members indicated they could not attend in Fargo, therefore, we have scheduled the Bismarck BCBS office for a video connection which is located at 107 West Main Street. If this works for the Board, we will finalize the arrangements. Concerning the schedule we could move back the starting time to about 9:30 or 10. The first item on the agenda would be actuarial reports. Segal would attend at the Fargo site. Following this we would move to the health portion of the agenda. I would anticipate that with the later start the meeting would go into the afternoon. At the conclusion of the meeting we would tour the PERS Pod and other parts of the operation. Staff is seeking your direction on how to schedule the October meeting.

At the last Board meeting it was also decided to have a Board Planning Meeting in December. December 17 is our originally scheduled Board meeting date, but the Legislative Employee Benefits Committee has scheduled their meeting on that date. Therefore, we are suggesting Wednesday, December 16 as the date if that meets within your schedules. It would be at the University of Mary.



**North Dakota  
Public Employees Retirement System**  
400 East Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502-1657

**Sparb Collins**  
Executive Director  
(701) 328-3900  
1-800-803-7377

---

FAX: (701) 328-3920 • EMAIL: [NDPERS-info@nd.gov](mailto:NDPERS-info@nd.gov) • [www.nd.gov/ndpers](http://www.nd.gov/ndpers)

# Memorandum

**TO:** PERS Board  
**FROM:** Deb & Sparb  
**DATE:** September 09, 2009  
**SUBJECT:** Administrative Rules

Attached are the proposed administrative rules developed by staff for your final review. The proposed rules resulted in response to legislation that was passed since the last time the rules were promulgated as well as to reflect Board policy or clarify or update existing language. A draft of the notice of hearing and summary of rules is also included. As indicated last month, Aaron Webb advised us that NDPERS does not need to complete a Regulatory Analysis or a Takings Assessment. However, we did conduct a Small Entity Regulatory Analysis which is attached for your review. Please note that the Highway Patrol is exempt from the above analysis requirements, so was not included in the review.

Since the last meeting a few additional changes were added in addition to the corrections noted at the last meeting. These consist of the following:

**71-03-06-02.** Late Enrollment. This section has been amended to remove redundant language and provides that the late enrollment rules for political subdivisions are the same as those cited for state agencies and provides the related section number.

**71-04-04-04. Employer agreement.** Removes previous language that referenced district health units as they are required to sign an employer agreement to join the deferred compensation plan.

**71-06-01-02. Calculation of retiree health insurance credit.** Was included to revise century code references due to restructuring of the sections.

Please review these rules and provide direction to staff regarding your approval and authorization to continue with the promulgation process. Subject to your approval, notice of the hearing will be placed in the newspapers and the rules will be sent to the Legislative Council.

Also included for your reference is the matrix we will use for testimony purposes with the Administrative Rules Committee. Please contact me if you have questions or concerns. Staff will also be available at the Board meeting to address any questions.

Take notice that the North Dakota Public Employees Retirement System will hold a public hearing to address proposed additions, amendments and deletions to existing rules in the following chapters in the North Dakota Administrative Code: 71-01 General Administration 71-02 Public Employees Retirement System, 71-03 Uniform Group Insurance Program, 71-05 Highway Patrol Retirement System, and 71-08 Defined Contribution Retirement Plan. The purpose of the proposed revisions is to implement new statutory provisions and update existing language. Proposed revisions are summarized below. The hearing will be held at 11:00 a.m. on November 17, 2009 in the Peace Garden room at the State Capitol, 600 East Boulevard Avenue, Bismarck, North Dakota. The hearing will continue until 12:00 p.m. or until no further testimony is offered, whichever occurs last. The proposed rule changes are not expected to have an impact on the regulated community in excess of \$50,000. The proposed rules may be viewed online at [www.state.nd.us/ndpers](http://www.state.nd.us/ndpers) or at the NDPERS office at the following location:

North Dakota Public Employees Retirement System  
400 E Broadway, Suite 505  
Box 1657  
Bismarck, ND 58502

Written comments should be submitted to the above address and will be accepted from November 17, 2009 through December 7, 2009. A copy of the proposed rules may be obtained by accessing them on the PERS website at [www.state.nd.us/ndpers](http://www.state.nd.us/ndpers) or by calling the North Dakota Public Employees Retirement System at 701-328-3900. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Public Employees Retirement System at the above address or telephone number at least three business days prior to the public hearing.

### **Summary of Proposed Rule Changes**

**71-01-02-03. Candidate eligibility.** Adds members of the defined contribution, highway patrol and job service retirement systems and clarifies that terminated employees may not serve as an active elected member of the board.

**71-01-02-09. Canvassing rules.** Provides provisions for an invalid election, should one occur.

**71-02-01-01(14). Definitions.** Clarifies the definition for Normal Retirement Age as age 65 for all plans except National Guard and Law Enforcement which is age 55.

**71-02-03-02.2. (6) Payment.** Sets minimum payment amount pertaining to payments for service purchases and establishes maximum payment schedule of 10 years pursuant to board agenda item II.D.

**71-02-03-02.4. Crediting purchased or repurchased service.** Revises provisions for crediting service pursuant to board agenda item II.D.

**71-02-03-07. Employer purchase of service credit or sick leave program.** Clarifies deadline for employer paid purchases of service in the main retirement system.

**71-02-04-02. Special retirement options - Application.** Establishes process and timeframe for benefit change in the event the receiver has direct deposit.

**71-02-04-03. Payment Date – Retirement benefits.** Provides additional terminology for description of retirement benefits.

**71-02-04-04. Optional Benefits.** Provides additional terminology for description of optional retirement benefits and removes descriptive language for Level Social Security Option, Partial Lump Sum Option and Deferred Normal Retirement Option. Removes requirement that benefit payment be greater than \$100 to select Level Social Security Option.

**71-02-04-04.1. Benefit Modifications.** Establishes benefit modifications specific to the Level Social Security Option, Partial Lump Sum Option, Deferred Normal Retirement Option and Graduated Benefit Option.

**71-02-04-07. Amount of early retirement benefit.** Updates terminology to mirror terminology in benefit processing administration.

**71-02-04-10. (3) (4) Erroneous payment of Benefits – Overpayments.** Modifies repayment provisions for collecting overpayment of benefits.

**71-02-05-07.1(1) One hundred percent joint survivor benefit.** Provides updated terminology for single life option.

**71-02-05-09. Interest accrual on accumulated contributions for disabled annuitants.** Provides further information regarding interest accrual after receiving a disability pension.

**71-02-06-01. Conditions for return.** Provides clarification for contributions to be returned to non-vested members upon termination if their account is less than \$1000, in compliance with federal requirements.

**71-02-07-02. Return to service - Retired member.** Revises provisions regarding benefit calculation procedure for when retired members return to work.

**71-02-11-04. Payment.** Modifies process for crediting purchased eligible military service credit.

**71-03-03-01. Enrollment.** Updates language for consistency purposes in the group health insurance plan.

**71-03-04-01. Employer contribution.** Adds language to clarify that employer contribution is not payable if employee terminates prior to effective date of coverage in the group insurance plan.

**71-03-04-05. Premium for basic term life insurance.** Removes language referring to political subdivisions regarding the payment of full premium for life insurance.

**71-03-05-05. Appeal process. Corrects** terminology.

**71-03-05-08. Erroneous payment of premiums – Underpayments.** Removes language pertaining to maximum repayment period.

**71-03-06-01. Enrollment.** Updates language for consistency purposes in the group health insurance plan. Also, removes language relating to eligibility of employees that are employed with a political subdivision that does not offer a group health insurance plan.

**71-03-06-02. Late Enrollment.** Removes redundant language.

**71-03-06-03. Open enrollment for certain qualifying events.** Changes terminology from “open” enrollment to “special” enrollment.

**71-03-06-05. Continuation of health benefits for dependents.** Removes redundant language.

**71-03-06-08. Employee contribution.** Removes unnecessary language pertaining to payment of employee contributions.

**71-03-07-01. Employer contribution.** Clarifies terms for payment of employer contribution.

**71-03-07-02. Information to employee.** Provides that the employer will provide pertinent information to all employees regarding coverage rights, not just “eligible” employees.

**71-03-07-03. Collecting employee contributions.** Updates language to provide that the employer may specify the method for collection of any employer premium contribution.

**71-03-07-05. Premium for basic term life insurance.** Updates language for consistency purposes.

**71-04-01-01. Definitions.** Updates language regarding designating of beneficiaries in the 457 plan as well as clarifies terminology pertaining to the retirement board.

**71-04-03-02. Effective date of deferrals.** Updates language for consistency purposes.

**71-04-03-05. Unforeseeable emergency.** Eliminates the term “partial” regarding emergency withdrawals.

**71-04-03-06. Termination of participation.** Updates language for consistency purposes.

**71-04-04. Retirement board responsibilities.** Updates chapter terminology referring to retirement board for consistency purposes

**71-04-04-04. Employer agreement.** Updates language for consistency purposes

**71-04-04-05. Payroll deduction authorization.** Updates language for clarity and consistency purposes

**71-04-06. Provider responsibilities.** Updates chapter terminology referring to retirement board for consistency purposes

**71-04-06-02. Administrative agreement.** Updates language for clarity and consistency purposes

**71-04-06-09. Benefit payments.** Updates language for clarity and consistency purposes.

**71-04-06-12. Provider suspension - Employee account transfers.** Updates language for clarity and consistency purposes

**71-05-02-05. Interest accrued on accumulated contributions for disabled annuitants.** Provides further information regarding interest accrual after receiving a disability pension.

**71-05-04-04. Payment.** Provides for minimum payment provisions for service purchases in the highway patrol retirement system and establishes maximum payment schedule of 10 years pursuant to board agenda item II.D.

**71-05-04-06. Crediting purchased or repurchased service.** Revises provisions for crediting service in the highway patrol retirement fund.

**71-05-04-09. Employer purchase of service credit or sick leave program** Clarifies payment deadline for employer paid purchases of service in the highway patrol retirement system.

**71-05-05-02. Special retirement options - application.** Establishes process and timeframe for benefit change in the event the receiver has direct deposit in the highway patrol fund.

**71-05-05-04. Optional benefits.** Removes descriptive language for Partial Lump sum option and deferred normal retirement option in the highway patrol fund.

**71-05-05-04.1 Benefit Modifications.** Establishes the benefit modifications specific to the Partial Lump Sum option, Deferred normal retirement option and graduated benefit option.

**71-05-05-07. Amount of early retirement benefit.** Updates terminology to mirror terminology in benefit processing administration.

**71-05-05-10. Erroneous payment of benefits – Overpayments.** Provides additional guidance in the course of correcting overpayment of benefits in the highway patrol fund.

**71-05-06-01. Return of contributions - Conditions for return.** Provides clarification for contributions to be returned to non-vested members upon termination from the highway patrol fund if their account balance is less than \$1,000, in compliance with federal requirements.

**71-05-07-01. Return to Service.** Revises provisions regarding benefit calculation procedure for when retired members return to work in the highway patrol fund.

**71-06-01-02. Calculation of retiree health insurance credit.** Revises references to century code due to previous changes made.

**71-08-06-04. Cost.** Modifies process for crediting of purchased eligible military service and clarifies that most recent employer will be billed.

**71-08-07-01. Additional employer contributions.** Clarifies deadline for employer paid purchases of service in the main retirement system in the defined contribution system.

## **SMALL ENTITY REGULATORY ANALYSIS**

**1. Was establishment of less stringent compliance or reporting requirements for small entities considered?** *NDPERS has limited reporting requirements that relate to benefit contributions and benefit accruals. These are standard for all employers. To what result?*  
*Reporting requirements must be applied consistently to ensure a uniform benefit is provided.*

**2. Was establishment of less stringent schedules or deadlines for compliance or reporting requirements considered for small entities?** *As discussed above, uniform requirements are necessary to maintain continuity of benefits.*  
**To what result?** *Continuity of benefits is sustained.*

**3. Was consolidation or simplification of compliance or reporting requirements for small entities considered?** *Please see responses above.*  
**To what result?**

**4. Were performance standards established for small entities for replacement design or operational standards required in the proposed rule?** *Our rules do not provide for performance standards or replacement design for either large or small employer entities.*  
**To what result?** *N/A*

**5. Was exemption of small entities from all or any part of the requirements in the proposed rule considered?** *No, again uniformity is necessary for continuity of benefits.*  
**To what result?** *Continuity of benefits is sustained.*

*Completed by NDPERS staff 9/8/2009*

**Proposed Rules 2009**

<b>PROPOSED RULES</b>	<b>REASON PROPOSED</b>
<p>Section 71-01-02-03 is amended as follows:</p> <p><b>71-01-02-03. Candidate eligibility.</b></p> <p>1. Any active <u>participating member employee, members of the defined contribution retirement plan, the highway patrol retirement system and the job service retirement plan</u> 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. A department or political subdivision may not be represented by more than one elected member. <u>Employees who have terminated their employment for whatever reason are not eligible to serve as an active elected member of the board.</u></p> <p>2. Any person, as of April fifteenth of the election year, who has accepted a retirement allowance or who is eligible to receive deferred vested retirement benefits, may become a candidate for the retiree member to the board.</p> <p><b>History:</b> Effective April 1, 1992; amended effective July 1, 1994; July 1, 2000; April 1, 2008, _____, 2010  <b>General Authority:</b> NDCC 54-52-04, 54-52-17(5)  <b>Law Implemented:</b> NDCC 54-52-03</p>	<p>To comply with provisions of SB 2153. Adds members of the defined contribution, highway patrol and job service retirement systems and clarifies that terminated employees may not serve as an active elected member of the board.</p>
<p>A new subsection 8 is added to Section 71-01-02-09 as follows:</p> <p><b>71-01-02-09. Canvassing rules.</b></p> <p>1. Ballot counting by election committee members or their authorized representatives will commence at nine a.m. on the third Monday of June and will continue until complete.</p> <p>2. Each candidate may have one overseer present at the canvassing who</p>	

PROPOSED RULES	REASON PROPOSED
<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>8. <u>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</u></p>	<p>Provides the Board authority to call an election and conduct a new election should it determine and election was</p>

PROPOSED RULES	REASON PROPOSED
<p style="text-align: center;">_____</p> <p><b>History:</b> Effective April 1, 1992; amended effective April 1, 2008, _____, 2010  <b>General Authority:</b> NDCC 54-52-04  <b>Law Implemented:</b> NDCC 54-52-03</p>	invalid.
<p>Subsection 14 of Section 71-02-01-01 is amended as follows:</p> <p style="text-align: center;"><b>CHAPTER 71-02-01 DEFINITIONS</b></p> <p><b>71-02-01-01. Definitions.</b> As used in North Dakota Century Code chapter 54-52 and this article:</p> <ol style="list-style-type: none"> <li>1. "Accumulated contributions" means the total of all of the following: <ol style="list-style-type: none"> <li>a. The employee account fund balance accumulated under the prior plan as of June 30, 1977.</li> <li>b. The vested portion of the employee's "vesting fund" accumulated under the prior plan as of June 30, 1977.</li> <li>c. The member's mandatory contributions made after July 1, 1977.</li> <li>d. The member's vested employer contributions made after January 1, 2000, pursuant to North Dakota Century Code section 54-52-11.1.</li> <li>e. The interest on the sums determined under subdivisions a, b, c, and d, compounded annually at the rate of five percent from July 1, 1977, to June 30, 1981, six percent from July 1, 1981, through June 30, 1986, and one-half of one percent less than the actuarial interest assumption from July 1, 1986, to the member's termination of employment or retirement.</li> <li>f. The sum of any employee purchase or repurchase payments.</li> </ol> </li> <li>2. "Actuarial equivalent" means a benefit calculated to be of equal value to the benefit otherwise payable when computed on the basis of assumptions and methods adopted for this purpose by the board.</li> <li>3. "Alternative retirement system" means the teachers' fund for retirement, the highway patrolmen's retirement system, and the teachers' insurance and annuity association of America.</li> <li>4. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.</li> <li>5. "Bonus" means cash compensation for services performed in addition to base salary excluding commission and shift differentials. Bonus does not include lump sum payments of</li> </ol>	

PROPOSED RULES	REASON PROPOSED
<p>sick leave provided under North Dakota Century Code section 54-06-14 or lump sum payments of annual leave or vacation pay.</p> <p>6. "Claim" means the right to receive a monthly retirement allowance, the receiving of a retirement allowance, or the receiving of a disability benefit.</p> <p>7. "Continuously employed" means any period of employment uninterrupted by voluntary or involuntary termination or discharge. A member who has taken a leave of absence approved by the member's employer, not to exceed a year unless approved by the executive director, and returns to employment shall be regarded as continuously employed for the period.</p> <p>8. "Contribution" means the payment into the fund as a percentage of the salary of a member.</p> <p>9. "Correctional officer" means a person who has completed a correctional officer course approved or certified by the North Dakota department of corrections and rehabilitation and is employed by a correctional facility as defined in North Dakota Century Code chapter 12-44.1.</p> <p>10. "County judge" means a judge who was elected pursuant to North Dakota Century Code section 27-07.1-01 or an individual holding the position of county judge, county justice, or judge of county court prior to the general election in 1982, who meets all the eligibility requirements established under North Dakota Century Code chapter 54-52.</p> <p>11. "Interruption of employment" is when an individual is inducted (enlists or is ordered or called to active duty into the armed forces of the United States) and leaves an employment position with a state agency or political subdivision, other than a temporary position. The individual must have left employment to enter active duty and must make application in accordance with the Uniformed Services Employment and Reemployment Rights Act.</p> <p>12. "Leave of absence" means the period of time up to one year for which an individual may be absent from covered employment without being terminated. At the executive director's discretion, the leave of absence may be extended not to exceed two years, or indefinitely if the leave of absence is due to interruption of employment.</p> <p>13. "Medical consultant" means a person or committee appointed by the board of the North Dakota public employees retirement system to evaluate medical information submitted in relation to disability applications, recertifications, and rehabilitation programs or other such duties as assigned by the board.</p> <p>14. "Normal retirement age", <u>except for members of the national guard and law enforcement,</u> means age sixty-five <del>except as</del> <u>unless</u> otherwise provided. <u>For members of the national guard and law enforcement, normal retirement age means age 55, unless other wise provided.</u></p> <p><b>History:</b> Amended effective September 1, 1982; November 1, 1990; September 1,</p>	

PROPOSED RULES	REASON PROPOSED
<p>1991; January 1, 1992; September 1, 1992; June 1, 1993; July 1, 1994; June 1, 1996; July 1, 2000; April 1, 2002; May 1, 2004; July 1, 2006, _____, 2010</p> <p><b>General Authority:</b> NDCC 54-52-04</p> <p><b>Law Implemented:</b> NDCC 54-52</p>	<p>Clarifies the definition for Normal Retirement Age as Age 65 for all plans except National Guard and Law Enforcement which is age 55.</p>
<p>Subsections 2 and 6 of Section 71-02-03-02.2 are amended as follows:</p> <p><b>71-02-03-02.2. Payment.</b> 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</p>	<p>Sets minimum payment amount pertaining to payments for service credit purchases and establishes a maximum payment schedule of 15 years. This allows</p>

PROPOSED RULES	REASON PROPOSED
<p>written cost confirmation is prepared. If the installment method is used, the following conditions apply:</p> <ol style="list-style-type: none"> <li>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.</li> <li>2. The installment schedule may extend <del>for as long as</del> <u>while</u> the employee is employed by a participating employer <u>but for no longer than a 15 year time period.</u></li> <li>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.</li> <li>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.</li> <li>5. Payments are due by the fifteenth of the month to be credited for the month.</li> <li><u>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 15 year time period.</u></li> </ol> <p><b>History:</b> Effective November 1, 1990; amended effective July 1, 1994; June 1, 1996; May 1, 2004; July 1, 2006, _____, 2010.  <b>General Authority:</b> NDCC 54-52-02.6, 54-52-04, 54-52-17, 54-52-17.2, 54-52-17.4  <b>Law Implemented:</b> NDCC 54-52-02.6, 54-52-17, 54-52-17.2, 54-52-17.4</p>	<p>NDPERS to create an amortization schedule for the member with payments sufficient to pay off the purchase contract by the end of the contract term, which will alleviate allowing member's to purchase with a minimum payment amount that only gets applied towards interest and not the principal of the purchase contract (reviewed and approved by the Board at the August 20, 2009 meeting).</p>
<p>Section 71-02-03-02.4 is amended as follows:</p> <p><b>71-02-03-02.4. Crediting purchased or repurchased service.</b> Service purchased or repurchased will be credited in the following manner:</p> <ol style="list-style-type: none"> <li>1. <del>The member's record must be updated with the additional service credit once the account is paid in full</del> <u>For each month the system receives a payment towards a purchase contract, the member will earn a proportion of service credit.</u></li> </ol>	<p>Due to new business system, NDPERS will be able to pro-rate service credit each time a payment is received, rather than upon completion or closing of a purchase contract. The changes made under this section allow us to apply a proportion of service based upon a payment being received. Also addresses conversion of</p>

PROPOSED RULES	REASON PROPOSED
<p>2. <del>If the member takes a refund, retires, or the member's account is closed due to delinquency, service credit must be granted by taking the months of service credit being purchased times the percentage paid. The percentage is determined by taking the total payments made toward the purchase divided by the total amount to be paid over the term of the purchase. Service credit equal to a fraction is deemed to be a whole month of service credit.</del></p> <p>3. 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. <u>The account balance from the public employee's retirement system will be transferred to the judge's retirement system account once the contract is paid in full or closed.</u></p> <p><b>History:</b> Effective November 1, 1990; amended effective July 1, 1994; June 1, 1996; May 1, 2004, _____, 2010.  <b>General Authority:</b> NDCC 54-52-02.6, 54-52-04, 54-52-17, 54-52-17.2, 54-52-17.4  <b>Law Implemented:</b> NDCC 54-52-02.6, 54-52-17, 54-52-17.2, 54-52-17.4</p>	<p>service from main to judges credit for eligible judges, specifically addressing when their account will be transferred from main to the judges plan (reviewed and approved by the Board at the August 20, 2009 meeting).</p>
<p>Subsection 6 of section 71-02-03-07 is amended as follows:</p> <p><b>71-02-03-07. Employer purchase of service credit or sick leave program.</b> 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:</p> <p>1. The program meets all the requirements of the North Dakota Century Code.</p>	<p>Clarifies timeline for an employer to pay for a purchase on behalf of an employee to make it based on member's termination and not retirement, which can occur many years after a member leaves employment.</p>

PROPOSED RULES	REASON PROPOSED
<p>2. The program meets all applicable federal requirements.</p> <p>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.</p> <p>4. The employer has not given the employee the option of a cash payment in lieu of the employer purchase.</p> <p>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.</p> <p>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 <u>15th of the month following the month of the employee's retirement termination</u> or sixty days from the date the employer and employee agree to the purchase, whichever comes first.</p> <p><b>History:</b> Effective May 1, 2004; amended effective July 1, 2006; April 1, 2008, _____, 2010 .</p> <p><b>General Authority:</b> NDCC 54-52-04</p> <p><b>Law Implemented:</b> NDCC 54-52-17.4, 54-52-29</p>	
<p>Subsections 2 and 3 of section 71-02-04-02 are amended as follows:</p> <p><b>71-02-04-02. Special retirement options - Application.</b></p> <p>1. A member may elect a retirement option by filing an application with the office no less than thirty days prior to the beginning date of benefit payments. An application may be filed later than thirty days if approved by the executive director upon receiving sufficient evidence that the application was delayed by the member's employer.</p> <p>2. A member may revoke the election of an optional benefit as provided in</p>	<p>Establishes process and timeframe for a new retiree to make a benefit change in the event the receiver has their first payment deposited directly into a bank account. The new business system will allow us to pay first payments through direct deposit and therefore, rules needed to be added to address benefit change.</p>

PROPOSED RULES	REASON PROPOSED
<p>subsection 1 and make a new election, if such revocation is received in writing before the first retirement check is cashed but no later than fifteen days after the first retirement check has been issued. If the member changes the member's election less than fifteen days prior to the named beginning date of benefits, the first retirement payment may be delayed up to two months. Any delayed payment must be adjusted to include any deferred retirement payments. <u>If the member's first retirement payment is paid by direct deposit and the member wishes to revoke the election of the benefit, then the member must immediately notify NDPERS of their election. The benefit will only be revoked if NDPERS is able to reverse the direct deposit paid to the bank within the bank reversal window.</u></p> <p>3. A member may not revoke the elected benefit after receiving and cashing the first benefit check <u>or if paid by direct deposit, after the bank reversal window has expired</u>, unless, the member can provide sufficient evidence to the executive director that the factual basis by which the election was made later proved to be incorrect and such was due in part to representation or misrepresentations made by the employer or the office.</p> <p><b>History:</b> Amended effective November 1, 1990; May 1, 2004, . _____, 2010  <b>General Authority:</b> NDCC 54-52-04, 54-52-17  <b>Law Implemented:</b> NDCC 54-52-17</p>	
<p>Section 71-02-04-03 is amended as follows:</p> <p><b>71-02-04-03. Payment date - Retirement benefits.</b> Except for retirement options provided in section 71-02-04-02, a member's retirement benefit shall commence on the first day of the month which follows the member's eligibility for the benefit and which is at least thirty days after the date on which the member filed an application with the office. Notwithstanding any other provision in this article, benefits must begin no later than April first of the calendar year after the calendar year in which the member retires or attains the age of seventy and one-half years, whichever is later. If the member is employed but ineligible for active participation in the retirement plan, the member's benefits</p>	

PROPOSED RULES	REASON PROPOSED
<p>must begin no later than April first of the calendar year after the calendar year in which the member attains the age of seventy and one-half years. In the absence of a retirement application, benefits shall be paid based on a single life, <u>or normal retirement for judges</u>, payment option. Benefits must be sent to the member's last-known address. If the benefit checks are returned with no forwarding information, the benefits will remain in the fund, and will be distributed in a lump sum retroactive to the required beginning date upon location of the member.</p> <p><b>History:</b> Amended effective November 1, 1990; July 1, 1994; July 1, 2000, _____, 2010.  <b>General Authority:</b> NDCC 54-52-04, 54-52-17  <b>Law Implemented:</b> NDCC 54-52-17</p>	<p>Clarifies that the for the Judges plan the benefit is a Normal retirement wherever all other plans the benefit is a Single Life plan. The Normal retirement benefit for Judges provides an unreduced 50% surviving spouse benefit.</p>
<p>Section 71-02-04-04 is amended as follows:</p> <p><b>71-02-04-04. Optional benefits.</b> A member may elect, as provided in section 71-02-04-02, to receive one of the following optional benefits in lieu of the regular single life, <u>or normal for judges</u>, retirement benefit.</p> <ol style="list-style-type: none"> <li><b>One hundred percent joint and survivor benefit.</b> A member shall receive an actuarially reduced retirement benefit during the member's lifetime 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 shall 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 shall 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 shall be</li> </ol>	<p>Removes descriptive language for Level Social Security Option, Partial Lump Sum Option and the Deferred Normal Retirement Option as they are outlined in a new section that provides details on benefit modifications.</p>

PROPOSED RULES	REASON PROPOSED
<p>canceled and the member's benefit shall be returned to the single life amount. Payment of the single life amount shall 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.</p> <p>2. <b>Fifty percent joint and survivor benefit.</b> A member shall receive an actuarially reduced retirement benefit during the member's lifetime 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 shall 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 shall 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 shall be canceled and the member's benefit shall be returned to the single life amount. Payment of the single life amount shall 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.</p> <p>3. <del><b>Level social security option.</b> A member who retires prior to receiving social security benefits may elect the level social security option. Under this option, the member's monthly benefit is adjusted so the combined benefits received from the fund and social security remain level before, and after, the date social security benefits begin. The adjusted benefit payable from the fund must be determined on an actuarial equivalent based on an age no earlier than sixty-two and no later than full retirement age as specified by the social security administration as chosen in writing by the member. A member is not eligible for the level social security option if it results in a benefit payment of less than one hundred dollars per month. A member shall submit an estimated benefit from social security that was computed no</del></p>	

PROPOSED RULES	REASON PROPOSED
<p><del>more than six months before commencement of retirement benefits.</del></p> <p>4. <b>Twenty-year or ten-year certain option.</b> 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.</p> <p>5. <del><b>Partial lump sum option.</b> The partial lump sum option will only be available to members who retire on or after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is equal to twelve monthly payments determined under the single life annuity option. The member is permitted to choose one of the optional forms of payment, excluding the level social security income option, for ongoing benefits. The ongoing benefits will be actuarially reduced to reflect the partial lump sum payment.</del></p> <p>6. <del><b>Deferred normal retirement option.</b> The deferred normal retirement option will only be available to members who retire after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is in lieu of a lump sum equal to the amount of missed payments, without interest, retroactive to the member's normal retirement date. The ongoing benefits will be actuarially increased to reflect the lump sum.</del></p> <p><b>History:</b> Amended effective September 1, 1982; November 1, 1990; July 1, 1994; May 1, 2004; July 1, 2006; April 1, 2008, _____, 2010.  <b>General Authority:</b> NDCC 54-52-04, 54-52-17  <b>Law Implemented:</b> NDCC 54-52-17</p>	
<p>Section 71-02-04-04.1 is created as follows:</p> <p><b>71-02-04-04.1. Benefit Modifications.</b> A member may elect as provided in section 71-02-04-</p>	<p>A new section which establishes benefit</p>

PROPOSED RULES	REASON PROPOSED
<p>1. <b>Level social security option.</b> <u>A member who retires prior to receiving social security benefits may elect the level social security option. Under this option, the member's monthly benefit is adjusted so the combined benefits received from the fund and social security remain level before, and after, the date social security benefits begin. The adjusted benefit payable from the fund must be determined on an actuarial equivalent based on an age no earlier than sixty-two and no later than full retirement age as specified by the social security administration as chosen in writing by the member. A member shall submit an estimated benefit from social security that was computed no more than six months before commencement of retirement benefits. A member may only select this option if they have selected to receive a single life/normal retirement option.</u></p> <p>2. <b>Partial lump sum option.</b> <u>The partial lump sum option will only be available to members who retire on or after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is equal to twelve monthly payments determined under the single life annuity option. The member is permitted to choose one of the optional forms of payment as defined in 71-02-04-04 for ongoing benefits. The ongoing benefits will be actuarially reduced to reflect the partial lump sum payment.</u></p> <p>3. <b>Deferred normal retirement option.</b> <u>The deferred normal retirement option will only be available to members who retire after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is in lieu of a lump sum equal to the amount of missed payments, without interest, retroactive to the member's normal retirement date. The member is permitted to choose one of the optional forms of payment as defined in 71-02-04-04. The ongoing benefits will be actuarially increased to reflect the lump sum.</u></p> <p>4. <b>Graduated benefit option.</b> The graduated benefit option will only be available</p>	<p>modifications specific to the Level Social Security Option, Partial Lump Sum Option, Deferred Normal Retirement Option and the Graduated Benefit Option (graduated benefit option rules reviewed and approved at the March 19, 2009 Board meeting). Also, section specific to Level Social Security Option does not include requirement that benefit payment be greater than \$100 to select the Level Social Security Option.</p>

PROPOSED RULES	REASON PROPOSED
<p><u>to members who retire after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The member is permitted to choose one of the optional forms of payment for ongoing benefits as defined in 71-02-04-04. The ongoing benefits will be actuarially reduced to reflect the election of the graduated benefit option.</u></p> <p><b>History:</b> Created effective _____, 2010  <b>General Authority:</b> NDCC 54-52-04, 54-52-17  <b>Law Implemented:</b> NDCC 54-52-17</p>	
<p><b>71-02-04-07. Amount of early retirement benefit.</b></p> <p>1. Except for members of the national guard, the early retirement benefit shall be an amount actuarially reduced from the single life retirement benefit by one-half of one percent for each month (six percent per year) that the member is younger than the age at which the member would be at the member's normal retirement date on the date the member's early retirement benefit <del>commence</del><u>effective date</u>.</p> <p>2. For members of the national guard, the early retirement benefit must be an amount actuarially reduced from the single life retirement benefit by one-half of one percent for each month (six percent per year) that the member is younger than age fifty-five on the date of the member's early retirement benefit <del>commence</del><u>effective date</u>.</p> <p><b>History:</b> Amended effective September 1, 1982; June 1, 1996; April 1, 2002; May 1, 2004; July 1, 2006.  <b>General Authority:</b> NDCC 54-52-04, 54-52-17  <b>Law Implemented:</b> NDCC 54-52-17</p>	<p>Clarifies early retirement reduction is based on member's retirement effective date, not date paid.</p>
<p>Section 71-02-04-10 is amended as follows:</p> <p><b>71-02-04-10. Erroneous payment of benefits - Overpayments.</b></p> <ol style="list-style-type: none"> <li>1. An "overpayment" means a payment of money by the public employees retirement system that results in a person receiving a higher payment than the person is entitled to under the provision of the retirement plan of membership.</li> <li>2. A person who receives an overpayment is liable to refund those payments upon</li> </ol>	

PROPOSED RULES	REASON PROPOSED
<p>receiving a written explanation and request for the amount to be refunded. All overpayments 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 amount of the overpayment is estimated to exceed the overpayment, the repayment is considered to be unrecoverable.</p> <p>3. If the overpayment of benefits was not the result of any wrongdoing, negligence, misrepresentation, or omission by the recipient, the recipient may make repayment arrangements subject to the executive director's approval within sixty days of the written <del>request for refund</del> <u>notice of overpayment</u> with the minimum repayment amount no less than fifty dollars per month <del>with the total repayment period not to exceed thirty-six months</del>. If repayment arrangements are not in place within sixty days of the date of the written notice of overpayment, the executive director shall offset the amount of the overpayment from the amount of future retirement benefit payments so that the actuarial equivalent of the overpayment is spread over the <del>individual's</del> benefit payment period.</p> <p>4. If the overpayment of benefits was the result, in whole or in part, of the wrongdoing, negligence, misrepresentation, or omission of the recipient, the recipient is liable to pay interest charges at the rate of six percent on the outstanding balance <del>to compensate the fund for lost earnings</del>, from the time the erroneous benefit was paid through the time it has been refunded in full, <del>plus applicable interest</del>. <u>Recovered funds are first applied to interest, and if any amount is left over, that amount is applied to principal</u>. The recipient may make repayment arrangements, subject to the executive director's approval, within sixty days of the written request for refund with the minimum repayment amount no less than fifty dollars per month <del>with the total repayment period not to exceed thirty-six months</del>. If repayment arrangements are not in place within sixty days of the date of the written notice of overpayment, the executive director shall offset the amount of the overpayment from the amount of future retirement benefit payments so that the actuarial equivalent of the overpayment is spread over the <del>individual's</del> benefit payment period.</p> <p>5. If an individual dies prior to fully refunding an erroneous overpayment of</p>	<p>Amendments to the recovery of overpayments of benefits are a result of more functionality of new NDPERS business. The repayment time period was added previously as NDPERS had no automated functionality to bill a member or tracking repayment schedules.</p>

PROPOSED RULES	REASON PROPOSED
<p>benefits, the public employees retirement system must make application to the estate of the deceased to recover the remaining balance.</p> <p><b>History:</b> Effective June 1, 1996; amended effective April 1, 2002; July 1, 2006; April 1, 2008, _____, 2010.</p> <p><b>General Authority:</b> NDCC 54-52-04, 54-52-17</p> <p><b>Law Implemented:</b> NDCC 39-03.1-25, 54-52-17</p>	<p>These amendments to mirror what is in the Highway Patrol overpayment rules. Both sections are being amendment to mirror each other.</p>
<p>Subsection 1 of section 71-02-05-07.1 is amended as follows:</p> <p><b>71-02-05-07.1. Judges' retirement plan optional benefits.</b> 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. Under no circumstances is an option available if the calculation of the optional benefit to which the member is entitled results in an amount which is less than one hundred dollars.</p> <p>1. <b>One hundred percent joint survivor benefit.</b> 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 <u>single life normal retirement</u> 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.</p>	

PROPOSED RULES	REASON PROPOSED
<p>Section 71-02-05-09 is amended as follows:</p> <p><b>71-02-05-09. Interest accrual on accumulated contributions for disabled annuitants.</b>  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 <del>date</del><u>age</u>, <u>cancels benefit in accordance with 71-02-05-03</u>, the account is closed, or until benefit payments commence to the member's beneficiary.</p> <p><b>History:</b> Effective July 1, 1998; amended effective May 1, 2004; July 1, 2006, _____, 2010,  <b>General Authority:</b> NDCC 54-52-04  <b>Law Implemented:</b> NDCC 54-52-17</p>	<p>Amendment to clarifies when interest accrual on a disability account must end.</p>
<p>Subdivision a of subsection 1 of Section 71-02-06-01 is amended as follows:</p> <p><b>71-02-06-01. Conditions for return.</b></p> <ol style="list-style-type: none"> <li>1. The accumulated contributions of a member who terminates permanent employment: <ol style="list-style-type: none"> <li>a. Before accumulating three years of service credit <u>and whose account balance is less than \$1000.00</u> shall be automatically refunded unless the member elects to remain in an inactive status.</li> <li>b. After accumulating three years of service credit shall be refunded upon application filed with the executive director.</li> <li>c. The termination date for purposes of processing an application for refund or rollover must be the last date for which a member receives salary except for a member who is on an approved leave of absence. For members who are paid salary in any month following actual separation from employment if the salary is received after the normal processing date, the termination date for purposes of processing the application must be the same date as the date that the last paycheck was issued as salary.</li> </ol> </li> </ol>	<p>In compliance with federal law, this section provides clarification regarding contributions to be returned to a non-vested member upon termination of employment if their account balance is less than \$1000.00.</p>

PROPOSED RULES	REASON PROPOSED
<p>2. Retirement contributions must be returned if a membership enrollment application form has not been filed with the office. Contributions will be returned until proper membership enrollment forms have been filed.</p> <p><b>History:</b> Amended effective November 1, 1990; June 1, 1996; July 1, 1998; July 1, 2000; May 1, 2004, _____, 2010  <b>General Authority:</b> NDCC 54-52-04  <b>Law Implemented:</b> NDCC 54-52-06, 54-52-17</p>	
<p>Section 71-02-07-02 is amended as follows:</p> <p><b>71-02-07-02. Return to service - Retired member.</b> The benefits of a retired member who returns to permanent employment shall be suspended without interest accruing on the suspended account, except as provided in subsection 1 of North Dakota Century Code section 54-52-05. Upon subsequent termination, the member's benefit shall be recalculated as follows:</p> <p><del>1. If the period of subsequent employment is less than two years, the member may elect:</del></p> <p><del>a. A return of the member's contributions made after reemployment, and the suspended benefit restored, adjusted for the member's age at subsequent termination and for benefit payments received prior to reemployment; or</del></p> <p><del>b. A recalculation of the member's benefit based on the benefit provisions in effect at the member's initial retirement, but adjusted to take account of age at final retirement, benefit payments received prior to reemployment, salary and service credits, and any benefit increases accrued during the period of subsequent employment.</del></p> <p><del>2. 1. If the period of subsequent employment is more than two years, t</del>The member's benefit shall be based on the benefit provisions in effect at final retirement and shall include the member's <u>and spouse's</u> age <u>and</u> salary earned during the period of reemployment, <u>and</u> together with total service credits earned before and after reemployment, adjusted to take account of benefit payments received prior to reemployment. If a different option is selected at the second retirement date, the member and office will submit information as required to make an actuarial determination of the elected benefit and the related payment of such.</p> <p><del>3. 2. If a member dies during subsequent employment, the member's initial retirement benefit option election will apply. If a benefit election was an optional benefit under subsection 1 or 2 of section 71-02-04-04, then the member's benefit must be recalculated based on the benefit provisions in effect at the member's initial retirement, but adjusted to take account of age at</del></p>	<p>Removing the refund option for retired members who return to work and subsequently retire. All service earned during the subsequent employment will be combined with the member's previous retirement benefit.</p> <p>Amendment also to clarify that member's monthly benefit will be recalculated based on the factors at final retirement.</p>

PROPOSED RULES	REASON PROPOSED
<p><del>benefit increases accrued during the period of subsequent employment. †The member's benefit shall be based on the benefit provisions in effect at final retirement and shall include the member and spouses's ages ,salary earned during the period of reemployment, and total service credits earned before and after reemployment, adjusted to take account of benefit payments received prior to reemployment.</del></p> <p><b>History:</b> Amended effective November 1, 1990; July 1, 1998; May 1, 2004; July 1, 2006, _____, 2010 .</p> <p><b>General Authority:</b> NDCC 54-52-04, 54-52-17</p> <p><b>Law Implemented:</b> NDCC 54-52-17</p>	
<p>Section 71-02-11-04 is amended as follows:</p> <p><b>71-02-11-04. Payment.</b> The cost for purchase of eligible military service in the North Dakota public employees retirement system and the North Dakota highway patrolmen's retirement system is as follows:</p> <ol style="list-style-type: none"> <li>1. The cost for any required employee contributions to be paid by the member may be paid in a lump sum or in installments pursuant to the rules established for purchase or repurchase payment under subsection 1, 2, or 3 of section 71-02-03-02.2. <del>If retirement occurs before purchase is complete, service being purchased will not be credited to the account for retirement purposes until the payment is complete.</del> If no payments have been made, no credit will be awarded. To prevent any delay in issuing the employee's first retirement check, purchase must be completed at least thirty days prior to retirement date.</li> <li>2. The employer cost will be assessed to the member's most recent participating employer. Upon being billed by the North Dakota public employees retirement system, the participating employer will have thirty days in which to make payment in full. If, after sixty days, the employer has not made payment in full, a civil penalty on fifty dollars will be assessed, and, as interest, one percent</li> </ol>	<p>These changes modify the process for crediting purchased eligible military service credit.</p>

PROPOSED RULES	REASON PROPOSED
<p>of the amount due for each month of delay or fraction thereof after the payment became due.</p> <p><del>3. If the employer contributions are paid and the member becomes delinquent for required employee contributions, then the public employees retirement system will prorate the credit the employee contributions have paid for by the member and this credit will be added to the member's file.</del></p> <p><b>History:</b> Effective September 1, 1991; amended effective May 1, 2004; July 1, 2006, _____, 2010 .</p> <p><b>General Authority:</b> NDCC 54-52-04</p> <p><b>Law Implemented:</b> NDCC 54-52-17.4(5), 54-52-17.14</p>	
<p>Subsections 2 and 3 of Section 71-03-03-01 are amended as follows:</p> <p><b>71-03-03-01. Enrollment.</b> An eligible employee is entitled to coverage the first of the month following the month of employment, <del>provided if</del> <u>if</u> the employee submits an application for coverage within the first thirty-one days of employment or eligibility for one of the following special enrollment periods:</p> <ol style="list-style-type: none"> <li>1. Loss of coverage under any other health insurance plan.</li> <li>2. <del>Addition of a spouse</del> <u>Marriage</u>. An employee who previously waived coverage <u>must</u> <del>is also eligible to</del> enroll for coverage at the time the employee's spouse is enrolled.</li> <li>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 <u>must</u> <del>is also eligible to</del> enroll for coverage at the same time that the employee's eligible dependent is enrolled.</li> </ol>	<p>Clarifies and updates language to be consistent with group health contract.</p>

PROPOSED RULES	REASON PROPOSED
<p><b>History:</b> Effective October 1, 1986; amended effective July 1, 1994; June 1, 1996; July 1, 1998, _____, 2010 .</p> <p><b>General Authority:</b> NDCC 54-52.1-08</p> <p><b>Law Implemented:</b> NDCC 54-52.1-03</p>	
<p>Section 71-03-04-01 is amended as follows:</p> <p><b>71-03-04-01. Employer contribution.</b> Each agency shall pay to the board the full amount of the employer contribution by the fifteenth of each month. The agency will verify the number of eligible employees and the level of coverage for each. An employee is eligible for an employer contribution for the month following the month of employment. <u>If an eligible employee terminates employment prior to the effective date of coverage, no employer contribution is required.</u> The employer contribution ends the month following the month of termination of employment. When an employee transfers from one state agency to another, the new agency is responsible for the payment of the premium for the first of the month following employment.</p> <p><b>History:</b> Effective October 1, 1986; amended effective November 1, 1990, _____, 2010 .</p> <p><b>General Authority:</b> NDCC 54-52.1-08</p> <p><b>Law Implemented:</b> NDCC 54-52.1-06</p>	<p>Adds language to clarify that employer contributions are not payable if employee terminates prior to effective date of coverage.</p>
<p>Section 71-03-04-05 is amended as follows:</p> <p><b>71-03-04-05. Premium for basic term life insurance.</b> All state departments <del>and those political subdivisions that elect to</del> participate in the group life insurance program must pay the board the full premium for the basic term life insurance for each of its eligible employees.</p> <p><b>History:</b> Effective October 1, 1986; amended effective July 1, 1994; July 1, 1998, _____, 2010 .</p> <p><b>General Authority:</b> NDCC 54-52.1-08</p>	<p>Removes language referring to political subdivision employer responsibilities as this is addressed in 71-03-07.</p>

PROPOSED RULES	REASON PROPOSED
<b>Law Implemented:</b> NDCC 54-52.1-01(7)	
<p>Section 71-03-05-05 is amended as follows:</p> <p><b>71-03-05-05. Appeal process.</b> If an employee's application for benefits has been denied in whole or in part by the board or its agent, the employee will be notified in writing of the denial and the reasons. Within sixty days of the date shown on the denial notice, the employee may file a petition for review. The petition must be in writing, the reasons stated for disputing the denial and be accompanied by any documentat<u>ry</u> <del>ion</del> material. Should the employee 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 person filing the appeal will be notified in writing at least fifteen days prior to hearing of the time, date, and place.</p> <p>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.</p> <p><b>History:</b> Effective October 1, 1986; amended effective November 1, 1990, _____, 2010.</p> <p><b>General Authority:</b> NDCC 54-52.1-08  <b>Law Implemented:</b> NDCC 54-52.1-08</p>	Corrects terminology.
<p>Subdivision a of subsection 4 of Section 71-03-05-08 is amended as follows:</p> <p><b>71-03-05-08. Erroneous payment of premiums - Underpayments.</b></p> <p>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</p>	

PROPOSED RULES	REASON PROPOSED
<p>billed to the individual.</p> <p>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.</p> <p>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.</p> <p>4. If an underpayment is not discovered within the first month it occurs, the following will apply:</p> <p>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. <del>with the total repayment period not to exceed thirty-six months.</del> 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.</p> <p>b. If underpayment is the result, in whole or in part, of the wrongdoing, negligence, misrepresentation, or omission of the individual,</p>	<p>Removes language referencing maximum repayment period.</p>

PROPOSED RULES	REASON PROPOSED
<p>underpayments must be made in full within sixty days of written notification.</p> <p>5. If an underpayment occurs and the individual no longer participates in the group insurance, any premium amounts due are immediately payable.</p> <p>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.</p> <p>7. If the individual refuses to repay the underpayment, or the underpayment is not paid in full, coverage will be canceled retroactive to the first day of the month following the month for which full premium payment was received. The public employees retirement system will provide written notice advising the individual that payment in full must be received within thirty days of the written notification to reinstate coverage retroactively to the date that coverage was canceled.</p> <p><b>History:</b> Effective April 1, 2002; amended effective April 1, 2008, _____, 2010.  <b>General Authority:</b> NDCC 54-52.1-08  <b>Law Implemented:</b> NDCC 54-52.1-08</p>	
<p>Section 71-03-06-01 is amended as follows:</p> <p><b>71-03-06-01. Enrollment.</b> <del>4. New</del> <u>An</u> eligible employee of a participating political subdivision <del>is</del> <u>is</u> entitled to coverage the first of the month following the month of employment, if the employee submits an application for coverage within the first thirty-one days of employment, or eligibility for one of the following special enrollment periods:</p> <ol style="list-style-type: none"> <li>1. Loss of coverage under any other health insurance plan.</li> <li>2. Marriage. The enrollment of an employee's spouse. An employee</li> </ol>	<p>Clarifies and updates language to be consistent with group health contract.</p>

PROPOSED RULES	REASON PROPOSED
<p>who previously waived coverage <del>must is also eligible to</del> enroll for coverage at the time the employee's spouse is enrolled.</p> <p>3. Addition of a dependent as a result of birth, adoption, <u>placement for adoption</u> receiving legal guardianship, or receiving a court order to provide health coverage. An employee who previously waived coverage <del>must is also eligible to</del> enroll for coverage at the same time that the employee's eligible dependent is enrolled.</p> <p><del>2. Eligible employees of qualifying political subdivisions are entitled to individual coverage if the political subdivision for which the employee works does not offer its employees a group health insurance plan and the employee submits an application for coverage within the first thirty one days of employment or eligibility for one of the special enrollment periods as follows:</del></p> <p><del>a. Loss of coverage under any other health insurance plan.</del></p> <p><del>b. Marriage. The enrollment of an employee's spouse. An employee who previously waived coverage is also eligible to enroll for coverage at the time the employee's spouse is enrolled.</del></p> <p><del>c. Addition of a dependent as a result of birth, adoption, receiving legal guardianship, or receiving a court order to provide health coverage. An employee who previously waived coverage is also</del></p> <p style="text-align: center;"><del>1</del></p> <p><del>eligible to enroll for coverage at the same time that the employee's eligible dependent is enrolled.</del></p> <p><b>History:</b> Effective June 1, 1996; amended effective July 1, 1998, _____, 2010.  <b>General Authority:</b> NDCC 54-52-04  <b>Law Implemented:</b> NDCC 54-52.1-03.1, 54-52.1-03.4</p>	<p>In compliance with provisions of SB 2153. Removes language relating to eligibility of employees that are employed with a political subdivision that does not offer a group health insurance plan.</p>

PROPOSED RULES	REASON PROPOSED
<p>Section 71-03-06-02 is amended as follows:</p> <p><b>71-03-06-02. Late Enrollment.</b> Political subdivisions must follow the same enrollment procedures as outlined in section 71-03-03-02. <del>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 and may be subject to a six-month waiting period for preexisting conditions. Upon a showing of good cause, the executive director may waive the thirty-one day application requirement.</del></p> <p><b>History:</b> Effective June 1, 1996; amended effective July 1, 1998; May 1, 2004, _____, 2010  <b>General Authority:</b> NDCC 54-52-04, 54-52.1-03.1  <b>Law Implemented:</b> NDCC 54-52.1-03, 54-52.1-03.1</p>	<p>Removes redundant language.</p>
<p>Section 71-03-06-03 is amended as follows:</p> <p><b>71-03-06-03. Open <u>Special</u> enrollment for certain qualifying events.</b> Political subdivisions must follow the same enrollment procedures as outlined in section 71-03-03-05.</p> <p><b>History:</b> Effective June 1, 1996, _____, 2010.  <b>General Authority:</b> NDCC 54-52-04, 54-52.1-03.1  <b>Law Implemented:</b> NDCC 54-52.1-03, 54-52.1-03.1</p>	<p>Changes terminology from “open” to “special” enrollment for consistency.</p>
<p>Section 71-03-06-05 is amended as follows:</p> <p><b>71-03-06-05. Continuation of health benefits for dependents.</b> Political subdivisions must follow the same continuation procedure as outlined in section 71-03-03-07.  <del>A dependent of an employee with family coverage may continue coverage with the group after the dependent’s eligibility would ordinarily cease. An employee’s</del></p>	<p>Removes redundant language.</p>

PROPOSED RULES	REASON PROPOSED
<p><del>dependent, including a divorced or widowed spouse or children no longer dependent on the employee, may continue with the group after the dependent's eligibility would ordinarily cease. Coverage is limited to a period of thirty-six months and must be discontinued if the payment of the premium is not made in a timely manner. Dependents must notify the retirement board within sixty days of the qualifying event and submit an application in a timely manner. An individual who fails to submit an application to the retirement board within the sixty days is not eligible for coverage.</del></p> <p><b>History:</b> Effective June 1, 1996, _____, 2010 .  <b>General Authority:</b> NDCC 54-52-04, 54-52.1-03.1  <b>Law Implemented:</b> NDCC 54-52.1-03, 54-52.1-03.1</p>	
<p>Section 71-03-06-08 is amended as follows:</p> <p><b>71-03-06-08. Employee contribution.</b> An employee who is enrolled in the group insurance plan and required by the employing agency 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. <del>The employee's contribution may be paid by payroll deduction or any other method acceptable to the agency.</del></p> <p><b>History:</b> Effective June 1, 1996, _____, 2010 .  <b>General Authority:</b> NDCC 54-52-04, 54-52.1-03.1  <b>Law Implemented:</b> NDCC 54-52.1-02, 54-52.1-03.1</p>	<p>Removes unnecessary language pertaining to payment of employee contributions. This responsibility is defined in 71-03-07-03 under employer's responsibility.</p>
<p>Section 71-03-07-01 is amended as follows:</p> <p><b>71-03-07-01. Employer contribution.</b> Each employer must submit to the board the full monthly premium amount for each eligible employee enrolled in the group insurance plan. The employer must verify the number of eligible employees and the level of coverage for each. <u>An employee is eligible for an employer contribution for the</u></p>	<p>Clarifies the terms for payment of employer contributions to the group health insurance premium.</p>

PROPOSED RULES	REASON PROPOSED
<p><u>to the effective date of coverage, no employer contribution is required. The employer contribution ends the month following the month of termination of employment. An employee's coverage must end the month after termination of employment.</u> When an employee transfers from one <u>participating enrolled</u> employer to another, the new employer is responsible for the payment of the <del>submitting</del> premium for the first of the month following employment.</p> <p><b>History:</b> Effective June 1, 1996, _____, 2010.  <b>General Authority:</b> NDCC 54-52-04, 54-52.1-03.1  <b>Law Implemented:</b> NDCC 54-52.1-03.1</p>	
<p>Section 71-03-07-02, 71-03-07-03 and 71-03-07-05 are amended as follows:</p> <p><b>71-03-07-02. Information to employee.</b> Each employer shall inform <del>its each</del> <u>eligible employees</u> of their <del>employee's</del> right to group insurance and the process necessary to enroll. The employer shall provide each eligible employee such forms as necessary to enroll in the group insurance program.</p> <p><b>History:</b> Effective June 1, 1996, _____, 2010.  <b>General Authority:</b> NDCC 54-52-04, 54-52.1-03.1  <b>Law Implemented:</b> NDCC 54-52.1-03, 54-52.1-03.1</p>	<p>Provides that employer will provide information to all employees regarding coverage rights, not just 'eligible employees.</p>
<p><b>71-03-07-03. Collecting employee contributions.</b> Each employer shall collect any employee contribution due and submit it with <del>any</del> the employer contribution to the retirement board each month. <u>The employee's contribution may be paid by any method acceptable to the agency.</u> When an employee on an approved leave of absence requests to continue in the group, the employer shall collect the full amount of the premium from the employee each month and remit it to the retirement board. The minimum employer contribution will be determined by the retirement board and must be consistently applied to all eligible employees.</p> <p><b>History:</b> Effective June 1, 1996; amended effective May 1, 2004, _____, 2010.  <b>General Authority:</b> NDCC 54-52-04, 54-52.1-03.1</p>	<p>Updates language to provide that the employer may specify the method for collection of any employer premium contribution.</p>

PROPOSED RULES	REASON PROPOSED
<p><b>Law Implemented:</b> NDCC 54-52.1-03, 54-52.1-03.1</p>	
<p><b>71-03-07-05. Premium for basic term life insurance.</b> All political subdivisions that elects to participate in the group life insurance program shall <del>shall</del> <b>must</b> pay to the retirement board the full premium for the basic term life insurance for each of its eligible employees.</p> <p><b>History:</b> Effective June 1, 1996, _____, 2010 .  <b>General Authority:</b> NDCC 54-52-04, 54-52.1-03.1  <b>Law Implemented:</b> NDCC 54-52.1-02, 54-52.1-03.1</p>	<p>Updates language for consistency purposes.</p>
<p>Subsections 1 and 10 of Section 71-04-01-01 is amended as follows:</p> <p><b>71-04-01-01. Definitions.</b> The terms used throughout this title have the same meaning as in North Dakota Century Code section 54-52.2-04, except:</p> <ol style="list-style-type: none"> <li>1. "Beneficiary" means an individual designated by the participant in the <del>participant agreement</del> to receive benefits under the plan in the event the participant dies.</li> <li>2. "Compensation" means the total annual remuneration for employment or contracted services received by the participant from the employer.</li> <li>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.</li> <li>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).</li> </ol>	<p>Updates language to reflect current administrative policy.</p>

PROPOSED RULES	REASON PROPOSED
<p>5. "Employer" means the state of North Dakota or any of its political subdivisions, institutions, departments, or agencies.</p> <p>6. "Participant" is any employee of a participating employer who executes a participant agreement.</p> <p>7. "Participant agreement" means a written 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 participant's deferral and participation in the plan.</p> <p>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.</p> <p>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.</p> <p>10. "Retirement board" or "<u>board</u>" means the seven persons described in North Dakota Century Code chapter 54-52-03.</p> <p>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.</p> <p>12. "State" means the state of North Dakota, or any department, institution, or separate agency thereof acting as an employer of the participant.</p> <p>13. "Unforeseeable emergency" means a severe financial hardship to the participant resulting from a sudden and unexpected illness or</p>	<p>Standardizes language to be consistent with other definitions of "Retirement board" within administrative rules.</p>

PROPOSED RULES	REASON PROPOSED
<p>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.</p> <p><b>History:</b> Effective April 1, 1989; amended effective July 1, 1994; April 1, 2002; May 1, 2004, _____, 2010.  <b>General Authority:</b> NDCC 28-32-02, 54-52.2-03.2  <b>Law Implemented:</b> NDCC 54-52.2-03, 54-52.2-03.2, 54-52.2-04</p>	
<p>Section 71-04-03-02 is amended as follows:</p> <p><b>71-04-03-02. Effective date of deferrals.</b> All deferrals are effective the payroll period ending in the month following the month in which the deferral is authorized. Deferrals cannot be <u>requested or authorized during for</u> the month in which income is being earned <del>and a deferral is being requested</del>.</p> <p><b>History:</b> Effective April 1, 1989, _____, 2010.  <b>General Authority:</b> NDCC 28-32-02  <b>Law Implemented:</b> NDCC 54-52.2-03; IRC 457(b)(4)</p>	<p>Clarifies language relating to effective date of deferrals.</p>
<p>Section 71-04-03-05 and 71-04-03-06 are amended as follows:</p> <p><b>71-04-03-05. Unforeseeable emergency.</b> A participant who, prior to separation from service, experiences an unforeseeable emergency as defined in section 71-04-01-01 may apply for a <del>partial</del> distribution of the participant's deferred compensation 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.</p> <p><b>History:</b> Effective April 1, 1989; amended effective July 1, 1994; April 1, 2002, _____, 2010.</p>	<p>Eliminates the term "partial" as it relates to emergency withdrawals.</p>

PROPOSED RULES	REASON PROPOSED
<p><b>General Authority:</b> NDCC 28-32-02, 54-52.2-03.2  <b>Law Implemented:</b> NDCC 54-52.2-03, 54-52.2-03.2</p>	
<p><b>71-04-03-06. Termination of participation.</b> Participation in the plan may be terminated at any time by completion of a participant agreement indicating an <del>elimination</del> suspension of monthly deferrals.</p> <p><b>History:</b> Effective April 1, 1989; amended effective July 1, 1994; April 1, 2002; May 1, 2004, _____, 2010.  <b>General Authority:</b> NDCC 28-32-02, 54-52.2-03.2  <b>Law Implemented:</b> NDCC 54-52.2-03, 54-52.2-03.2</p>	<p>Updates language for consistency purposes.</p>
<p>Sections 71-04-04-01, 71-04-04-02, 71-04-04-03, 71-04-04-04, 71-04-04-05, 71-04-04-06, 71-04-04-07 and 71-04-04-10 are amended as follows:</p> <p><b>71-04-04-01. Enrollment.</b> The <del>retirement</del> board shall design and provide employees with a participant agreement to facilitate the enrollment in the plan. The participant agreement must provide for the collection of all information regarding identification of the employee, starting date of the deduction, the payroll period affected, name of the provider company, and the provider representative.</p> <p><b>History:</b> Effective April 1, 1989; amended effective September 1, 1997; May 1, 2004, _____, 2010.  <b>General Authority:</b> NDCC 28-32-02  <b>Law Implemented:</b> NDCC 54-52.2-01, 54-52.2-02, 54-52.2-05</p>	<p>Updates all references to “retirement board” in this chapter for consistency purposes.</p>
<p><b>71-04-04-02. Booklets.</b> The <del>retirement</del> board shall, upon request of the employee, make available a descriptive booklet setting forth the enrollment requirements of the plan, explanation of the deferred compensation plan under section 457 of the Internal Revenue Code, and investment options under the plan.</p>	

PROPOSED RULES	REASON PROPOSED
<p><b>History:</b> Effective April 1, 1989; amended effective September 1, 1997; May 1, 2004, _____, 2010.  <b>General Authority:</b> NDCC 28-32-02  <b>Law Implemented:</b> NDCC 54-52.2-03</p>	
<p><b>71-04-04-03. Provider agreement.</b> The <del>retirement</del> board shall establish a written provider agreement for the authorization of companies or organizations who offer investment options to public employees. This agreement may include registration and reporting requirements, educational requirements of sales representatives, and limitations of investment options.</p> <p><b>History:</b> Effective April 1, 1989, _____, 2010 .  <b>General Authority:</b> NDCC 28-32-02  <b>Law Implemented:</b> NDCC 54-52.2-03</p>	
<p><b>71-04-04-04. Employer agreement.</b> The <del>retirement</del> board shall establish a written agreement for all employers, other than state departments, agencies, boards, or commissions, which appoint the state to administer their deferred compensation plan. This agreement includes requirement for the employer to adopt the retirement board's rules, employers to make the requested payroll deductions upon proper application by the employee, remit the deductions directly to the retirement board along with a listing of deferred compensation deductions for all employees participating in the plan, submit all provider participant contracts to the <del>retirement</del> board, hold all participant account information as confidential, and notify the retirement board within thirty days of participant's termination of employment.</p> <p><b>History:</b> Effective April 1, 1989; amended effective April 1, 2002; July 1, 2006, _____, 2010.  <b>General Authority:</b> NDCC 28-32-02  <b>Law Implemented:</b> NDCC 54-52.2-03</p>	

PROPOSED RULES	REASON PROPOSED
<p><b>71-04-04-05. Payroll deduction authorization.</b> The <del>retirement</del> board shall deliver to the payroll division of each employer a copy of the <u>signed</u> participant agreement as the payroll division's authorization to begin deductions.</p> <p><b>History:</b> Effective April 1, 1989, _____, 2010.  <b>General Authority:</b> NDCC 28-32-02  <b>Law Implemented:</b> NDCC 54-52.2-02</p>	<p>Clarifies language.</p>
<p><b>71-04-04-06. Participant accounts.</b> The <del>retirement</del> board shall have each provider of investment services establish individual accounts to record the participant's contributions, earnings, and other account activity.</p> <p><b>History:</b> Effective April 1, 1989, _____, 2010 .  <b>General Authority:</b> NDCC 28-32-02  <b>Law Implemented:</b> NDCC 54-52.2-03</p>	<p>Updates all references to "retirement board" in this chapter for consistency purposes.</p>
<p><b>71-04-04-07. Separation from service.</b> The <del>retirement</del> board shall notify the participant, provider company, and provider representative of the employee's separation from service and eligibility for payment of benefits.</p> <p><b>History:</b> Effective April 1, 1989; amended effective July 1, 1994; May 1, 2004, _____, 2010.  <b>General Authority:</b> NDCC 28-32-02, 54-52.2-03.2  <b>Law Implemented:</b> NDCC 54-52.2-03, 54-52.2-03.2</p>	
<p><b>71-04-04-10. Processing deductions.</b> The <del>retirement</del> board will process and remit employee deferred compensation deductions to the designated provider company within three business days following receipt in good order of all funds and documentation from the employer.</p>	

PROPOSED RULES	REASON PROPOSED
<p><b>History:</b> Effective July 1, 2006, _____, 2010 .  <b>General Authority:</b> NDCC 28-32-02  <b>Law Implemented:</b> NDCC 54-52.2-03</p>	
<p>Sections 71-04-06-01, 71-04-06-02, 71-04-06-03, 71-04-06-06, 71-04-06-07, 71-04-06-08, 71-04-06-09, 71-04-06-11 and 71-04-06-12 are amended as follows:</p> <p><b>71-04-06-01. Application.</b> Those firms desiring to offer investment services for the deferred compensation plan shall first notify the <del>retirement</del> board, in writing, of the firms' willingness to become a provider.</p> <p><b>History:</b> Effective April 1, 1989, _____, 2010.  <b>General Authority:</b> NDCC 28-32-02  <b>Law Implemented:</b> NDCC 54-52.2-03</p>	
<p><b>71-04-06-02. Administrative agreement.</b> Firms expressing a desire to become a provider of investment services under the deferred compensation plan must agree to all provisions found in and sign the <del>retirement</del> boards' administrative agreement. The administrative agreement sets forth the responsibilities of the provider to the plan, the <del>retirement</del> board, and the employee and stipulates that the provider abide by the plan and rules and regulations adopted by the retirement board for the administration of the plan.</p> <p><b>History:</b> Effective April 1, 1989, _____, 2010 .  <b>General Authority:</b> NDCC 28-32-02  <b>Law Implemented:</b> NDCC 54-52.2-03</p>	Clarifies language.
<p><b>71-04-06-03. Sales representatives.</b> All sales representatives of the provider approved by the <del>retirement</del> board to solicit employees must be fully trained to explain the various investment options available through the provider, be</p>	

PROPOSED RULES	REASON PROPOSED
<p>able to explain what the deferred compensation program is as found under section 457 of the Internal Revenue Code, and be licensed with the North Dakota state securities commissioner for the sale of registered or unregistered securities or the North Dakota state insurance commissioner for the sale of insurance contracts or policies, or both.</p> <p><b>History:</b> Effective April 1, 1989, _____, 2010 .  <b>General Authority:</b> NDCC 28-32-02  <b>Law Implemented:</b> NDCC 54-52.2-03</p>	
<p><b>71-04-06-06. Retirement board report.</b> The provider shall deliver quarterly reports, in an approved electronic format, to the retirement board detailing the activity of each participant's account. The quarterly report must be delivered within thirty days of the end of each calendar quarter and must include an alphabetical listing of the participants, social security numbers of the participants, the provider's contract number for the participants (if any), type of account for each participant, beginning account balance forwarded from the previous reporting period, contributions made by the participants for the current reporting period, transfers and rollovers from other eligible plans during the reporting period, investment earnings or losses added to the account (if any for the reporting period), any withdrawals made during the reporting period, administrative charges assessed against the account during the reporting period, transfers and direct rollovers to other eligible plans during the reporting period, and the account balance at the end of the reporting period. The report columns must be totaled. The quarterly report must include active, inactive, and accounts in payout status, with the exception of accounts which have been annuitized, and be for all payroll divisions for the plan.</p> <p><b>History:</b> Effective April 1, 1989; amended effective November 1, 1990; July 1, 1994; May 1, 2004; July 1, 2006, _____, 2010.  <b>General Authority:</b> NDCC 28-32-02, 54-52.2-03.2  <b>Law Implemented:</b> NDCC 54-52.2-03, 54-52.2-03.2</p>	

PROPOSED RULES	REASON PROPOSED
<p><b>71-04-06-07. Account transfer.</b> The provider shall allow any participant who so requests, the ability to transfer the participant's account to another provider on a tax-free basis. The request to the provider must be made in writing by the <del>retirement</del> board or its designated representative. The transfer must be made within thirty days of the provider's receipt of the transfer request.</p> <p><b>History:</b> Effective April 1, 1989; amended effective July 1, 1994, _____, 2010.  <b>General Authority:</b> NDCC 28-32-02, 54-52.2-03.2  <b>Law Implemented:</b> NDCC 54-52.2-03</p>	
<p><b>71-04-06-08. Benefit requests.</b> The provider shall honor all requests for benefit or refund payments made upon notification of the employee's separation from service by the <del>retirement</del> board.</p> <p><b>History:</b> Effective April 1, 1989; amended effective May 1, 2004, _____, 2010.  <b>General Authority:</b> NDCC 28-32-02  <b>Law Implemented:</b> NDCC 54-52.2-03</p>	
<p><b>71-04-06-09. Benefit payments.</b> The provider shall make benefit payments to the participant <u>in the manner designated by</u> at the participant's <del>designated mailing address,</del> or, if requested, <del>make direct deposits of the benefits at the participant's bank, savings and loan, or credit union.</del></p> <p><b>History:</b> Effective April 1, 1989, _____, 2010 .  <b>General Authority:</b> NDCC 28-32-02  <b>Law Implemented:</b> NDCC 54-52.2-03</p>	Updates and clarifies language.
<p><b>71-04-06-11. Provider reporting failure - Penalty.</b> Should the provider fail to deliver the required report within a thirty-day period beyond the end of the reporting period, notice must be given by certified mail of the provider's failure to comply. The provider shall then have thirty days from the date of the certified</p>	

PROPOSED RULES	REASON PROPOSED
<p>letter to comply with the reporting requirement. If the provider fails to deliver the required report within the thirty-day period, the provider is in violation of the administrative agreement and shall lose active provider status as described under subsection 1 of section 71-04-04-09. If the provider has not filed the report within ninety days after the end of the reporting period, the provider shall lose provider status as described under subsection 2 of section 71-04-04-09. Loss of provider status results in all current contributions of active participants being suspended effective in the next payroll cycle. The <del>retirement</del> board will notify all participants of the company's failure to deliver the required reports. Current participants will be required to either select a new provider for future contributions, or have their account go into a dormant status with the company losing provider status. The <del>retirement</del> board will then terminate the agreement with the provider.</p> <p><b>History:</b> Effective April 1, 1989; amended effective November 1, 1990; July 1, 1994; May 1, 2004, _____, 2010 .</p> <p><b>General Authority:</b> NDCC 28-32-02, 54-52.2-03.2</p> <p><b>Law Implemented:</b> NDCC 54-52.2-03, 54-52.2-03.2</p>	
<p><b>71-04-06-12. Provider suspension - Employee account transfers.</b></p> <p>Should the provider be in violation of the administrative agreement, employees shall have the option of transferring their individual accounts to another qualified provider. The employee shall also have the option of leaving the account with the provider, <del>in a dormant status, to be dealt with by</del> <u>until the employee is eligible for a distributable event upon separation from service.</u></p> <p><b>History:</b> Effective April 1, 1989; amended effective July 1, 1994, _____, 2010.</p> <p><b>General Authority:</b> NDCC 28-32-02, 54-52.2-03.2</p> <p><b>Law Implemented:</b> NDCC 54-52.2-03, 54-52.2-03.2</p>	Clarifies and updates language.
<p>Section 71-05-02-05 is amended as follows:</p> <p><b>71-05-02-05. Interest accrued on accumulated contributions for disabled annuitants.</b></p>	

PROPOSED RULES	REASON PROPOSED
<p>Effective January 1, 1998, interest shall accrue on accumulated contributions as defined in article 71-01 until the disabled annuitant reaches normal retirement age, <u>cancels benefit in accordance with 71-05-02-05</u>, the account is closed, or until benefit payments commence to the member's beneficiary <del>or dies</del>.</p> <p><b>History:</b> Effective July 1, 1998, _____, 2010 .  <b>General Authority:</b> NDCC 39-03.1-06, 39-03.1-11  <b>Law Implemented:</b> NDCC 39-03.1-11.4(d)</p>	
<p>Subsection 2 is amended and a new subsection 6 is created in Section 71-04-04-04 as follows:</p> <p><b>71-05-04-04. Payment.</b> 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:</p> <ol style="list-style-type: none"> <li>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.</li> <li>2. The installment schedule may extend <del>for as long as</del> <u>while</u> the member is employed by the participating employer <u>but for no longer than a 15 year time period</u>.</li> <li>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.</li> <li>4. Payments are due by the fifteenth of the month to be credited for the month.</li> <li>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</li> </ol>	<p>Sets minimum payment amount pertaining to payments for service credit purchases and establishes a maximum payment schedule of 15 years. This allows NDPERS to create an amortization schedule for the member with payments sufficient to pay off the purchase contract by the end of the contract term, which will alleviate allowing member's to purchase with a minimum payment amount that only gets applied towards interest and not the principal of the purchase contract (reviewed and approved by Board at August 20, 2009 meeting).</p>

PROPOSED RULES	REASON PROPOSED
<p>employer.</p> <p><u>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 15 year time period.</u></p> <p><b>History:</b> Effective October 1, 1991; amended effective June 1, 1996; May 1, 2004; July 1, 2006, _____, 2010.  <b>General Authority:</b> NDCC 39-03.1-06, 39-03.1-08.1, 39-03.1-10.1, 39-03.1-14.1  <b>Law Implemented:</b> NDCC 39-03.1-08.1, 39-03.1-10.1, 39-03.1-14.1</p>	
<p><b>71-05-04-06. Crediting purchased or repurchased service.</b> Service purchased or repurchased will be credited in the following manner:</p> <ol style="list-style-type: none"> <li>1. <del>The contributor's record must be updated with the additional service credit once the account is paid in full</del> <u>For each month the system receives a payment towards a purchase contract, the member will earn a proportion of service credit.</u></li> <li>2. <del>If the contributor or member of an alternative retirement system terminates, retires, or the contributor's account is closed due to delinquency, service credit shall be granted by taking the months of service credit being purchased times the percentage paid. The percentage is determined by taking the total payments made toward the purchase divided by the total amount to be paid over the term of the purchase. Service credit equal to a fraction is deemed to be a whole month of service credit.</del></li> </ol> <p><b>History:</b> Effective October 1, 1991; amended effective June 1, 1996; May 1, 2004, _____, 2010 .  <b>General Authority:</b> NDCC 39-03.1-06, 39-03.1-10.1, 39-03.1-14.1  <b>Law Implemented:</b> NDCC 39-03.1-08.1, 39-03.1-10.1, 39-03.1-14.1</p>	<p>Due to new business system, NDPERS will be able to pro-rate service credit each time a payment is received, rather than upon completion or closing of a purchase contract. The changes made under this section allow us to proportion service based upon a payment being received (reviewed and approved by the Board at the August 20, 2009 meeting).</p>

PROPOSED RULES	REASON PROPOSED
<p>Subsection 6 of Section 71-05-04-09 is amended as follows:</p> <p><b>71-05-04-09. Employer purchase of service credit or sick leave program.</b> 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:</p> <ol style="list-style-type: none"> <li>1. The program meets all the requirements of the North Dakota Century Code.</li> <li>2. The program meets all applicable federal requirements.</li> <li>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.</li> <li>4. The employer has not given the employee the option of a cash payment in lieu of the employer purchase.</li> <li>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.</li> <li>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 <u>15<sup>th</sup> of the month following the month of the employee’s retirement</u> termination or sixty days from the date the employer and employee agree to the purchase, whichever comes first.</li> <li>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</li> </ol>	<p>Clarifies timeline for an employer to pay for a purchase on behalf of an employee. Language currently specifies “retirement” rather than “termination”. Retirement may occur many years after a member terminates employment and defers their benefit.</p>

PROPOSED RULES	REASON PROPOSED
<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p><b>History:</b> Effective May 1, 2004; amended effective July 1, 2006; April 1, 2008, _____, 2010 .</p> <p><b>General Authority:</b> NDCC 39-03.1-06</p> <p><b>Law Implemented:</b> NDCC 39-03.1-10.2</p>	
Subsection 2 and 3 of Section 71-05-05-02 are amended as follows:	

PROPOSED RULES	REASON PROPOSED
<p><b>71-05-05-02. Special retirement options - Application.</b></p> <ol style="list-style-type: none"> <li>1. A member may elect a retirement option by filing an application with the office no less than thirty days prior to the beginning date of benefit payments. An application may be filed later than thirty days prior to the beginning date of benefit payments if approved by the plan administrator upon receiving sufficient evidence that the application was delayed by the member's employer.</li> <li>2. A member may revoke the election of an optional benefit as provided in subsection 1 and make a new election if such revocation is received in writing before the first retirement check is cashed but no later than fifteen days after the first retirement check has been issued. If the member changes the member's election less than fifteen days prior to the named beginning date of benefits, the first retirement payment may be delayed up to two months. Any delayed payment must be adjusted to include any deferred retirement payments. <u>If the member's first retirement payment is paid by direct deposit and the member wishes to revoke the election of the benefit, then the member must immediately notify NDPERS of their election. The benefit will only be revoked if NDPERS is able to reverse the direct deposit paid to the bank within the bank reversal window.</u></li> <li>3. A member may not revoke the elected benefit after receiving and cashing the first benefit check <u>or if paid by direct deposit, after the bank reversal window has expired</u>, unless the member can provide sufficient evidence to the executive director that the factual basis by which the election was made later proved to be incorrect and such was due in part to representation or misrepresentations made by the employer or the retirement office.</li> </ol> <p><b>History:</b> Effective October 1, 1991; amended effective May 1, 2004, _____, 2010.  <b>General Authority:</b> NDCC 39-03.1-06  <b>Law Implemented:</b> NDCC 39-03.1-11</p>	<p>Establishes process and timeframe for a new retiree to make a benefit change in the event the receiver has their first payment deposited directly into a bank account. The new business system will allow us to pay a first payment through direct deposit and therefore, rules needed to be added to address this.</p>

PROPOSED RULES	REASON PROPOSED
<p>Subsections 3 and 4 of Section 71-05-05-04 are repealed in this section and a new section 71-05-05-04.1 is created.</p> <p><b>71-05-05-04. Optional benefits.</b> A member may elect, as provided in section 71-05-05-02, to receive one of the following optional benefits in lieu of the regular early or normal retirement benefit.</p> <ol style="list-style-type: none"> <li>1. <b>One hundred percent joint and survivor benefit.</b> A member may receive an actuarially reduced retirement benefit during the member's lifetime 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. In the event the member's spouse predeceases the member or, in the event of divorce, the option shall be canceled and the member's benefit shall be returned to the normal retirement amount. Payment of the normal retirement amount shall 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. Should the member remarry and wish to change such designation, a new actuarial retirement benefit will be calculated. 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, death certificate, birth certificate verifying age, and is still living. Benefits must terminate in the month in which the death of the beneficiary occurs.</li> <li>2. <b>Twenty-year or ten-year term certain.</b> 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.</li> <li>3. <del><b>Partial lump sum option.</b> The partial lump sum option will only be available to members who retire on or after reaching their normal retirement date. This option is an irrevocable election and made</del></li> </ol>	<p>Removes descriptive language for Level Social Security Option, Partial Lump Sum Option and the Deferred Normal Retirement Option as they are outlined in a new section that provides details on benefit modifications.</p>

PROPOSED RULES	REASON PROPOSED
<p>at initial application for retirement. The payment is equal to twelve monthly payments determined under the normal annuity option. The member is permitted to choose one of the optional forms of payment for ongoing benefits. The ongoing benefits will be actuarially reduced to reflect the partial lump sum payment.</p> <p>4. <del><b>Deferred normal retirement option.</b></del> The deferred normal retirement option will only be available to members who retire after reaching their normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is in lieu of a lump sum equal to the amount of missed payments, without interest, retroactive to the member's normal retirement date. The ongoing benefits will be actuarially increased to reflect the lump sum.</p> <p><b>History:</b> Effective October 1, 1991; amended effective July 1, 2006; April 1, 2008, _____, 2010.</p> <p><b>General Authority:</b> NDCC 39-03.1-06</p> <p><b>Law Implemented:</b> NDCC 39-03.1-11</p>	
<p><b><u>71-05-05-04.1. Benefit Modifications.</u></b> A member may elect as provided in section 71-05-05-02 to receive one of the following benefit modifications.</p> <p>1. <b><u>Partial lump sum option.</u></b> The partial lump sum option will only be available to members who retire on or after reaching their normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is equal to twelve monthly payments determined under the normal annuity option. The member is permitted to choose one of the optional forms of payment for ongoing benefits. The ongoing benefits will be actuarially reduced to reflect the partial lump sum payment.</p> <p>2. <b><u>Deferred normal retirement option.</u></b> The deferred normal retirement</p>	<p>A new section which establishes benefit modifications specific to the Partial Lump Sum Option, Deferred Normal Retirement Option and the Graduated Benefit Option (graduated benefit option rules reviewed and approved by the Board at March 19, 2009 meeting).</p>

PROPOSED RULES	REASON PROPOSED
<p><u>option will only be available to members who retire after reaching their normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is in lieu of a lump sum equal to the amount of missed payments, without interest, retroactive to the member's normal retirement date. The ongoing benefits will be actuarially increased to reflect the lump sum.</u></p> <p><b>3. <u>Graduated benefit option.</u></b> <u>The graduated benefit option will only be available to members who retire after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The member is permitted to choose one of the optional forms of payment for ongoing benefits excluding the deferred normal retirement option or partial lump sum option. The ongoing benefits will be actuarially reduced to reflect the election of the graduated benefit.</u></p> <p><b>History:</b> Created effective _____, 2010  <b>General Authority:</b> NDCC 39-03.1-06  <b>Law Implemented:</b> NDCC 39-03.1-11</p>	
<p><b>71-05-05-07. Amount of early retirement benefit.</b> The early retirement benefit must be an amount actuarially reduced from the normal retirement benefit by one-half of one percent for each month (six percent per year), that the member is younger than age fifty-five on the date of the member's early retirement benefit commences effective date.</p> <p><b>History:</b> Effective October 1, 1991.  <b>General Authority:</b> NDCC 39-03.1-06  <b>Law Implemented:</b> NDCC 39-03.1-11</p>	<p>Clarifies early retirement reduction is based on member's retirement effective date, not date paid.</p>
<p>Subsection 3, 4 and 5 of Section 71-04-05-10 are amended as follows:</p> <p><b>71-05-05-10. Erroneous payment of benefits - Overpayments.</b></p> <p>1. An "overpayment" means a payment of money by the public employees</p>	

PROPOSED RULES	REASON PROPOSED
<p>retirement system that results in a person receiving a higher payment than the person is entitled to under the provision of the retirement plan of membership.</p> <p>2. A person who receives an overpayment is liable to refund those payments upon receiving an explanation and a written request for the amount to be refunded from the executive director. All overpayments 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 amount of the overpayment is estimated to exceed the overpayment, the repayment is considered to be unrecoverable.</p> <p>3. If an overpayment of benefits was not the result of any wrongdoing, negligence, misrepresentation, or omission by the recipient, the recipient may make repayment arrangements subject to the executive director's approval within sixty days of the written notice of overpayment <u>with the minimum repayment amount no less than fifty dollars per month</u>. If repayment arrangements are not in place within sixty days of the date of the written notice of overpayment, the executive director shall offset the amount of the overpayment from the amount of future retirement benefit payments so that the actuarial equivalent of the overpayment is spread over the individual's benefit payment period.</p> <p>4. If the overpayment was the result, in whole or in part, of the wrongdoing, negligence, misrepresentation, or omission of the recipient, the recipient is liable to pay interest charges at the rate of six percent on the outstanding balance to compensate the fund for lost earnings from the time the erroneous benefit was paid through the time it has been refunded in full. Recovered funds are first applied to interest, and if any amount is left over, that amount is applied to principal. <u>The recipient may make repayment arrangements, subject to the executive director's approval, within sixty days of the written request for refund with the minimum repayment amount no less than fifty dollars per month.</u> If repayment arrangements are not in place within sixty days of the date of the written notice of overpayment, the executive director shall offset the amount of the overpayment from the amount of future retirement benefit payments so that the actuarial equivalent of the overpayment is spread over the individual's benefit payment period.</p> <p>5. If an individual dies prior to fully refunding an erroneous overpayment of</p>	<p>These amendments to mirror what is in the Main System overpayment rules. Both sections are being amendment to mirror each other</p>

PROPOSED RULES	REASON PROPOSED
<p>benefits, the public employees retirement system must make application to the estate of the deceased to recover the remaining balance.</p> <p><b>History:</b> Effective April 1, 2002; amended effective July 1, 2006, _____, 2010 .  <b>General Authority:</b> NDCC 32-03-04, 39-03.1-06, 54-52-04(12), 54-52-14.2  <b>Law Implemented:</b> NDCC 39-03.1-25</p>	
<p>Subsection 1 of section 71-05-06-01 is amended as follows:</p> <p><b>71-05-06-01. Return of contributions - Conditions for return.</b> The accumulated contributions of a member who terminates permanent employment:</p> <ol style="list-style-type: none"> <li>1. Before accumulating ten years of service credit <u>and whose account balance is less than \$1000.00</u> must be automatically refunded unless the member elects to remain in an inactive status.</li> <li>2. After accumulating ten years of service credit, accumulated contributions must be refunded upon application filed with the retirement office.</li> </ol> <p><b>History:</b> Effective October 1, 1991, _____, 2010.  <b>General Authority:</b> NDCC 39-03.1-06  <b>Law Implemented:</b> NDCC 39-03.1-10.1</p>	<p>In compliance with federal law, this section provides clarification regarding contributions to be returned to a non-vested member upon termination of employment if their account balance is less than \$1000.00.</p>
<p>Section 71-05-07-01 is amended as follows:</p> <p><b>71-05-07-01. Return to service – Retired member.</b> The benefits of a retired member who returns to permanent employment must be suspended. Upon final retirement, the member’s benefit must be recalculated as follows:</p> <ol style="list-style-type: none"> <li>1. <del>If the period of subsequent employment is less than two years, the member may elect:</del></li> </ol>	<p>Removing the refund option for retired members who return to work and</p>

PROPOSED RULES	REASON PROPOSED
<p style="text-align: center;"><del>a. A return of the member's contributions made after reemployment, and the suspended benefit restored, adjusted for the member's age at final retirement and for benefit payments received prior to reemployment; or</del>  <del>b. A recalculation of the member's benefit based on the benefit provisions in effect at the member's initial retirement, but adjusted to take account of age at final retirement, benefit payments received prior to reemployment, salary and service credits, and any benefit increases accrued during the period of subsequent employment.</del></p> <p>21. <del>If the period of subsequent employment is more than two years, t</del>The member's benefit must be based on the benefit provisions in effect at final retirement and shall include the member's <u>and spouse's age, and salary earned during the period of reemployment, and together with</u> total service earned before and after reemployment, adjusted to take account of benefit payments received prior to reemployment. If a different option is selected at the second retirement date, the member and office will submit information as required to make an actuarial determination of the elected benefit and the related payment of such.</p> <p>32. If a member dies during subsequent employment, the member's initial retirement benefit <u>option</u> election will apply. <del>If the benefit election was an optional benefit under section 71-05-02-04, then the member's benefit must be recalculated based on the benefit provisions in effect at the member's initial retirement, but adjusted to take account of age at death, benefit payments received prior to reemployment, salary and service credits, and any benefit increases accrued during the period of subsequent employment. The member's</del> <u>benefit shall be based on the benefit provisions in effect at final retirement and shall include the member and spouses's ages, salary earned during the period of reemployment, and total service credits earned before and after reemployment, adjusted to take account of benefit payments received prior to reemployment.</u></p> <p><b>History:</b> Effective October 1, 1991; amended effective May 1, 2004, _____, 2010.  <b>General Authority:</b> NDCC 39-03.1-06  <b>Law Implemented:</b> NDCC 39-03.1-11</p>	<p>subsequently retire. All service earned during the subsequent employment will be combined with the member's previous retirement benefit.</p> <p>Amendment also to clarify that member's monthly benefit will be recalculated based on the factors at final retirement.</p>

PROPOSED RULES		REASON PROPOSED																																																													
<p>Section 71-06-01-02 is amended as follows:            71-06-01-02. Calculation of retiree health insurance credit. Retiree health insurance credit will be calculated on actual years and months of service, identical to retirement benefits under North Dakota Century Code chapter 54-52.</p> <p>1. Retiree health insurance credit will be subject to reduction factors in the event of early retirement.</p> <p>For annuitants of the public employees retirement system defined benefit plan and North Dakota public employees retirement system judges, and for members of the defined contribution retirement plan, excluding national guard retirees, who take a periodic distribution:</p> <table border="1"> <thead> <tr> <th><u>Age at Retirement</u></th> <th><u>Reduction Factor</u></th> <th><u>Age at Retirement</u></th> <th><u>Reduction Factor</u></th> </tr> </thead> <tbody> <tr> <td>64 to 65</td> <td>3%</td> <td>59 to 60</td> <td>33%</td> </tr> <tr> <td>63 to 64</td> <td>9%</td> <td>58 to 59</td> <td>39%</td> </tr> <tr> <td>62 to 63</td> <td>15%</td> <td>57 to 58</td> <td>45%</td> </tr> <tr> <td>61 to 62</td> <td>21%</td> <td>56 to 57</td> <td>51%</td> </tr> <tr> <td>60 to 61</td> <td>27%</td> <td>55 to 56</td> <td>57%</td> </tr> </tbody> </table> <p>For annuitants of the job service retirement program: This includes those who retired under a discontinued service annuity but does not include those who retired at a normal or optional date.</p> <table border="1"> <thead> <tr> <th><u>Age at Retirement</u></th> <th><u>Reduction Factor</u></th> <th><u>Age at Retirement</u></th> <th><u>Reduction Factor</u></th> <th><u>Age at Retirement</u></th> <th><u>Reduction Factor</u></th> </tr> </thead> <tbody> <tr> <td>64 to 65</td> <td>3%</td> <td>59 to 60</td> <td>33%</td> <td>54 to 55</td> <td>63%</td> </tr> <tr> <td>63 to 64</td> <td>9%</td> <td>58 to 59</td> <td>39%</td> <td>53 to 54</td> <td>69%</td> </tr> <tr> <td>62 to 63</td> <td>15%</td> <td>57 to 58</td> <td>45%</td> <td>52 to 53</td> <td>75%</td> </tr> <tr> <td>61 to 62</td> <td>21%</td> <td>56 to 57</td> <td>51%</td> <td>51 to 52</td> <td>81%</td> </tr> <tr> <td>60 to 61</td> <td>27%</td> <td>55 to 56</td> <td>57%</td> <td>50 to 51</td> <td>87%</td> </tr> </tbody> </table>		<u>Age at Retirement</u>	<u>Reduction Factor</u>	<u>Age at Retirement</u>	<u>Reduction Factor</u>	64 to 65	3%	59 to 60	33%	63 to 64	9%	58 to 59	39%	62 to 63	15%	57 to 58	45%	61 to 62	21%	56 to 57	51%	60 to 61	27%	55 to 56	57%	<u>Age at Retirement</u>	<u>Reduction Factor</u>	<u>Age at Retirement</u>	<u>Reduction Factor</u>	<u>Age at Retirement</u>	<u>Reduction Factor</u>	64 to 65	3%	59 to 60	33%	54 to 55	63%	63 to 64	9%	58 to 59	39%	53 to 54	69%	62 to 63	15%	57 to 58	45%	52 to 53	75%	61 to 62	21%	56 to 57	51%	51 to 52	81%	60 to 61	27%	55 to 56	57%	50 to 51	87%	<p>Revises references to century code due to changes in code made previously.</p>	
<u>Age at Retirement</u>	<u>Reduction Factor</u>	<u>Age at Retirement</u>	<u>Reduction Factor</u>																																																												
64 to 65	3%	59 to 60	33%																																																												
63 to 64	9%	58 to 59	39%																																																												
62 to 63	15%	57 to 58	45%																																																												
61 to 62	21%	56 to 57	51%																																																												
60 to 61	27%	55 to 56	57%																																																												
<u>Age at Retirement</u>	<u>Reduction Factor</u>	<u>Age at Retirement</u>	<u>Reduction Factor</u>	<u>Age at Retirement</u>	<u>Reduction Factor</u>																																																										
64 to 65	3%	59 to 60	33%	54 to 55	63%																																																										
63 to 64	9%	58 to 59	39%	53 to 54	69%																																																										
62 to 63	15%	57 to 58	45%	52 to 53	75%																																																										
61 to 62	21%	56 to 57	51%	51 to 52	81%																																																										
60 to 61	27%	55 to 56	57%	50 to 51	87%																																																										

PROPOSED RULES	REASON PROPOSED												
<p>For annuitants of the highway patrol fund and national guard security police and firefighters and national guard security police and firefighters who transferred to the defined contribution retirement plan:</p> <table data-bbox="338 446 970 662"> <thead> <tr> <th><u>Age at Retirement</u></th> <th><u>Reduction Factor</u></th> </tr> </thead> <tbody> <tr> <td>54 to 55</td> <td>3%</td> </tr> <tr> <td>53 to 54</td> <td>9%</td> </tr> <tr> <td>52 to 53</td> <td>15%</td> </tr> <tr> <td>51 to 52</td> <td>21%</td> </tr> <tr> <td>50 to 51</td> <td>27%</td> </tr> </tbody> </table> <p>2. Disabled annuitants receiving benefits under subdivision <del>e</del> <u>g</u> of subsection 3 of North Dakota Century Code section 54-52-17, subdivision d of subsection 3 of North Dakota Century Code section 39-03.1-11, North Dakota Century Code section 52-11-01, or section 71-02-05-05 will be eligible for full retiree health insurance credit benefits. No age reduction factor will be applied.</p> <p>3. A surviving spouse eligible to receive benefits under subdivisions <del>b and c</del> <u>a(2), b(2) and b(3)</u> of subsection 6 of North Dakota Century Code section 54-52-17, subdivisions b and c of subsection 6 of North Dakota Century Code section 39-03.1-11, or North Dakota Century Code section 52-11-01 will receive retiree health insurance credit based on the deceased member's years of service without any age reduction applied.</p> <p>4. A surviving spouse receiving benefits under the provisions of subdivision <del>a or c</del> <u>b or d</u> of subsection 9 of North Dakota Century Code section 54-52-17; subdivisions a, b, and c of subsection 5 of North Dakota Century Code section 27-17-01; subsection 9 of North Dakota Century Code section 39-03.1-11; or North Dakota Century Code section 52-11-01 will</p>	<u>Age at Retirement</u>	<u>Reduction Factor</u>	54 to 55	3%	53 to 54	9%	52 to 53	15%	51 to 52	21%	50 to 51	27%	
<u>Age at Retirement</u>	<u>Reduction Factor</u>												
54 to 55	3%												
53 to 54	9%												
52 to 53	15%												
51 to 52	21%												
50 to 51	27%												

PROPOSED RULES	REASON PROPOSED
<p>receive retiree health insurance credit for the duration benefits are paid, based upon the original annuitant's retirement age.</p> <p>History: Effective April 1, 1992; amended effective June 1, 1996; July 1, 2000.            General Authority: NDCC 54-52.1-03.2(b)            Law Implemented: NDCC 54-52.1-03.3</p>	
<p>Section 71-08-06-04 is amended as follows:</p> <p><b>71-08-06-04. Cost.</b> The cost for purchase of eligible military service in the defined contribution plan may be paid as follows:</p> <ol style="list-style-type: none"> <li>1 The cost for any required employee contributions to be paid by the member may be paid in a lump sum or in installments pursuant to the rules established for purchase or repurchase payment under subsection 3, 4, or 5 of section 71-02-03-02.2. If no payments have been made, no credit will be awarded.</li> <li>2. <del>If the member elects to make installment payments through payroll deduction, then the employer will be required to match the member contribution month by month. Upon completion of the member contributions, the employer will be required to make a final payment of all remaining employer contributions.</del></li> <li>3. <del>If the member elects to make payments through any method other than payroll deductions, then upon the member completing full payment of the required member contributions, the employer cost will be assessed to the member's most recent participating employer.</del></li> <li>4. <u>The employer cost will be assessed to the member's most recent participating employer.</u> Upon being billed by the public employees retirement system, the participating employer will have thirty days in which to make payment in full. If, after sixty days, the employer has not made payment in full, a civil penalty of fifty dollars will be assessed, and, as interest, one percent of the amount due for</li> </ol>	<p>These changes modify the process for crediting purchased eligible military service credit and clarify that most recent employer will be billed required employer paid contributions.</p>

	REASON PROPOSED
<p>each month of delay or fraction thereof after the payment became due.</p> <p><b>History:</b> Effective May 1, 2004; amended effective July 1, 2006, _____, 2010.  <b>General Authority:</b> NDCC 54-52-04, 54-52.6-04  <b>Law Implemented:</b> NDCC 54-52.6-09.3, 54-52.6-09.4</p>	
<p>Subsection 6 of Section 71-08-07-01 is amended as follows:</p> <p><b>71-08-07-01. Additional employer contributions.</b> An employer may elect to provide additional employer contributions to an employee's account in an amount not exceeding the equivalent of a purchase of up to five years of service credit for that employee and the purchase of an employee's unused sick leave that meets the requirements of section 71-08-07-02. Before offering such a program to its employees, an employer must create a program and document it 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:</p> <ol style="list-style-type: none"> <li>1. The program meets all the requirements of the North Dakota Century Code.</li> <li>2. The program meets all applicable federal requirements.</li> <li>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.</li> <li>4. The employer has not given the employee the option of a cash payment in lieu of the employer purchase.</li> <li>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.</li> <li>6. The employer agrees that all additional employer contributions will not exceed the equivalent of a purchase of service credit as determined by the public</li> </ol>	<p>Clarifies timeline for an employer to pay additional employer contributions on behalf of an employee specific to a member's termination, rather than retirement. Retirement can occur many years after termination due to deferral option.</p>

PROPOSED RULES	REASON PROPOSED
<p>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 <u>15<sup>th</sup> of the month following the month of the employee's retirement termination</u> or sixty days from the date the employer and employee agree to the purchase, whichever comes first.</p> <p>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 and 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.</p> <p>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.</p> <p>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.</p> <p>10. The employer agrees to provide information and policies pertaining to the employer purchase program pursuant to North Dakota Century Code section 54-52-26.</p> <p>When an employer files the above letter with the public employees retirement system, the employer 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</p>	

PROPOSED RULES	REASON PROPOSED
<p>letter indicating when the program is to be canceled.</p> <p><b>History:</b> Effective May 1, 2004; amended effective July 1, 2006; April 1, 2008, _____, 2010.</p> <p><b>General Authority:</b> NDCC 54-52-04, 54-52.6-04</p> <p><b>Law Implemented:</b> NDCC 54-52.6-09.2</p>	

Deb,

This email is in response to questions you submitted regarding the administrative rules process. You requested that I review what would need to accompany the rules. Upon reviewing the rules and the Administrative Rules Manual, it is my opinion that NDPERS would need to file a Small Entity Regulatory Analysis, but would not need to complete a Regulatory Analysis, Takings Assessment or a Small Entity Economic Impact Statement.

Regulatory Analysis – only needs to be completed if within 20 days after the last published notice of the proposed rule hearing, a written request for an analysis is filed by the Governor or a member of the Legislative Assembly or if the proposed rule is expected to have an impact on the regulated community in excess of \$50,000.

Takings Assessment – only needs to be completed if the proposed rule may limit the use of private real property.

Small Entity Economic Impact Statement – Must be completed if the proposed rule may have an adverse economic impact on small entities. (upon reviewing the rules, I do not see any adverse financial impacts that will be visited on small entities as a result of these rule changes, in fact, it appears that a few of the proposed PERS rules could have a positive economic impact on these entities.)

If you need anything else, just let me know.

Aaron K. Webb  
Assistant Attorney General  
State Capitol  
600 E. Blvd. Ave. Dept 125  
Bismarck, ND 58505-0040  
701 328 3148  
701 328 2226 fax  
awebb@nd.gov

Section 71-01-02-03 is amended as follows:

**71-01-02-03. Candidate eligibility.**

1. Any active participating member employee, 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. A department 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 or who is eligible to receive deferred vested retirement benefits, 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, \_\_\_\_\_, 2010

**General Authority:** NDCC 54-52-04, 54-52-17(5)

**Law Implemented:** NDCC 54-52-03

A new subsection 8 is added to Section 71-01-02-09 as follows:

**71-01-02-09. Canvassing rules.**

1. Ballot counting by election committee members or their authorized representatives will commence at nine a.m. on the third Monday of June 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, \_\_\_\_\_, 2010

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-03

Subsection 14 of Section 71-02-01-01 is amended as follows:

#### **CHAPTER 71-02-01 DEFINITIONS**

**71-02-01-01. Definitions.** As used in North Dakota Century Code chapter 54-52 and this article:

1. "Accumulated contributions" means the total of all of the following:
  - a. The employee account fund balance accumulated under the prior plan as of June 30, 1977.
  - b. The vested portion of the employee's "vesting fund" accumulated under the prior plan as of June 30, 1977.
  - c. The member's mandatory contributions made after July 1, 1977.
  - d. The member's vested employer contributions made after January 1, 2000, pursuant to North Dakota Century Code section 54-52-11.1.
  - e. The interest on the sums determined under subdivisions a, b, c, and d, compounded annually at the rate of five percent from July 1, 1977, to June 30, 1981, six percent from July 1, 1981, through June 30, 1986, and one-half of one percent less than the actuarial interest assumption from July 1, 1986, to the member's termination of employment or retirement.
  - f. The sum of any employee purchase or repurchase payments.
2. "Actuarial equivalent" means a benefit calculated to be of equal value to the benefit otherwise payable when computed on the basis of assumptions and methods adopted for this purpose by the board.
3. "Alternative retirement system" means the teachers' fund for retirement, the highway patrolmen's retirement system, and the teachers' insurance and annuity association of America.

4. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
5. "Bonus" means cash compensation for services performed in addition to base salary excluding commission and shift differentials. Bonus does not include lump sum payments of sick leave provided under North Dakota Century Code section 54-06-14 or lump sum payments of annual leave or vacation pay.
6. "Claim" means the right to receive a monthly retirement allowance, the receiving of a retirement allowance, or the receiving of a disability benefit.
7. "Continuously employed" means any period of employment uninterrupted by voluntary or involuntary termination or discharge. A member who has taken a leave of absence approved by the member's employer, not to exceed a year unless approved by the executive director, and returns to employment shall be regarded as continuously employed for the period.
8. "Contribution" means the payment into the fund as a percentage of the salary of a member.
9. "Correctional officer" means a person who has completed a correctional officer course approved or certified by the North Dakota department of corrections and rehabilitation and is employed by a correctional facility as defined in North Dakota Century Code chapter 12-44.1.
10. "County judge" means a judge who was elected pursuant to North Dakota Century Code section 27-07.1-01 or an individual holding the position of county judge, county justice, or judge of county court prior to the general election in 1982, who meets all the eligibility requirements established under North Dakota Century Code chapter 54-52.
11. "Interruption of employment" is when an individual is inducted (enlists or is ordered or called to active duty into the armed forces of the United States) and leaves an employment position with a state agency or political subdivision, other than a temporary position. The individual must have left employment to enter active duty and must make application in accordance with the Uniformed Services Employment and Reemployment Rights Act.
12. "Leave of absence" means the period of time up to one year for which an individual may be absent from covered employment without being terminated. At the executive director's discretion, the leave of absence may be extended not to exceed two years, or indefinitely if the leave of absence is due to interruption of employment.
13. "Medical consultant" means a person or committee appointed by the board of the North Dakota public employees retirement system to evaluate medical information submitted in relation to disability applications, recertifications, and rehabilitation programs or other such duties as assigned by the board.
14. "Normal retirement age", except for members of the national guard and law enforcement, means age sixty-five ~~except as~~ unless otherwise provided. For members of the national guard and law enforcement, normal retirement age means age 55, unless other wise provided.

**History:** Amended effective September 1, 1982; November 1, 1990; September 1, 1991; January 1, 1992; September 1, 1992; June 1, 1993; July 1, 1994; June 1, 1996; July 1, 2000; April 1, 2002; May 1, 2004; July 1, 2006, \_\_\_\_\_, 2010

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52

Subsections 2 and 6 of Section 71-02-03-02.2 are amended as follows:

**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 ~~for as long as~~ while the employee is employed by a participating employer but for no longer than a 15 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 15 year time period.

**History:** Effective November 1, 1990; amended effective July 1, 1994; June 1, 1996; May 1, 2004; July 1, 2006, \_\_\_\_\_, 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

Section 71-02-03-02.4 is amended as follows:

**71-02-03-02.4. Crediting purchased or repurchased service.** Service purchased or repurchased will be credited in the following manner:

1. ~~The member's record must be updated with the additional service credit once the account is paid in full. For each month the system receives a payment towards a purchase contract, the member will earn a proportion of service credit.~~
2. ~~If the member takes a refund, retires, or the member's account is closed due to delinquency, service credit must be granted by taking the months of service credit being purchased times the percentage paid. The percentage is determined by taking the total payments made toward the purchase divided by the total amount to be paid over the term of the purchase. Service credit equal to a fraction is deemed to be a whole month of service credit.~~
3. 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 employee's retirement system will be transferred to the judge's 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, \_\_\_\_\_, 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

Subsection 6 of section 71-02-03-07 is amended as follows:

**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 15th of the month following the month of the employee's retirement termination or sixty days from the date the employer and employee agree to the purchase, whichever comes first.

**History:** Effective May 1, 2004; amended effective July 1, 2006; April 1, 2008, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-17.4, 54-52-29

Subsections 2 and 3 of section 71-02-04-02 are amended as follows:

## **71-02-04-02. Special retirement options - Application.**

1. A member may elect a retirement option by filing an application with the office no less than thirty days prior to the beginning date of benefit payments. An application may be filed later than thirty days if approved by the executive director upon receiving sufficient evidence that the application was delayed by the member's employer.
2. A member may revoke the election of an optional benefit as provided in subsection 1 and make a new election, if such revocation is received in writing before the first retirement check is cashed but no later than fifteen days after the first retirement check has been issued. If the member changes the member's election less than fifteen days prior to the named beginning date of benefits, the first retirement payment may be delayed up to two months. Any delayed payment must be adjusted to include any deferred retirement payments. If the member's first retirement payment is paid by direct deposit and the member wishes to revoke the election of the benefit, then the member must immediately notify NDPERS of their election. The benefit will only be revoked if NDPERS is able to reverse the direct deposit paid to the bank within the bank reversal window.
3. A member may not revoke the elected benefit after receiving and cashing the first benefit check or if paid by direct deposit, after the bank reversal window has expired, unless, the member can provide sufficient evidence to the executive director that the factual basis by which the election was made later proved to be incorrect and such was due in part to representation or misrepresentations made by the employer or the office.

**History:** Amended effective November 1, 1990; May 1, 2004, . \_\_\_\_\_, 2010

**General Authority:** NDCC 54-52-04, 54-52-17

**Law Implemented:** NDCC 54-52-17

Section 71-02-04-03 is amended as follows:

**71-02-04-03. Payment date - Retirement benefits.** Except for retirement options provided in section 71-02-04-02, a member's retirement benefit shall commence on the first day of the month which follows the member's eligibility for the benefit and which is at least thirty days after the date on which the member filed an application with the office. Notwithstanding any other provision in this article, benefits must begin no later than April first of the calendar year after the calendar year in which the member retires or attains the age of seventy and one-half years, whichever is later. If the member is employed but ineligible for active participation in the retirement plan, the member's benefits must begin no later than April first of the calendar year after the calendar year in which the member attains the age of seventy and one-half years. In the absence of a retirement application, benefits shall be paid based on a single life, or normal retirement for judges, payment option. Benefits must be sent to the member's last-known address. If the benefit checks are returned with no forwarding information, the benefits will remain in the fund, and will be distributed in a lump sum retroactive to the required beginning date upon location of the member.

**History:** Amended effective November 1, 1990; July 1, 1994; July 1, 2000, \_\_\_\_\_, 2010.

**General Authority:** NDCC 54-52-04, 54-52-17

**Law Implemented:** NDCC 54-52-17

Section 71-02-04-04 is amended as follows:

**71-02-04-04. Optional benefits.** A member may elect, as provided in section 71-02-04-02, to receive one of the following optional benefits in lieu of the regular single life, or normal for judges, retirement benefit.

1. **One hundred percent joint and survivor benefit.** A member shall receive an actuarially reduced retirement benefit during the member's lifetime 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 shall 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 shall 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 shall be canceled and the member's benefit shall be returned to the single life amount. Payment of the single life amount shall 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 retirement benefit during the member's lifetime 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 shall 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 shall 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 shall be canceled and the member's benefit shall be returned to the single life amount. Payment of the single life amount shall 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. ~~**Level social security option.** A member who retires prior to receiving social security benefits may elect the level social security option. Under this option, the member's monthly benefit is adjusted so the~~

~~combined benefits received from the fund and social security remain level before, and after, the date social security benefits begin. The adjusted benefit payable from the fund must be determined on an actuarial equivalent based on an age no earlier than sixty-two and no later than full retirement age as specified by the social security administration as chosen in writing by the member. A member is not eligible for the level social security option if it results in a benefit payment of less than one hundred dollars per month. A member shall submit an estimated benefit from social security that was computed no more than six months before commencement of retirement benefits.~~

4. **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.
5. ~~**Partial lump sum option.** The partial lump sum option will only be available to members who retire on or after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is equal to twelve monthly payments determined under the single life annuity option. The member is permitted to choose one of the optional forms of payment, excluding the level social security income option, for ongoing benefits. The ongoing benefits will be actuarially reduced to reflect the partial lump sum payment.~~
6. ~~**Deferred normal retirement option.** The deferred normal retirement option will only be available to members who retire after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is in lieu of a lump sum equal to the amount of missed payments, without interest, retroactive to the member's normal retirement date. The ongoing benefits will be actuarially increased to reflect the lump sum.~~

**History:** Amended effective September 1, 1982; November 1, 1990; July 1, 1994; May 1, 2004; July 1, 2006; April 1, 2008, \_\_\_\_\_, 2010.

**General Authority:** NDCC 54-52-04, 54-52-17

**Law Implemented:** NDCC 54-52-17

Section 71-02-04-04.1 is created as follows:

**71-02-04-04.1. Benefit Modifications.** A member may elect as provided in section 71-02-04-02, to receive one of the following benefit modifications.

1. **Level social security option.** A member who retires prior to receiving social security benefits may elect the level social security option. Under this option, the member's monthly benefit is adjusted so the combined benefits received from the fund and social security remain level before, and after, the date social security benefits begin. The adjusted

benefit payable from the fund must be determined on an actuarial equivalent based on an age no earlier than sixty-two and no later than full retirement age as specified by the social security administration as chosen in writing by the member. A member shall submit an estimated benefit from social security that was computed no more than six months before commencement of retirement benefits. A member may only select this option if they have selected to receive a single life/normal retirement option.

- 2. Partial lump sum option.** The partial lump sum option will only be available to members who retire on or after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is equal to twelve monthly payments determined under the single life annuity option. The member is permitted to choose one of the optional forms of payment as defined in 71-02-04-04 for ongoing benefits. The ongoing benefits will be actuarially reduced to reflect the partial lump sum payment.
- 3. Deferred normal retirement option.** The deferred normal retirement option will only be available to members who retire after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is in lieu of a lump sum equal to the amount of missed payments, without interest, retroactive to the member's normal retirement date. The member is permitted to choose one of the optional forms of payment as defined in 71-02-04-04. The ongoing benefits will be actuarially increased to reflect the lump sum.
- 4. Graduated benefit option.** The graduated benefit option will only be available to members who retire after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The member is permitted to choose one of the optional forms of payment for ongoing benefits as defined in 71-02-04-04. The ongoing benefits will be actuarially reduced to reflect the election of the graduated benefit option.

**History:** Created effective \_\_\_\_\_, 2010

**General Authority:** NDCC 54-52-04, 54-52-17

**Law Implemented:** NDCC 54-52-17

Section 71-02-04-07 is amended as follows:

**71-02-04-07. Amount of early retirement benefit.**

1. Except for members of the national guard, the early retirement benefit shall be an amount actuarially reduced from the single life retirement benefit by one-half of one percent for each month (six percent per year) that the member is younger than the age at which the member would be at the member's normal retirement date on the date the member's early retirement benefit commences effective date.

2. For members of the national guard, the early retirement benefit must be an amount actuarially reduced from the single life retirement benefit by one-half of one percent for

each month (six percent per year) that the member is younger than age fifty-five on the date of the member's early retirement benefit ~~commences~~effective date.

**History:** Amended effective September 1, 1982; June 1, 1996; April 1, 2002; May 1, 2004; July 1, 2006, \_\_\_\_\_, 2010

**General Authority:** NDCC 54-52-04, 54-52-17

**Law Implemented:** NDCC 54-52-17

Section 71-02-04-10 is amended as follows:

**71-02-04-10. Erroneous payment of benefits - Overpayments.**

1. An "overpayment" means a payment of money by the public employees retirement system that results in a person receiving a higher payment than the person is entitled to under the provision of the retirement plan of membership.
2. A person who receives an overpayment is liable to refund those payments upon receiving a written explanation and request for the amount to be refunded. All overpayments 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 amount of the overpayment is estimated to exceed the overpayment, the repayment is considered to be unrecoverable.
3. If the overpayment of benefits was not the result of any wrongdoing, negligence, misrepresentation, or omission by the recipient, the recipient may make repayment arrangements subject to the executive director's approval within sixty days of the written ~~request for refund~~ notice of overpayment with the minimum repayment amount no less than fifty dollars per month ~~with the total repayment period not to exceed thirty-six months~~. If repayment arrangements are not in place within sixty days of the date of the written notice of overpayment, the executive director shall offset the amount of the overpayment from the amount of future retirement benefit payments so that the actuarial equivalent of the overpayment is spread over the ~~individual's~~ benefit payment period.
4. If the overpayment of benefits was the result, in whole or in part, of the wrongdoing, negligence, misrepresentation, or omission of the recipient, the recipient is liable to pay interest charges at the rate of six percent on the outstanding balance to compensate the fund for lost earnings; from the time the erroneous benefit was paid through the time it has been refunded in full, ~~plus applicable interest~~. Recovered funds are first applied to interest, and if any amount is left over, that amount is applied to principal. The recipient may make repayment arrangements, subject to the executive director's approval, within sixty days of the written request for refund with the minimum repayment amount no less than fifty dollars per month ~~with the total repayment period not to exceed thirty-six months~~. If repayment arrangements are not in place within sixty days of the date of the written notice of overpayment, the executive director shall offset the amount of the overpayment from the amount of future retirement benefit



**Law Implemented:** NDCC 54-52-17

Subdivision a of subsection 1 of Section 71-02-06-01 is amended as follows:

**71-02-06-01. Conditions for return.**

1. The accumulated contributions of a member who terminates permanent employment:
  - a. Before accumulating three years of service credit and whose account balance is less than \$1000.00 shall be automatically refunded unless the member elects to remain in an inactive status.
  - b. After accumulating three years of service credit shall be refunded upon application filed with the executive director.
  - c. The termination date for purposes of processing an application for refund or rollover must be the last date for which a member receives salary except for a member who is on an approved leave of absence. For members who are paid salary in any month following actual separation from employment if the salary is received after the normal processing date, the termination date for purposes of processing the application must be the same date as the date that the last paycheck was issued as salary.
2. Retirement contributions must be returned if a membership enrollment application form has not been filed with the office. Contributions will be returned until proper membership enrollment forms have been filed.

**History:** Amended effective November 1, 1990; June 1, 1996; July 1, 1998; July 1, 2000; May 1, 2004, \_\_\_\_\_, 2010

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-06, 54-52-17

Section 71-02-07-02 is amended as follows:

**71-02-07-02. Return to service - Retired member.** The benefits of a retired member who returns to permanent employment shall be suspended without interest accruing on the suspended account, except as provided in subsection 1 of North Dakota Century Code section 54-52-05. Upon subsequent termination, the member's benefit shall be recalculated as follows:

- ~~1. If the period of subsequent employment is less than two years, the member may elect:~~
  - ~~a. A return of the member's contributions made after reemployment, and the suspended benefit restored, adjusted for the member's age at subsequent termination and for benefit payments received prior to reemployment; or~~
  - ~~b. A recalculation of the member's benefit based on the benefit provisions in effect at the member's initial retirement, but adjusted to take account of age at final retirement, benefit payments received prior to reemployment, salary and service credits, and any benefit increases accrued during the period of subsequent employment.~~
- ~~2. 1. If the period of subsequent employment is more than two years, the member's benefit shall be based on the benefit provisions in effect at final retirement and shall~~

include the member's and spouse's age ~~and~~, salary earned during the period of reemployment, and together with total service credits earned before and after reemployment, adjusted to take account of benefit payments received prior to reemployment. If a different option is selected at the second retirement date, the member and office will submit information as required to make an actuarial determination of the elected benefit and the related payment of such.

~~32. If a member dies during subsequent employment, the member's initial retirement benefit option election will apply. If a benefit election was an optional benefit under subsection 1 or 2 of section 71-02-04-04, then the member's benefit must be recalculated based on the benefit provisions in effect at the member's initial retirement, but adjusted to take account of age at death, benefit payments received prior to reemployment, salary and service credits, and any benefit increases accrued during the period of subsequent employment. The member's benefit shall be based on the benefit provisions in effect at final retirement and shall include the member and spouses's ages, salary earned during the period of reemployment, and total service credits earned before and after reemployment, adjusted to take account of benefit payments received prior to reemployment.~~

**History:** Amended effective November 1, 1990; July 1, 1998; May 1, 2004; July 1, 2006, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 54-52-04, 54-52-17

**Law Implemented:** NDCC 54-52-17

Section 71-02-11-04 is amended as follows:

**71-02-11-04. Payment.** The cost for purchase of eligible military service in the North Dakota public employees retirement system and the North Dakota highway patrolmen's retirement system is as follows:

1. The cost for any required employee contributions to be paid by the member may be paid in a lump sum or in installments pursuant to the rules established for purchase or repurchase payment under subsection 1, 2, or 3 of section 71-02-03-02.2. ~~If retirement occurs before purchase is complete, service being purchased will not be credited to the account for retirement purposes until the payment is complete.~~ If no payments have been made, no credit will be awarded. To prevent any delay in issuing the employee's first retirement check, purchase must be completed at least thirty days prior to retirement date.
2. The employer cost will be assessed to the member's most recent participating employer. Upon being billed by the North Dakota public employees retirement system, the participating employer will have thirty days in which to make payment in full. If, after sixty days, the employer has not made payment in full, a civil penalty on fifty dollars will be assessed, and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due.
3. ~~If the employer contributions are paid and the member becomes delinquent for required employee contributions, then the public employees retirement system will prorate the credit the employee~~

~~contributions have paid for by the member and this credit will be added to the member's file.~~

**History:** Effective September 1, 1991; amended effective May 1, 2004; July 1, 2006, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-17.4(5), 54-52-17.14

Subsections 2 and 3 of Section 71-03-03-01 are 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, ~~provided if~~ the employee submits an application for coverage within the first thirty-one days of employment or eligibility for one of the following special enrollment periods:

1. Loss of coverage under any other health insurance plan.
2. ~~Addition of a spouse~~ Marriage. An employee who previously waived coverage ~~must is also eligible to~~ 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 is also eligible to~~ 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, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 54-52.1-08

**Law Implemented:** NDCC 54-52.1-03

Section 71-03-04-01 is amended as follows:

**71-03-04-01. Employer contribution.** Each agency shall pay to the board the full amount of the employer contribution by the fifteenth of each month. The agency will verify the number of eligible employees and the level of coverage for each. An employee is eligible for an employer contribution for the month following the month of employment. If an eligible employee terminates employment prior to the effective date of coverage, no employer contribution is required. The employer contribution ends the month following the month of termination of employment. When an employee transfers from one state agency to another, the new agency is responsible for the payment of the premium for the first of the month following employment.

**History:** Effective October 1, 1986; amended effective November 1, 1990, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 54-52.1-08

**Law Implemented:** NDCC 54-52.1-06

Section 71-03-04-05 is amended as follows:

**71-03-04-05. Premium for basic term life insurance.** All state departments and ~~those political subdivisions that elect to~~ participate in the group life insurance program must pay the board the full premium for the basic term life insurance for each of its eligible employees.

**History:** Effective October 1, 1986; amended effective July 1, 1994; July 1, 1998, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 54-52.1-08

**Law Implemented:** NDCC 54-52.1-01(7)

Section 71-03-05-05 is amended as follows:

**71-03-05-05. Appeal process.** If an employee's application for benefits has been denied in whole or in part by the board or its agent, the employee will be notified in writing of the denial and the reasons. Within sixty days of the date shown on the denial notice, the employee may file a petition for review. The petition must be in writing, the reasons stated for disputing the denial and be accompanied by any documentatry ~~ion~~ material. Should the employee 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 person 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, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 54-52.1-08

**Law Implemented:** NDCC 54-52.1-08

Subdivision a of subsection 4 of Section 71-03-05-08 is amended as follows:

**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. ~~with the total repayment period not to exceed thirty-six months.~~ 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 will be canceled retroactive to the first day of the month following the month for which full premium payment was received. The public employees retirement system will provide written notice advising the individual that payment in full must be received within thirty days of the written notification to reinstate coverage retroactively to the date that coverage was canceled.

**History:** Effective April 1, 2002; amended effective April 1, 2008, \_\_\_\_\_, 2010.

**General Authority:** NDCC 54-52.1-08

**Law Implemented:** NDCC 54-52.1-08

Section 71-03-06-01 is amended as follows:

**71-03-06-01. Enrollment.** ~~1. New~~ An eligible employee of a participating political subdivision ~~are~~ is entitled to coverage the first of the month following the month of employment, if the employee submits an application for coverage within the first thirty-one days of employment, or 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 ~~is also eligible to~~ 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 ~~is also~~ ~~eligible to~~ enroll for coverage at the same time that the employee's eligible dependent is enrolled.

~~2. Eligible employees of qualifying political subdivisions are entitled to individual coverage if the political subdivision for which the employee works does not offer its employees a group health insurance plan and the employee submits an application for coverage within the first thirty-one days of employment or eligibility for one of the special enrollment periods as follows:~~

- ~~a. Loss of coverage under any other health insurance plan.~~
- ~~b. Marriage. The enrollment of an employee's spouse. An employee who previously waived coverage is also eligible to enroll for coverage at the time the employee's spouse is enrolled.~~
- ~~c. Addition of a dependent as a result of birth, adoption, receiving legal guardianship, or receiving a court order to provide health coverage. An employee who previously waived coverage is also~~

1

~~eligible to 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, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52.1-03.1, 54-52.1-03.4

Section 71-03-06-02 is amended as follows:

**71-03-06-02. Late enrollment.** Political subdivisions must follow the same late enrollment procedures as outlined in section 71-03-03-02. ~~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 and may be subject to a six-month waiting period for preexisting conditions. Upon a~~

~~showing of good cause, the executive director may waive the thirty-one day application requirement.~~

**History:** Effective June 1, 1996; amended effective July 1, 1998; May 1, 2004.

**General Authority:** NDCC 54-52-04, 54-52.1-03.1

**Law Implemented:** NDCC 54-52.1-03, 54-52.1-03.1

Section 71-03-06-03 is amended as follows:

**71-03-06-03. Open 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, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 54-52-04, 54-52.1-03.1

**Law Implemented:** NDCC 54-52.1-03, 54-52.1-03.1

Section 71-03-06-05 is amended as follows:

**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. ~~A dependent of an employee with family coverage may continue coverage with the group after the dependent's eligibility would ordinarily cease. An employee's dependent, including a divorced or widowed spouse or children no longer dependent on the employee, may continue with the group after the dependent's eligibility would ordinarily cease. Coverage is limited to a period of thirty-six months and must be discontinued if the payment of the premium is not made in a timely manner. Dependents must notify the retirement board within sixty days of the qualifying event and submit an application in a timely manner. An individual who fails to submit an application to the retirement board within the sixty days is not eligible for coverage.~~

**History:** Effective June 1, 1996, \_\_\_\_\_, 2010 .

**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 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. ~~The employee's contribution may be paid by payroll deduction or any other method acceptable to the agency.~~

**History:** Effective June 1, 1996, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 54-52-04, 54-52.1-03.1

**Law Implemented:** NDCC 54-52.1-02, 54-52.1-03.1

Section 71-03-07-01 is amended as follows:

**71-03-07-01. Employer contribution.** Each employer must submit to the board the full monthly premium amount for each eligible employee enrolled in the group insurance plan. The employer must verify the number of eligible employees and the level of coverage for each. An employee is eligible for an employer contribution for the month following the month of employment. If an eligible employee terminates employment prior to the effective date of coverage, no employer contribution is required. The employer contribution ends the month following the month of termination of employment. ~~An employee's coverage must end the month after termination of employment.~~ When an employee transfers from one participating ~~enrolled~~ employer to another, the new employer is responsible for the payment of the ~~submitting the~~ premium for the first of the month following employment.

**History:** Effective June 1, 1996, \_\_\_\_\_, 2010.

**General Authority:** NDCC 54-52-04, 54-52.1-03.1

**Law Implemented:** NDCC 54-52.1-03.1

Section 71-03-07-02, 71-03-07-03 and 71-03-07-05 are amended as follows:

**71-03-07-02. Information to employee.** Each employer shall inform its each ~~eligible employees~~ of their employee's ~~right to~~ group insurance and the process necessary to enroll. The employer shall provide each eligible employee such forms as necessary to enroll in the group insurance program.

**History:** Effective June 1, 1996, \_\_\_\_\_, 2010.

**General Authority:** NDCC 54-52-04, 54-52.1-03.1

**Law Implemented:** NDCC 54-52.1-03, 54-52.1-03.1

**71-03-07-03. Collecting employee contributions.** Each employer shall collect any employee contribution due and submit it with ~~any~~ the employer contribution to the retirement board each month. When an employee on an approved leave of absence requests to continue in the group, the employer shall collect the full amount of the premium from the employee each month and remit it to the retirement board. The minimum employer contribution will be determined by the retirement board and must be consistently applied to all eligible employees.

**History:** Effective June 1, 1996; amended effective May 1, 2004, \_\_\_\_\_, 2010.

**General Authority:** NDCC 54-52-04, 54-52.1-03.1

**Law Implemented:** NDCC 54-52.1-03, 54-52.1-03.1

**71-03-07-05. Premium for basic term life insurance.** All political subdivisions that elects to participate in the group life insurance program shall must ~~shall~~ pay to the retirement board the full premium for the basic term life insurance for each of its eligible employees.

**History:** Effective June 1, 1996, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 54-52-04, 54-52.1-03.1

**Law Implemented:** NDCC 54-52.1-02, 54-52.1-03.1

Subsections 1 and 10 of 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 in the ~~participant agreement~~ 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 a written 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 participant's 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 seven 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.

**History:** Effective April 1, 1989; amended effective July 1, 1994; April 1, 2002; May 1, 2004, \_\_\_\_\_, 2010.

**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

Section 71-04-03-02 is amended as follows:

**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 during for the month in which income is being earned ~~and a deferral is being requested.~~

**History:** Effective April 1, 1989, \_\_\_\_\_, 2010.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-03; IRC 457(b)(4)

Section 71-04-03-05 and 71-04-03-06 are amended as follows:

**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 ~~partial~~ distribution of the participant's deferred compensation 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, \_\_\_\_\_, 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 an ~~elimination~~ suspension of monthly deferrals.

**History:** Effective April 1, 1989; amended effective July 1, 1994; April 1, 2002; May 1, 2004, \_\_\_\_\_, 2010.

**General Authority:** NDCC 28-32-02, 54-52.2-03.2

**Law Implemented:** NDCC 54-52.2-03, 54-52.2-03.2

Sections 71-04-04-01, 71-04-04-02, 71-04-04-03, 71-04-04-04, 71-04-04-05, 71-04-04-06, 71-04-04-07 and 71-04-04-10 are amended as follows:

**71-04-04-01. Enrollment.** The ~~retirement~~ board shall design and provide employees with a participant agreement to facilitate the enrollment in the plan. The participant agreement must provide for the collection of all information regarding identification of the employee, starting date of the deduction, the payroll period affected, name of the provider company, and the provider representative.

**History:** Effective April 1, 1989; amended effective September 1, 1997; May 1, 2004, \_\_\_\_\_, 2010.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-01, 54-52.2-02, 54-52.2-05

**71-04-04-02. Booklets.** The ~~retirement~~ board shall, upon request of the employee, make available a descriptive booklet setting forth the enrollment requirements of the plan, explanation of the deferred compensation plan under section 457 of the Internal Revenue Code, and investment options under the plan.

**History:** Effective April 1, 1989; amended effective September 1, 1997; May 1, 2004, \_\_\_\_\_, 2010.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-03

**71-04-04-03. Provider agreement.** The ~~retirement~~ board shall establish a written provider agreement for the authorization of companies or organizations who offer investment options to public employees. This agreement may include registration and reporting requirements, educational requirements of sales representatives, and limitations of investment options.

**History:** Effective April 1, 1989, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-03

**71-04-04-04. Employer agreement.** The ~~retirement~~ board shall establish a written agreement for all employers, other than state departments, agencies, boards, or commissions, which appoint the state to administer their deferred compensation plan. This agreement includes requirement for the employer to adopt the retirement board's rules, employers to make the requested payroll deductions upon proper application by the employee, remit the deductions directly to the retirement board along with a listing of deferred compensation deductions for all employees participating in the plan, submit all provider participant contracts to the ~~retirement~~ board, hold all participant account information as confidential, and notify the retirement board within thirty days of participant's termination of employment.

**History:** Effective April 1, 1989; amended effective April 1, 2002; July 1, 2006, \_\_\_\_\_, 2010.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-03

**71-04-04-05. Payroll deduction authorization.** The ~~retirement~~ board shall deliver to the payroll division of each employer a copy of the signed participant agreement as the payroll division's authorization to begin deductions.

**History:** Effective April 1, 1989, \_\_\_\_\_, 2010.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-02

**71-04-04-06. Participant accounts.** The ~~retirement~~ board shall have each provider of investment services establish individual accounts to record the participant's contributions, earnings, and other account activity.

**History:** Effective April 1, 1989, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-03

**71-04-04-07. Separation from service.** The ~~retirement~~ board shall notify the participant, provider company, and provider representative of the employee's separation from service and eligibility for payment of benefits.

**History:** Effective April 1, 1989; amended effective July 1, 1994; May 1, 2004, \_\_\_\_\_, 2010.

**General Authority:** NDCC 28-32-02, 54-52.2-03.2

**Law Implemented:** NDCC 54-52.2-03, 54-52.2-03.2

...

**71-04-04-10. Processing deductions.** The ~~retirement~~ board will process and remit employee deferred compensation deductions to the designated provider company within three business days following receipt in good order of all funds and documentation from the employer.

**History:** Effective July 1, 2006, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-03

Sections 71-04-06-01, 71-04-06-02, 71-04-06-03, 71-04-06-06, 71-04-06-07, 71-04-06-08, 71-04-06-09, 71-04-06-11 and 71-04-06-12 are amended as follows:

**71-04-06-01. Application.** Those firms desiring to offer investment services for the deferred compensation plan shall first notify the ~~retirement~~ board, in writing, of the firms' willingness to become a provider.

**History:** Effective April 1, 1989, \_\_\_\_\_, 2010.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-03

**71-04-06-02. Administrative agreement.** Firms expressing a desire to become a provider of investment services under the deferred compensation plan

must agree to all provisions found in and sign the retirement boards' administrative agreement. The administrative agreement sets forth the responsibilities of the provider to the plan, the retirement board, and the employee and stipulates that the provider abide by the plan and rules and regulations adopted by the retirement board for the administration of the plan.

**History:** Effective April 1, 1989, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-03

**71-04-06-03. Sales representatives.** All sales representatives of the provider approved by the retirement board to solicit employees must be fully trained to explain the various investment options available through the provider, be able to explain what the deferred compensation program is as found under section 457 of the Internal Revenue Code, and be licensed with the North Dakota state securities commissioner for the sale of registered or unregistered securities or the North Dakota state insurance commissioner for the sale of insurance contracts or policies, or both.

**History:** Effective April 1, 1989, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-03

...

**71-04-06-06. Retirement board report.** The provider shall deliver quarterly reports, in an approved electronic format, to the retirement board detailing the activity of each participant's account. The quarterly report must be delivered within thirty days of the end of each calendar quarter and must include an alphabetical listing of the participants, social security numbers of the participants, the provider's contract number for the participants (if any), type of account for each participant, beginning account balance forwarded from the previous reporting period, contributions made by the participants for the current reporting period, transfers and rollovers from other eligible plans during the reporting period, investment earnings or losses added to the account (if any for the reporting period), any withdrawals made during the reporting period, administrative charges assessed against the account during the reporting period, transfers and direct rollovers to other eligible plans during the reporting period, and the account balance at the end of the reporting period. The report columns must be totaled. The quarterly report must include active, inactive, and accounts in payout status, with the exception of accounts which have been annuitized, and be for all payroll divisions for the plan.

**History:** Effective April 1, 1989; amended effective November 1, 1990; July 1, 1994; May 1, 2004; July 1, 2006, \_\_\_\_\_, 2010.

**General Authority:** NDCC 28-32-02, 54-52.2-03.2

**Law Implemented:** NDCC 54-52.2-03, 54-52.2-03.2

**71-04-06-07. Account transfer.** The provider shall allow any participant who so requests, the ability to transfer the participant's account to another provider on a tax-free basis. The request to the provider must be made in writing by the retirement board or its designated representative. The transfer must be made within

thirty days of the provider's receipt of the transfer request.

**History:** Effective April 1, 1989; amended effective July 1, 1994, \_\_\_\_\_, 2010.

**General Authority:** NDCC 28-32-02, 54-52.2-03.2

**Law Implemented:** NDCC 54-52.2-03

**71-04-06-08. Benefit requests.** The provider shall honor all requests for benefit or refund payments made upon notification of the employee's separation from service by the ~~retirement~~ board.

**History:** Effective April 1, 1989; amended effective May 1, 2004, \_\_\_\_\_, 2010.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-03

**71-04-06-09. Benefit payments.** The provider shall make benefit payments to the participant in the manner designated by at the participant's, ~~designated mailing address, or, if requested, make direct deposits of the benefits at the participant's bank, savings and loan, or credit union.~~

**History:** Effective April 1, 1989, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 54-52.2-03

...

**71-04-06-11. Provider reporting failure - Penalty.** Should the provider fail to deliver the required report within a thirty-day period beyond the end of the reporting period, notice must be given by certified mail of the provider's failure to comply. The provider shall then have thirty days from the date of the certified letter to comply with the reporting requirement. If the provider fails to deliver the required report within the thirty-day period, the provider is in violation of the administrative agreement and shall lose active provider status as described under subsection 1 of section 71-04-04-09. If the provider has not filed the report within ninety days after the end of the reporting period, the provider shall lose provider status as described under subsection 2 of section 71-04-04-09. Loss of provider status results in all current contributions of active participants being suspended effective in the next payroll cycle. The ~~retirement~~ board will notify all participants of the company's failure to deliver the required reports. Current participants will be required to either select a new provider for future contributions, or have their account go into a dormant status with the company losing provider status. The ~~retirement~~ board will then terminate the agreement with the provider.

**History:** Effective April 1, 1989; amended effective November 1, 1990; July 1, 1994; May 1, 2004, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 28-32-02, 54-52.2-03.2

**Law Implemented:** NDCC 54-52.2-03, 54-52.2-03.2

**71-04-06-12. Provider suspension - Employee account transfers.** Should the provider be in violation of the administrative agreement, employees shall have the option of transferring their individual accounts to another qualified provider. The employee shall also have the option of leaving the account with the

provider, ~~in a dormant status, to be dealt with by~~ until the employee is eligible for a distributable event upon separation from service.

**History:** Effective April 1, 1989; amended effective July 1, 1994, \_\_\_\_\_, 2010.

**General Authority:** NDCC 28-32-02, 54-52.2-03.2

**Law Implemented:** NDCC 54-52.2-03, 54-52.2-03.2

Section 71-05-02-05 is amended as follows:

**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 benefit in accordance with 71-05-02-05, the account is closed, or until benefit payments commence to the member's beneficiary ~~or dies~~.

**History:** Effective July 1, 1998, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 39-03.1-06, 39-03.1-11

**Law Implemented:** NDCC 39-03.1-11.4(d)

Subsection 2 is amended and a new subsection 6 is created in Section 71-04-04-04 as follows:

**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 ~~for as long as~~ while the member is employed by the participating employer but for no longer than a 15 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 15 year time period.

**History:** Effective October 1, 1991; amended effective June 1, 1996; May 1, 2004; July 1, 2006, \_\_\_\_\_, 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

Section 71-05-04-06 is amended as follows:

**71-05-04-06. Crediting purchased or repurchased service.** Service purchased or repurchased will be credited in the following manner:

1. ~~The contributor's record must be updated with the additional service credit once the account is paid in full~~ For each month the system receives a payment towards a purchase contract, the member will earn a proportion of service credit.
2. ~~If the contributor or member of an alternative retirement system terminates, retires, or the contributor's account is closed due to delinquency, service credit shall be granted by taking the months of service credit being purchased times the percentage paid. The percentage is determined by taking the total payments made toward the purchase divided by the total amount to be paid over the term of the purchase. Service credit equal to a fraction is deemed to be a whole month of service credit.~~

**History:** Effective October 1, 1991; amended effective June 1, 1996; May 1, 2004, \_\_\_\_\_, 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

Subsection 6 of Section 71-05-04-09 is amended as follows:

**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 15<sup>th</sup> of the month following the month of the employee's retirement 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, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** NDCC 39-03.1-10.2

Subsection 2 and 3 of Section 71-05-05-02 are amended as follows:

## **71-05-05-02. Special retirement options - Application.**

1. A member may elect a retirement option by filing an application with the office no less than thirty days prior to the beginning date of benefit payments. An application may be filed later than thirty days prior to the beginning date of benefit payments if approved by the plan administrator upon receiving sufficient evidence that the application was delayed by the member's employer.
2. A member may revoke the election of an optional benefit as provided in subsection 1 and make a new election if such revocation is received in writing before the first retirement check is cashed but no later than fifteen days after the first retirement check has been issued. If the member changes the member's election less than fifteen days prior to the named beginning date of benefits, the first retirement payment may be delayed up to two months. Any delayed payment must be adjusted to include any deferred retirement payments. If the member's first retirement payment is paid by direct deposit and the member wishes to revoke the election of the benefit, then the member must immediately notify NDPERS of their election. The benefit will only be revoked if NDPERS is able to reverse the direct deposit paid to the bank within the bank reversal window.
3. A member may not revoke the elected benefit after receiving and cashing the first benefit check or if paid by direct deposit, after the bank reversal window has expired, unless the member can provide sufficient evidence to the executive director that the factual basis by which the election was made later proved to be incorrect and such was due in part to representation or misrepresentations made by the employer or the retirement office.

**History:** Effective October 1, 1991; amended effective May 1, 2004, \_\_\_\_\_, 2010.

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** NDCC 39-03.1-11

Subsections 3 and 4 of Section 71-05-05-04 are repealed in this section and a new section 71-05-05-04.1 is created.

**71-05-05-04. Optional benefits.** A member may elect, as provided in section 71-05-05-02, to receive one of the following optional benefits in lieu of the regular early or normal retirement benefit.

1. **One hundred percent joint and survivor benefit.** A member may receive an actuarially reduced retirement benefit during the member's lifetime 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. In the event the member's spouse predeceases the member or, in the event of divorce, the

option shall be canceled and the member's benefit shall be returned to the normal retirement amount. Payment of the normal retirement amount shall 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. Should the member remarry and wish to change such designation, a new actuarial retirement benefit will be calculated.

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, death certificate, birth certificate verifying age, and is still living. Benefits must terminate in the month in which the death of the beneficiary occurs.

2. **Twenty-year or ten-year term certain.** 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.
3. ~~**Partial lump sum option.** The partial lump sum option will only be available to members who retire on or after reaching their normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is equal to twelve monthly payments determined under the normal annuity option. The member is permitted to choose one of the optional forms of payment for ongoing benefits. The ongoing benefits will be actuarially reduced to reflect the partial lump sum payment.~~
4. ~~**Deferred normal retirement option.** The deferred normal retirement option will only be available to members who retire after reaching their normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is in lieu of a lump sum equal to the amount of missed payments, without interest, retroactive to the member's normal retirement date. The ongoing benefits will be actuarially increased to reflect the lump sum.~~

**History:** Effective October 1, 1991; amended effective July 1, 2006; April 1, 2008, \_\_\_\_\_, 2010.

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** NDCC 39-03.1-11

**71-05-05-04.1. Benefit Modifications.** A member may elect as provided in section 71-05-05-02 to receive one of the following benefit modifications.

1. **Partial lump sum option.** The partial lump sum option will only be available to members who retire on or after reaching their normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is equal to twelve

monthly payments determined under the normal annuity option. The member is permitted to choose one of the optional forms of payment for ongoing benefits. The ongoing benefits will be actuarially reduced to reflect the partial lump sum payment.

**2. Deferred normal retirement option.** The deferred normal retirement option will only be available to members who retire after reaching their normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is in lieu of a lump sum equal to the amount of missed payments, without interest, retroactive to the member's normal retirement date. The ongoing benefits will be actuarially increased to reflect the lump sum.

**3. Graduated benefit option.** The graduated benefit option will only be available to members who retire after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The member is permitted to choose one of the optional forms of payment for ongoing benefits excluding the deferred normal retirement option or partial lump sum option. The ongoing benefits will be actuarially reduced to reflect the election of the graduated benefit.

**History:** Created effective \_\_\_\_\_, 2010

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** NDCC 39-03.1-11

Section 71-05-05-07 is amended as follows:

**71-05-05-07. Amount of early retirement benefit.** The early retirement benefit must be an amount actuarially reduced from the normal retirement benefit by one-half of one percent for each month (six percent per year), that the member is younger than age fifty-five on the date of the member's early retirement benefit commences effective date.

**History:** Effective October 1, 1991, \_\_\_\_\_, 2010

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** NDCC 39-03.1-11

Subsection 3, 4 and 5 of Section 71-04-05-10 are amended as follows:

**71-05-05-10. Erroneous payment of benefits - Overpayments.**

1. An "overpayment" means a payment of money by the public employees retirement system that results in a person receiving a higher payment than the person is entitled to under the provision of the retirement plan of membership.
2. A person who receives an overpayment is liable to refund those payments upon receiving an explanation and a written request for the amount to be refunded from the executive director. All overpayments 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 amount of the

overpayment is estimated to exceed the overpayment, the repayment is considered to be unrecoverable.

3. If an overpayment of benefits was not the result of any wrongdoing, negligence, misrepresentation, or omission by the recipient, the recipient may make repayment arrangements subject to the executive director's approval within sixty days of the written notice of overpayment with the minimum repayment amount no less than fifty dollars per month. If repayment arrangements are not in place within sixty days of the date of the written notice of overpayment, the executive director shall offset the amount of the overpayment from the amount of future retirement benefit payments so that the actuarial equivalent of the overpayment is spread over the individual's benefit payment period.
4. If the overpayment was the result, in whole or in part, of the wrongdoing, negligence, misrepresentation, or omission of the recipient, the recipient is liable to pay interest charges at the rate of six percent on the outstanding balance to compensate the fund for lost earnings from the time the erroneous benefit was paid through the time it has been refunded in full. Recovered funds are first applied to interest, and if any amount is left over, that amount is applied to principal. The recipient may make repayment arrangements, subject to the executive director's approval, within sixty days of the written request for refund with the minimum repayment amount no less than fifty dollars per month. If repayment arrangements are not in place within sixty days of the date of the written notice of overpayment, the executive director shall offset the amount of the overpayment from the amount of future retirement benefit payments so that the actuarial equivalent of the overpayment is spread over the individual's benefit payment period.
5. If an individual dies prior to fully refunding an erroneous overpayment of benefits, the public employees retirement system must make application to the estate of the deceased to recover the remaining balance.

**History:** Effective April 1, 2002; amended effective July 1, 2006, \_\_\_\_\_, 2010 .

**General Authority:** NDCC 32-03-04, 39-03.1-06, 54-52-04(12), 54-52-14.2

**Law Implemented:** NDCC 39-03.1-25

Subsection 1 of section 71-05-06-01 is amended as follows:

**71-05-06-01. Return of contributions - Conditions for return.** The accumulated contributions of a member who terminates permanent employment:

1. Before accumulating ten years of service credit and whose account balance is less than \$1000.00 must be automatically refunded unless the member elects to remain in an inactive status.
2. After accumulating ten years of service credit, accumulated contributions must be refunded upon application filed with the retirement office.

**History:** Effective October 1, 1991, \_\_\_\_\_, 2010.

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** NDCC 39-03.1-10.1

Section 71-05-07-01 is amended as follows:

**71-05-07-01. Return to service – Retired member.** The benefits of a retired member who returns to permanent employment must be suspended. Upon final retirement, the member's benefit must be recalculated as follows:

- ~~1. If the period of subsequent employment is less than two years, the member may elect:
  - a. A return of the member's contributions made after reemployment, and the suspended benefit restored, adjusted for the member's age at final retirement and for benefit payments received prior to reemployment; or
  - b. A recalculation of the member's benefit based on the benefit provisions in effect at the member's initial retirement, but adjusted to take account of age at final retirement, benefit payments received prior to reemployment, salary and service credits, and any benefit increases accrued during the period of subsequent employment.~~
21. If the period of subsequent employment is more than two years, ~~the~~ member's benefit must be based on the benefit provisions in effect at final retirement and shall include the member's and spouse's age, ~~and~~ salary earned during the period of reemployment, and together with total service earned before and after reemployment, adjusted to take account of benefit payments received prior to reemployment. If a different option is selected at the second retirement date, the member and office will submit information as required to make an actuarial determination of the elected benefit and the related payment of such.
32. If a member dies during subsequent employment, the member's initial retirement benefit option election will apply. ~~If the benefit election was an optional benefit under section 71-05-02-04, then the member's benefit must be recalculated based on the benefit provisions in effect at the member's initial retirement, but adjusted to take account of age at death, benefit payments received prior to reemployment, salary and service credits, and any benefit increases accrued during the period of subsequent employment. The member's benefit shall be based on the benefit provisions in effect at final retirement and shall include the member and spouses's ages, salary earned during the period of reemployment, and total service credits earned before and after reemployment, adjusted to take account of benefit payments received prior to reemployment.~~

**History:** Effective October 1, 1991; amended effective May 1, 2004, \_\_\_\_\_, 2010.

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** NDCC 39-03.1-11

Section 71-06-01-02 is amended as follows:

**71-06-01-02. Calculation of retiree health insurance credit.** Retiree health insurance credit will be calculated on actual years and months of service, identical to retirement benefits under North Dakota Century Code chapter 54-52.

1. Retiree health insurance credit will be subject to reduction factors in the

event of early retirement.

For annuitants of the public employees retirement system defined benefit plan and North Dakota public employees retirement system judges, and for members of the defined contribution retirement plan, excluding national guard retirees, who take a periodic distribution:

<u>Age at Retirement</u>	<u>Reduction Factor</u>	<u>Age at Retirement</u>	<u>Reduction Factor</u>
64 to 65	3%	59 to 60	33%
63 to 64	9%	58 to 59	39%
62 to 63	15%	57 to 58	45%
61 to 62	21%	56 to 57	51%
60 to 61	27%	55 to 56	57%

For annuitants of the job service retirement program: This includes those who retired under a discontinued service annuity but does not include those who retired at a normal or optional date.

<u>Age at Retirement</u>	<u>Reduction Factor</u>	<u>Age at Retirement</u>	<u>Reduction Factor</u>	<u>Age at Retirement</u>	<u>Reduction Factor</u>
64 to 65	3%	59 to 60	33%	54 to 55	63%
63 to 64	9%	58 to 59	39%	53 to 54	69%
62 to 63	15%	57 to 58	45%	52 to 53	75%
61 to 62	21%	56 to 57	51%	51 to 52	81%
60 to 61	27%	55 to 56	57%	50 to 51	87%

For annuitants of the highway patrol fund and national guard security police and firefighters and national guard security police and firefighters who transferred to the defined contribution retirement plan:

<u>Age at Retirement</u>	<u>Reduction Factor</u>
54 to 55	3%
53 to 54	9%
52 to 53	15%
51 to 52	21%
50 to 51	27%

2. Disabled annuitants receiving benefits under subdivision e g of subsection 3 of North Dakota Century Code section 54-52-17, subdivision d of subsection 3 of North Dakota Century Code section 39-03.1-11, North Dakota Century Code section 52-11-01, or section 71-02-05-05 will be eligible for full retiree health insurance credit benefits. No age reduction factor will be applied.
  
3. A surviving spouse eligible to receive benefits under subdivisions ~~b and c~~ a(2), b(2) and b(3) of subsection 6 of North Dakota Century Code section 54-52-17, subdivisions b and c of subsection 6 of North Dakota Century Code section 39-03.1-11, or North Dakota Century Code section 52-11-01

will receive retiree health insurance credit based on the deceased member's years of service without any age reduction applied.

4. A surviving spouse receiving benefits under the provisions of subdivision a or ~~c~~ b or d of subsection 9 of North Dakota Century Code section 54-52-17; subdivisions a, b, and c of subsection 5 of North Dakota Century Code section 27-17-01; subsection 9 of North Dakota Century Code section 39-03.1-11; or North Dakota Century Code section 52-11-01 will receive retiree health insurance credit for the duration benefits are paid, based upon the original annuitant's retirement age.

**History:** Effective April 1, 1992; amended effective June 1, 1996; July 1, 2000.

**General Authority:** NDCC 54-52.1-03.2(b)

**Law Implemented:** NDCC 54-52.1-03.3

Section 71-08-06-04 is amended as follows:

**71-08-06-04. Cost.** The cost for purchase of eligible military service in the defined contribution plan may be paid as follows:

- 1 The cost for any required employee contributions to be paid by the member may be paid in a lump sum or in installments pursuant to the rules established for purchase or repurchase payment under subsection 3, 4, or 5 of section 71-02-03-02.2. If no payments have been made, no credit will be awarded.
2. ~~If the member elects to make installment payments through payroll deduction, then the employer will be required to match the member contribution month by month. Upon completion of the member contributions, the employer will be required to make a final payment of all remaining employer contributions.~~
3. ~~If the member elects to make payments through any method other than payroll deductions, then upon the member completing full payment of the required member contributions, the employer cost will be assessed to the member's most recent participating employer.~~
4. The employer cost will be assessed to the member's most recent participating employer. Upon being billed by the public employees retirement system, the participating employer will have thirty days in which to make payment in full. If, after sixty days, the employer has not made payment in full, a civil penalty of fifty dollars will be assessed, and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due.

**History:** Effective May 1, 2004; amended effective July 1, 2006, \_\_\_\_\_, 2010.

**General Authority:** NDCC 54-52-04, 54-52.6-04

**Law Implemented:** NDCC 54-52.6-09.3, 54-52.6-09.4

Subsection 6 of Section 71-08-07-01 is amended as follows:

**71-08-07-01. Additional employer contributions.** An employer may elect to provide additional employer contributions to an employee's account in an amount not exceeding the equivalent of a purchase of up to five years of service credit for that employee and the purchase of an employee's unused sick leave that meets the requirements of section 71-08-07-02. Before offering such a program to its employees, an employer must create a program and document it 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 additional employer contributions will not exceed the equivalent of a purchase of service credit 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 15<sup>th</sup> of the month following the month of the employee's retirement 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 and 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 pertaining to the 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, the employer 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, \_\_\_\_\_, 2010.

**General Authority:** NDCC 54-52-04, 54-52.6-04

**Law Implemented:** NDCC 54-52.6-09.2