

NDPERS BOARD MEETING

Agenda

Bismarck Location:
Bank of North Dakota
1200 Memorial Highway
Executive Conference Room
Fargo Location:
BCBS, 4510 13th Ave SW

April 19, 2012

Time: 8:30 AM

I. MINUTES

A. March 22, 2012

II. LONG TERM CARE INSURANCE PRESENTATION

III. DEFERRED COMPENSATION

- A. 457 Companion Plan & 401(a) Plan Share Class Change – Bryan (Board Action)
- B. Hartford – Sparb (Board Action)

IV. RETIREMENT

- A. Segal Contract – Sparb (Board Action)

V. GROUP INSURANCE

- A. Rx Program Update – BCBS (Information)
- B. Trend Report – Sparb (Information)
- C. BCBS Annual Claims Review – Bryan (Information)
- D. Special Dependent Enrollment – Kathy (Information)
- E. Tobacco Cessation Program Data – Michelle Walker (Information)

VI. MISCELLANEOUS

- A. Legislation – Sparb (Information)
- B. Quarterly Consultant Fees – (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
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Memorandum

TO: PERS Board
FROM: Sparb
DATE: April 10, 2012
SUBJECT: Long Term Care

In the next few months we will start work on the Long Term Care RFP. Our existing carrier is Unum. Recently they made the following announcement.



News from Unum regarding our long term care business
Feb. 7, 2012

Dear valued sales partner:

After a careful and comprehensive review, we have decided to end sales of new group long term care contracts. Although we recognize there is a market need for products to help individuals pay for long term care expenses, current economic, pricing and risk factors make it impossible for us to meet our financial and risk management objectives.

Unfortunately, we are not the only insurer to reach this conclusion as many others have now exited the long term care market given the combination of historically low interest rates and the uncertainty of risk and pricing trends.

The decision to end new group long term care sales is in the best interest of all of our policyholders, as it allows us to sharpen our focus on the markets and products that provide the greatest long-term opportunity for our company and are more compatible with our financial and risk management objectives.

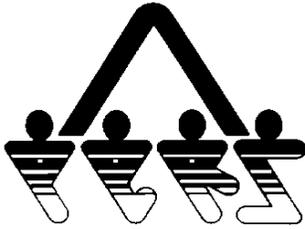
This decision will not impact the high quality of service we provide to current policyholders and claimants. Additionally, we will continue to accept new enrollees on existing contracts.

Below are additional details about the changes that will affect you:

- As of Feb. 7, 2012, no additional group long term care quotes will be issued.
- Quotes issued prior to Feb. 7, 2012, are valid for 90 days from the date they were issued.
- Quotes will be considered sold if an application is signed prior to the 90-day window closing.
- Unum will honor all cases that have been sold and are in the enrollment process.
- New enrollees can be added to all inforce cases, according to the eligibility provisions in their contracts.

Additional information is [available here](#). If you have any additional questions, please contact your Unum service or sales representative or local manager. In addition, general questions can be directed to our Customer Support area at 800-227-4165, Monday through Friday from 8 a.m. to 8 p.m. Eastern time.

Before we began this process, we discussed at our Planning Meeting in January inviting some individuals in to give us a current perspective on the industry, its trends, products and other developments. At this meeting I have invited Gene and Pamela Schmidt from SIA. Gene is CEO of SIA Insurance here in Bismarck. Their firm specializes in Long Term Care products nationally and they have been active in this area for many years.



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Memorandum

TO: PERS Board
FROM: Sparb & Bryan
DATE: April 10, 2012
SUBJECT: Fund Share Class Change for 401(a) & 457 Companion Plan

The following information is from TIAA-CREF concerning the Vanguard Total International Stock Index Fund. Vanguard is allowing NDPERS to move from the "Investor" to the "Signal" share class for this fund. This will result in a lower fund fee (20bps instead of 26bps). Everything else about the fund will be the same. This fund is in both the DC 401(a) and 457 Companion Plans. This change will require an amendment to the record keeping agreement with TIAA-CREF (See Attached).

BOARD ACTION REQUESTED: Approve changing the fund share class for the Vanguard Total International Stock Index Fund – VGTSX in the 401(a) and 457 Companion plans.

Vanguard Funds announced a waiver for retirement plans from the \$1 million investment minimum for the Signal Share class. Signal Shares carry total expenses approximately 10bp lower than Vanguard Investor Shares. Therefore we are offering to update the share class (transfer to a lower share class) for one fund in two of your plans from Investor to Signal share class. The table below confirms the plan's current holdings in question and the corresponding lower cost share class alternative.

Plan Name	Fund Name	1/31 Balance	Current Share Class	Alternative Share Class
NORTH DAKOTA PERS 401A DEFINED CONTRIBUTION PLAN	VANGUARD TOT INTL STK IDX FD – VGTSX	41,8392	Investor – 26bps	Signal – 20bps
NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM COMPANION PLAN	VANGUARD TOT INTL STK IDX FD - VGTSX	918,224	Investor – 26bps	Signal – 20bps

In order to transfer the plan balances noted above, TIAA-CREF will need your authorization. You may initiate the process by clicking reply to this email and providing an affirmative response. TIAA-CREF will then provide you with an amendment to your Record keeping Services Agreement with us in the form of a revised Schedule B. Upon receipt, please sign and return the Record Keeping Services Agreement amendment at your earliest convenience. A PDF of the signed document sent via email is preferred, but you are certainly welcome to send back an original signed hardcopy.

We would like to implement this change by May 18th and therefore would need your affirmative response by March 23rd.

Following receipt of your signed amendment, we will return one copy to you with a TIAA countersignature as well as a revised Appendix A to the custodial agreement, which will reflect your new fund line up. When you receive these documents, you should attach them to your original recordkeeping and custodial agreement for each plan.

Please let me know if you have any questions. Thank you,

Paul Hovelsrud
Relationship Manager, Institutional Relationships
TIAA-CREF | Financial Services



**Amendment No. 1 to the
Record Keeping Services Agreement
Between Teachers Insurance and Annuity Association of America (TIAA)
And North Dakota Public
Dated October 1, 2011**

Effective as of **May 18, 2012** or such later date as the parties shall agree by Notice, the Record Keeping Services Agreement (Agreement), dated **July 8, 2006**, between Teachers Insurance and Annuity Association of America (“TIAA”) and **North Dakota Public Employees Retirement System** (“Employer”) as Sponsor of **North Dakota Defined Contribution Retirement Plan** and the **North Dakota State Deferred Compensation Plan** (the “Plans”), is hereby amended as follows:

1. Schedule B is amended to read as follows:

**SCHEDULE B
Plan Funding Options and Non-Proprietary Mutual Fund Fee Schedule**

TIAA-CREF Mutual Funds

<u>FUND NAME</u>	<u>SHARES CLASS</u>	<u>TICKER</u>
TIAA-CREF Lifecycle Retirement Income Fund	Retirement Class	TLIRX
TIAA-CREF Money Market Fund ¹	Retirement Class	TIEXX
TIAA-CREF Lifecycle Funds ²		
TIAA-CREF Lifecycle 2010 Fund	Retirement Class	TCLEX
TIAA-CREF Lifecycle 2015 Fund	Retirement Class	TCLIX
TIAA-CREF Lifecycle 2020 Fund	Retirement Class	TCLTX
TIAA-CREF Lifecycle 2025 Fund	Retirement Class	TCLFX
TIAA-CREF Lifecycle 2030 Fund	Retirement Class	TCLNX
TIAA-CREF Lifecycle 2035 Fund	Retirement Class	TCLRX
TIAA-CREF Lifecycle 2040 Fund	Retirement Class	TCLOX
TIAA-CREF Lifecycle 2045 Fund	Retirement Class	TTFRX

¹ The TIAA-CREF Money Market Fund will be temporarily added to the plan funding options to facilitate the transfer of assets from the prior record keeper. Once the transfer of assets is complete, this mutual fund will be removed. For additional information regarding this fund and the transfer of assets, please see Schedule A, item 15.

² The actual Lifecycle Funds currently available as funding options under the Plan(s) are detailed in Schedule B of this Agreement. TIAA will send the Employer an updated Schedule B that can be attached to this Agreement when a new Lifecycle Fund becomes available and is subsequently approved by the Employer to be added as a funding option under the Plan(s). Any additional funds, that are not part of the Lifecycle family of funds, will need a signed and executed Amendment to the Record Keeping Agreement prior to being added as a funding option under the Plan.



Financial Services

TIAA-CREF Lifecycle 2050 Fund	Retirement Class	TIFRX
TIAA-CREF Lifecycle 2055 Fund	Retirement Class	TIFRLX

Non-Proprietary Mutual Funds, Administrative Fees and Cost Sharing Payments

Allianz NFJ Small Cap Value Fund Administrative Class	PVADX
<i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 25 basis points.</i>	
Aston/Fairpointe Mid Cap Fund Class I	ABMIX
<i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 10 basis points.</i>	
Brown Capital Management Small Company Institutional	BCSIX
<i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 10 basis points.</i>	
Cohen & Steers Realty Shares	CSRSX
<i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 25 basis points.</i>	
Columbia Mid Cap Index Fund Class A	NTIAX
<i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 30 basis points.</i>	
Franklin Growth Fund Advisor Class Shares	FCGAX
<i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 20 basis points.</i>	
Franklin Mutual Global Discovery Z	MDISX
<i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 20 basis points.</i>	
Hartford Dividend & Growth Fund Class R5	HDGTX
<i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 20 basis points.</i>	
Nuveen Tradewinds Value Opportunities I	NVORX
<i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 25 basis points.</i>	
Oppenheimer Developing Market	ODVYX
<i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 15 basis points.</i>	
Parnassus Small Cap Fund	PARSX
<i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 35 basis points.</i>	
PIMCO Real Return Fund Administrative Class Shares	PARRX
<i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 25 basis points.</i>	
PIMCO Total Return Fund Admin Class	PTRAX
<i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 25 basis points.</i>	



Financial Services

Prudential HighYield Z <i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 25 basis points.</i>	PHYZX
Prudential Jennison Mid-Cap Growth Fund Z <i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 25 basis points.</i>	PEGZX
RidgeWorth Mid Cap Value Equity I <i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 35 basis points.</i>	SMVTX
T. Rowe Price Capital Appreciation Fund Adv <i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 40 basis points.</i>	PACLX
T. Rowe Price Equity Income Fund <i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 15 basis points.</i>	PRFDX
Templeton Global Bond Fund Advisor Class <i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 20 basis points.</i>	TGBAX
Vanguard 500 Index Fund Signal <i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 0 basis points.</i>	VIFSX
Vanguard Total International Stock Index Fund Signal <i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 0 basis points.</i>	VTSGX
Wells Fargo Advantage Growth Fund Administrative <i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 35 basis points.</i>	SGRKX

Stable Value Fund

Wells Fargo Stable Return Fund J <i>The annual 12b-1 and revenue sharing TIAA shall receive for services rendered is 50 basis points.</i>	WFSJ#
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For Your Information: As of the effective date of this amendment the following funds will be removed from the Plan Funding Options for the Plan(s) covered under this Agreement and all assets will be transferred to its replacement fund.	
Current Vanguard Investment	New Vanguard Investment
Vanguard Total International Stock Index Fund VGTSX	Vanguard Total International Stock Index Fund Signal VTSGX



Financial Services

TIAA-CREF Brokerage Account

Notwithstanding any other provision of the Agreement to which this Schedule is attached to the contrary, the following provisions shall apply to the TIAA-CREF Brokerage Account. If so directed by the Employer and subject to TIAA's acceptance of a properly executed TIAA-CREF Retirement Plan Self-Directed Brokerage Account Application of a Plan participant or Beneficiary, all or a portion of the assets of the accounts of a Plan shall be segregated into individual TIAA-CREF Brokerage Accounts established for the benefit of Plan participants and Beneficiaries. Pursuant to the terms of the applicable Plan, each participant or Beneficiary shall have the power to direct the investment and reinvestment of assets in the TIAA-CREF Brokerage Account established for his or her benefit, subject to such administrative rules and procedures as TIAA may establish. Pursuant to the terms of the applicable Plan, participants and Beneficiaries shall provide instructions regarding the investment of the TIAA-CREF Brokerage Account directly to the broker appointed for purposes of executing transactions under the account. For 403(b) Plans, investments in the TIAA-CREF Brokerage Account shall be limited to mutual funds in accordance with Internal Revenue Code Section 403(b)(7).

Teachers Insurance and Annuity Association of America

By: _____
Print Name:
Title:

North Dakota Public Employees Retirement System

By: _____
Print Name:
Title:



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Memorandum

TO: PERS Board
FROM: Sparb
DATE: April, 2012
SUBJECT: Hartford

Attached is an article from a recent issue of P&I concerning Hartford and their intentions to sell their retirement business within the next 12 months. Hartford is the second largest provider in our 457 plan (with \$33 million in assets with 900 participants), the PERS Companion Plan is the largest provider (with \$37 million in assets with 2,900 participants). We have not received any official notice from Hartford about this action, but based upon the article, it seems this could affect our relationship. Therefore, I am suggesting that I write them a letter on behalf of the PERS Board asking the following and requesting a response for your review by the May 17 meeting. The letter would ask the following:

1. Please provide a description of The Hartford's plans to sell its retirement plan business.
 - a. What are the business reasons for the sale?
 - b. What are the current credit ratings for The Hartford?
 - c. What is being sold? Will the governmental segment be part of the sale?
 - d. What is the expected time frame for the sale?
2. How will the sale impact current Hartford plan participants in the ND 457 program?
3. Are current Hartford plan participants in the ND plan in individual contracts, group contracts or combination?
 - a. Will participants in individual contracts be able to keep ownership?
 - b. How will any group contracts be treated in the sale?
 - c. Will product deferred sales charges, back-end loads, market value adjustment terms be impacted?
4. Will any current Hartford products be discontinued or modified as to their terms and conditions?
5. How will guaranteed products (e.g., fixed and variable annuities) be impacted?
6. How will the sale impact the current Hartford broker-agent distribution model and participant service model?

In addition to sending the above letter, I would also suggest that we ask Jan to review our agreement with Hartford to see if it anticipates such an event and what, if anything, it may provide.

Last, I would also suggest that we seek assistance in determining what actions we should be taking at this point given the announcement. Segal Advisors assisted in our two RFP efforts. You may remember Bob Liberto who was the lead on those projects. I would propose bringing him in to help us determine what additional questions to ask and what additional actions to take.

Board Action Requested

Approve sending a letter to Hartford, having Jan review our agreement and seeking the assistance of Segal Advisors.

Hartford puts retirement plan unit up for sale

BY **ROBERT STEYER**

Hartford Financial Services on Wednesday said it would sell or pursue “other strategic alternatives” for its retirement plan services unit and other businesses.

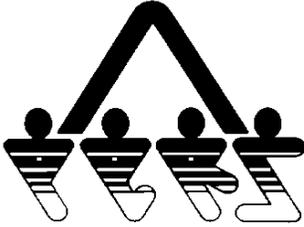
The retirement unit provided record keeping to 33,160 defined contribution plans last year, placing sixth in *Pensions & Investments'* upcoming annual special report on record keepers. [The Hartford](#) also ranked 18th for the number of participants, with nearly 1.52 million. Hartford's record-keeping clients had a total of \$52.3 billion in assets, placing it 19th among record keepers surveyed.

The unit produced \$766 million in revenue last year, the company said Wednesday.

“These are strong, successful businesses,” Christopher Swift, executive vice president and CFO, said in a conference call with analysts on Wednesday, referring to divisions designated for sale — retirement plans, individual life insurance and Woodbury Financial, a broker-dealer business. But the units don't fit with the company's long-term strategy, he said.

In the call, Hartford executives predicted the retirement business and other designated units would be sold within 12 months.





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Memorandum

TO: PERS Board
FROM: Sparb
DATE: April 10, 2012
SUBJECT: Segal Contract

At the February meeting it was decided to renew our contract with Segal for one more year since they have been extensively involved in developing our recovery plan and doing all the requested projections. The motion was as follows:

MR. SANDAL MOVED APPROVAL TO EXTEND THE CONTRACT WITH SEGAL FOR TWO YEARS BEGINNING JULY 1, 2012 AT THE HOURLY RATE, AND RE-EVALUATE THE HOURLY RATE AFTER THE FIRST YEAR. THE MOTION WAS SECONDED BY MR. ERDMANN.

Since the meeting, Jan has been working on the contract and it is her feeling that instead of an extension we should do a new contract with Segal for the next year. Please note that this does not alter any of the cost provisions that were approved at the February meeting. Attached is a draft of the contract.

Board Action Requested

To approve the attached contract with Segal for next year.



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Memorandum

TO: PERS Board
FROM: Sparb
DATE: March, 2012
SUBJECT: Rx Program Update

BCBS and Prime will be at the next Board meeting. They will be providing an overview of the Rx program and some suggested alternatives for your consideration. Attachment 1 is a summary of the recommended approaches. Attachment 2 is the PowerPoint they will be reviewing with us.

The next meeting of the PERS Benefits Committee is on May 4th. Staff would recommend forwarding this information to them for their review and comment. In May we will be reviewing our RFP for the health plan and we will need to determine at that time what approaches we want to include in the bid document. In the past we have included the existing plan designs and several alternative plan designs. These alternatives are then provided along with our recommendation to the Executive Office and the Legislature. The alternative plan designs have been helpful in demonstrating the effect of plan design changes on premiums. The Benefits Committee will be discussing this at its May meeting and will review and forward their suggestions to you.

Strategic Pharmacy Results and Recommended Approaches – April 2012

Managing a pharmacy benefit plan requires balance between cost, member impact and administrative concerns. To stem increasing drug costs this balance requires management tools designed to minimize member impact, improve administrative oversight, and increasing drug costs. Each option contains a brief review of potential cost savings, member impact and administrative considerations, and Blue Cross Blue Shield North Dakota's (BCBSND) recommendation. An attempt was made to present the programs on a continuum of least to greatest member impact.

Transition to the Prime Select Network (IMPLEMENTED 2/1/2011)

In February 2011, BCBSND transitioned their entire book of business from **Prime National** to Prime's **Prime Select** pharmacy network. **Prime Select** is Prime's broadly based nationwide network with nearly 60,000 participating pharmacies.

The **Prime Select** network has modestly deeper discounts on brand medications and lower dispensing fees on both brand and generic medications.

Cost (Savings) Impact: Transitioning NDPERS' membership to the Prime Select network resulted in 2011 annual savings of approximately **\$820,000**

Member Impact: Transitioning NDPERS' membership to the Prime Select network had very little member impact. Prime is unaware of any member complaints as a result of the transition.

Administrative Action Taken: There were no contract terminations with participating pharmacies as a result of the **Prime Select** network transition.

***Additional pricing improvements for generic MAC drugs saved NDPERS approximately \$1.9M in 2011**

Option 1: Plan Design Recommendation

Plan Design can help drive utilization behavior and incentivize members to use lower cost alternatives. Increasing the differential between Generics, Formulary Brands and Non Formulary Brands is a simple way to reduce Plan costs, while still offering strong benefits.

Plan Design recommendation (not affecting grandfathering status):

Current:

Generic = \$5 + 15%

Brand Form = \$20 + 25%

Brand Non Form = \$25 + 50%

Proposed:

Generic = \$10

Brand Form = \$25 + 25%

Brand Non Form = \$30 + 50%

Cost Impact:

- \$1.2M Plan Paid Savings
- Predictable, flat dollar generic copay

Member Impact:

- Member cost share would increase from 31.8% to 34.9%

Administrative Considerations: The proposed plan design with a predictable, flat dollar generic copayment should also help shift more scripts to be filled as generics. This plan design change would not affect the current grandfathered plan status.

BCBSND recommends the benefit design change listed above for the 2013 -2015 biennium for only retail scripts. We recommend leaving mail order scripts at the current benefit level (or something similar) to incent the use of the mail order option. If NDPERS wants to consider variations of these plan designs, these can be research and modeled by BCBSND and Prime.

Option 2: Prime Specialty Pharmacy Program (Outreach Performed June 2011)

Prime's Specialty pharmacy program is designed to help improve the health of members with specialty conditions (rheumatoid arthritis, hepatitis C, multiple sclerosis, etc). Prime Specialty offers safe and efficient medication delivery, member education, and guidance from pharmacists and nurses experienced with specialty conditions. Prime Specialty offers modestly deeper discounts on specialty medication than retail pharmacy networks.

In June, 2012, Prime will launch a newly built and wholly owned Specialty Pharmacy. Triessent, Prime's current program, utilizes vendor relationships for back-end fulfillment. Prime Therapeutics Specialty Pharmacy, LLC (Prime Specialty) will eliminate 'middle-people' and allow Prime to fully control:

- Member intake, claims processing, order fulfillment and delivery
- Contact with members for pre and post delivery verification
- Care management contact with members and reporting
- Contracting with manufacturers for the best possible pricing and rebates

Cost (Savings) Impact: In June 2011, Prime performed outreach to NDPERS' Specialty members, resulting in 35 members transitioning to Prime Specialty, with savings of approximately **\$7,000**.

Member Impact: In 2011, **35 NDPERS' members** moved to using Triessent for filling and managing their Specialty medications.

Administrative Impacts: There were no known complaints or impact as a result of the outreach that occurred in June 2011.

2012 Recommendation: In the second half of 2012, perform Prime Specialty outreach to the remaining **340 NDPERS' members** currently filling their specialty medications at retail locations.

2012 Administrative Consideration: Specialty medications are the fastest growing segment of the pharmaceutical market, both in terms of new products and inflationary pricing. While specialty medications account for only a very small number of claims filled by a very small number of members, the specialty class of drugs is driving the overall pharmacy cost trend. In 2011, NDPERS' specialty medication PMPM trend was 21.7%. The non-specialty medication PMPM trend was a deflationary **negative - 4.0%**. Managing specialty apart from the general drug benefit would be beneficial. The following could be considered:

- Benefit design change, creating a 4th Tier
- Prime Specialty as preferred, with other pharmacies considered out of network
- Exclusive use of Prime Specialty, mandating the use by members

BCBSND recommends having Prime perform a second outreach to remaining NDPERS members currently filling their specialty medications at retail locations. Promotion could also be provided through the NDPERS newsletter and/or HealthyBlue tool. If NDPERS wants to consider additional benefit design changes around specialty medications, BCBSND and Prime can model cost savings, member impact and affects on NDPERS Grandfathered status.

Option 3: PrimeMail Outreach to NDPERS' Members

PrimeMail is Prime Therapeutics' mail order pharmacy, providing safe, convenient, cost-effective home delivery of medications. PrimeMail helps manage total health care spend by offering significant discounts on medications and no dispensing fees. Making members aware of their home delivery benefit via letter campaign is something Prime can deliver at anytime, at no cost to NDPERS.

Cost Impact: Prime Therapeutics estimates annual total cost savings greater than \$1M assuming 100% of maintenance medications go to PrimeMail.

Plan Design recommendation (not affecting grandfathering status) Example 90 Day Costs:

RETAIL:

Generic = \$20

Brand Form = \$50 + 25%

Brand Non Form = \$60 + 50%

MAIL:

Generic = \$10 + 15%

Brand Form = \$40 + 25%

Brand Non Form = \$50 + 50%

Other Plan Design Considerations (may affect grandfathering status):

1. Adding a 3rd copay at retail for long term medications (90 days) would incent members to consider using PrimeMail for 2 copays. With 5% shift to PrimeMail, this could save NDPERS \$480,000 and increase member contribution by \$360,000, for an overall savings of \$120,000.
2. Adding a 3rd copay at retail for long term medications (90 days) AND a predictable flat dollar Mail copay (\$10 for Generic, \$50 for Preferred Brand) would incent members to consider using PrimeMail for 2 copays. With 5% shift to PrimeMail, this could save NDPERS \$185,000 and increase member contribution by \$65,000, for an overall savings of \$120,000.

Member Impact: In 2011, approximately 15,000 NDPERS members filled a claim for a maintenance medication, and overall, 99.9% of NDPERS' claims are filled at retail pharmacies. A mandatory mail benefit for maintenance medications would force some members into a distribution channel not of their first choice. Making members aware of savings and convenience of their home delivery benefit via letter campaign is a much softer approach.

Administrative Considerations: NDPERS current PrimeMail utilization is .1%. Increasing the current utilization rate of PrimeMail by promoting the savings and convenience of the mail order option to members would increase plan savings slightly. Additional benefit design changes that provide an incentive for the mail order option would further increase plan savings.

BCBSND recommends promoting the savings and convenience of the mail order option through the current biennium. We also recommend changing the benefit design for the 2013 – 2015 biennium to incent the use of the mail order option. The plan design option listed above creates an additional tier for mail vs. retail scripts, while retaining the plans grandfathered status. If NDPERS want to consider additional variations, these can be researched and modeled by BCBSND and Prime.

Option 4: Utilization Management Programs

Prime Therapeutics offers a number of utilization management programs designed to ensure members receive the safest, most cost effective medications. In particular, step therapy programs drive safety and cost savings by encouraging members to try a first-line medication, usually a generic alternative, before coverage is provided for a second-line medication, usually a more costly, brand-name medication.

Cost Impact: Cost savings vary by the step therapy program implemented. Recommended step therapy programs and associated cost saving estimates include: PPI step therapy (\$100K-\$350K), ACE/ARB step therapy (\$50K - \$100K) and Statin step therapy (\$150K - \$200K).

Member Impact: Member impact also varies by the step therapy program implemented. Prior to implementing a step therapy program, attempts are made to notify members of the impending program. Despite best efforts, some members will first become aware of the program at the point of the dispensing pharmacy.

Administrative Considerations: Step therapy can ease the transition to more highly managed programs such as a generic based formulary. On the other hand, step therapy can increase the burden of exception requests and appeals.

BCBSND recommends utilizing the formulary management and the proposed benefit design changes to drive utilization within these classes. The market will undergo significant changes in the near future with generic alternatives dominating the ACE/ARB class. With the differentials in cost sharing based on brand and formulary status, we have the ability to selectively prefer drugs under current plan design without added administration of specific clinical programs which cause significant member disruption in comparison to potential savings. UM programs also offer some flexibility for future implementation, in that they do not affect grandfathered status.



Pharmacy Performance & Opportunities

NDPERS + BCBSND + Prime

Strategic Pharmacy Approaches

April 19, 2012

NDPERS Executive Summary

2011 Results

- NDPERS Total Paid PMPM (\$60.24)
- BCBSND Total Paid PMPM (\$56.36)

- NDPERS Total Trend (-0.1%)
- BCBSND Trend (0.4%)
- Industry Leading Trend

- NDPERS GFR (75.3%) + 2.6 pts
- BCBSND GFR (74.5%) + 2.8 pts

- Pharmacy Program Savings in excess of \$2.7M

Results continued...

- NDPERS Member Share (31.8%)
- BCBSND Member Share (33.2%)

- NDPERS Specialty Trend (21.7%)
- BCBSND Specialty Trend (21.0%)

- NDPERS PrimeMail (0.1%)
- BCBSND PrimeMail (0.2%)

Results from 2011 Pharmacy Network Enhancement

NDPERS

Time Period	Brand Claims Count	Average Discount
October 2010 – January 2011	39,705	10.3%
February – December 2011	104,227	13.0%
Pre Dispensing Fee = \$2.83 Post Dispensing Fee = \$2.62 (annual est. = \$96,652)		

Estimated Annual Savings = \$820,000

2012 Improvements:

- Current discounts have improved to nearly 14%
- Further gains with chain pharmacies, reducing dispensing fees as well

Generic MAC Pricing & R-DUR savings from 2011

NDPERS

Time Period	Generic MAC Claims	Average Discount
Q4 2010	88,489	76.6%
January – Dec 2011	294,913	82.7%

Estimated Annual Savings = \$1,923,076

- Retrospective Drug Utilization Review:
- safety and appropriate use evaluation
 - letters sent to members and prescribers
 - increases generic rates and adherence
 - 2011 Savings = \$6,500

Specialty Drug Management

2011 Specialty PMPM Trend = 21.7% (\$7M Annual Spend)
 2011 Non-Specialty PMPM Trend = - 4.0% (\$30M Annual Spend)

Specialty Channel	Members	Script Count	Total Paid	Annual Savings
Prime Specialty	35	192	\$715,767	\$6,862
TOTALS	35	192	\$715,767	achieved from better pricing

Remaining Specialty Opportunity for NDPERS

NDPERS Specialty Drugs	Claims	Utilizers	Estimated Annual Savings	Percent of Specialty Savings
Total	2,268	340	\$55,000	0.82%

Approach

- Enhanced care management (assessment, education, outcome measurement & reporting)
- Management of programs by professionals (adherence, side effects, complications & symptoms)

New Prime Specialty Pharmacy Opening 2012

- In June 2012, Prime will open a newly built and wholly owned specialty pharmacy
- Triessent, Prime's current program, uses vendor relationships for back-end fulfillment
- Prime Therapeutics Specialty Pharmacy, LLC (Prime Specialty) will eliminate 'middle-people' and allow Prime to fully control:
 - > **Member intake, claims processing, order fulfillment and delivery**
 - > **Contact with members for pre and post delivery verification**
 - > **Contracting with manufacturers for the best possible pricing and rebates**
 - > **Care management contact with members**
 - > **Detailed experience reporting and analysis**

2012 Recommendation:

- Perform outreach to the remaining 340 NDPERS' members not using Prime Specialty
 - **Other Considerations:**
 - Benefit Design Change, creating a 4th Tier
 - Prime Specialty as preferred, creating in/out of network benefit
 - Exclusive use of Prime Specialty, mandating use for NDPERS

Drive to lowest cost drugs

- Every 1% increase in generic utilization reduces plan spend by approximately 1.5%¹
- Plan sponsors can achieve generic fill rates of at least 78% and should strive for 80% - 85%
- Ways to incent generic use and lower drug costs
 - > Increase **copay differentials** between generic and brand-name drugs
 - > Implement **Step Therapy or Generic Based Formulary**

Opportunity to drive generics: Copay Differentials

1. Prime data analysis, 2011.

Benefit Design Recommendation

Plan Design

- **Current**
- Generic = \$5 + 15%
- Brand Formulary = \$20 + 25%
- Brand Non-Formulary = \$25 + 50%

Recommendation

- Flat Generic Copay of \$10
- **Proposed**
- Generic = \$10*
- Brand Formulary = \$25 + 25%
- Brand Non-Formulary = \$30 + 50%

RESULTS

- \$1.2M Plan Paid Savings (*\$850K if copay = \$8)
- Predictable, flat dollar generic copay
- Member Share up from 31.8% to 34.9% (*34.1% if copay = \$8)

This Plan Design Recommendation does not affect current grandfathering status

Utilization management

Recommendations for NDPERS

- Utilization management (UM) programs impact drug utilization patterns to ensure members achieve the best health outcomes at the lowest cost

UM Program	Quantity Limits	Step Therapy	Prior Authorization
Definition	<p>What: Promote safe and effective drug use and minimize waste</p> <p>How: Limit the quantity per prescription of certain drugs</p>	<p>What: Encourage use of safe, clinically appropriate or more cost-effective drugs</p> <p>How: Encourage use of first-line drug before second-line drugs will be covered</p>	<p>What: Prevent misuse, overuse or inappropriate use</p> <p>How: Require members to meet a certain criteria before particular drugs are covered</p>
Value	Decrease excessive use	Step therapy impacts prescriber behavior as well as member behavior	Prior authorization can improve safety and may result in total paid PMPM pharmacy savings
Member Impact			
Average Savings per Program*	\$0.02-\$0.03 per member per month	\$0.04-\$0.30 per member per month	\$0.02-\$0.03 per member per month

*Cumulative savings from implementing more than UM program may differ.
© Prime Therapeutics LLC

Utilization management savings opportunities

Program Name	Impacted Members	Annual Cost Savings
PPI Step Therapy	750 – 1,200	\$100K - \$350K
Statin Step Therapy	750 – 2,350	\$150K - \$200K
ACE/ARB Step Therapy	500 – 1,500	\$50K - \$100K
TOTALS	2,000 – 5,050	\$300K - \$650K

- Cost saving estimates are based on programs implemented with or without grandfathering

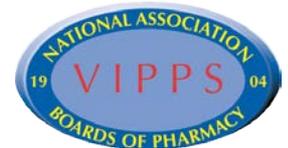
PrimeMail

Recommendations for NDPERS

- PrimeMail® home-delivery pharmacy provide up to a 90-day supply with deep discounts and no dispensing fees
- Options exist to drive 90-day utilization
 - > RxInterACT (member specific savings and real time communications triggers)

PrimeMail Offers:

- > Superior levels of quality and timeliness
 - 99.99% dispensing accuracy and 95% member satisfaction
- > State-of-the-art efficiencies
 - 5+ million prescriptions shipped with capacity of more than 15 million annually
 - VIPPS certified for safety, quality and security and URAC accredited



- NDPERS current PrimeMail utilization 0.1%

NDPERS PrimeMail savings opportunity

Shifting Prescriptions from Retail to PrimeMail

Current Utilization = 0.1% Savings @ 3% Savings @ 5% Savings @ 7%

- 2011 Claims Data
- Assumes Current Benefit Design at PrimeMail (2x copay)
- Savings from deeper brand discounts and no dispensing fees

\$185,000

\$300,000

\$420,000

Greater than \$1M savings assuming all maintenance medications at PrimeMail

- Without benefit design change, there is no loss of grandfathering status
- Recommend plan designs below, with outreach messaging convenience and savings of PrimeMail

RETAIL

- Generic = \$20
- Brand Form = \$50 + 25%
- Brand Non-Form = \$60 + 50%

Example

90 Day

Costs

MAIL

- Generic = \$10 + 15%
- Brand Form = \$40 + 25%
- Brand Non-Form = \$50 + 50%

Prime can perform PrimeMail member outreach at **no cost** to NDPERS or BCSBND

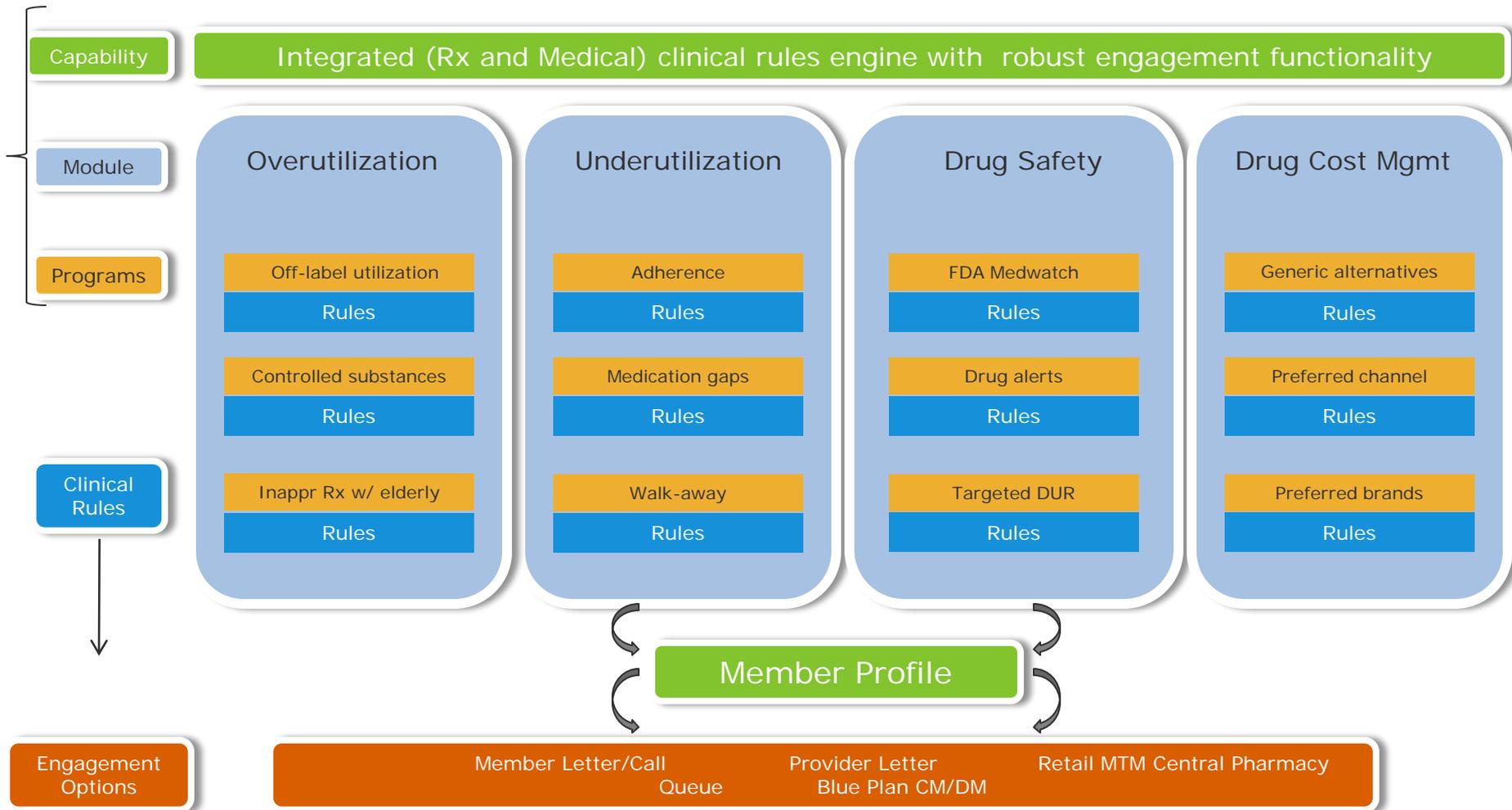
Data reveals specific, actionable medication management opportunities

Drug Therapy Problems*	# of Drug Therapy Problems	% of Drug Therapy Problems
Need additional therapy	1265	23%
Unnecessary drug therapy	453	8%
Wrong drug therapy	857	15%
Dosage too low	893	16%
Adverse drug reaction	1157	21%
Dosage too high	332	6%
Inappropriate compliance	596	11%

- Of the 9,399 patients assessed, 37% had one or more drug therapy problem
- 15% of the patients assessed had multiple drug therapy problems
- Most common problem – 1 out 4 patients were associated with untreated conditions

Most drug therapy problems require medical condition for optimal resolution

Powerful information for cost and health management: modules, programs, rules, engagement



Engagement and education opportunities

Encourage members to make smart drug choices

Highly visual member collateral educates and one-time, targeted incentives promote healthy and cost-effective decision-making



Generic drug education collateral educates members about the value of generics

Member Web sites help members manage their pharmacy benefits online

PrimeMail outreach and education promotes mail-service pharmacy with members

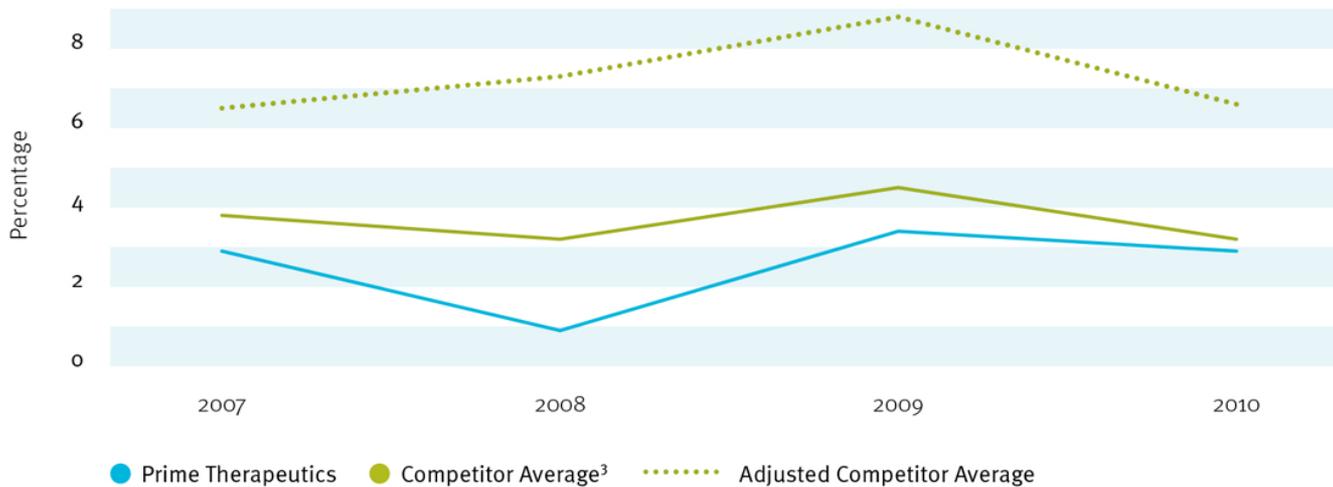
Interactive Web presentations and brochures **educate members** about common medical conditions

Overall Prime Performance

Proven Prime + BCBS PBM Results

Cost management is critical — and Prime consistently outperforms the competition

Change in total paid per member per month (PMPM)



2010 Commercial Trend Performance	
PBM	PMPM Trend
CVS Caremark	2.4%
Express Scripts	3.6%
Medco Health	3.7%
Prime	2.9%

Accurate information guides smart pharmacy management. This is why Prime's data reflects our **entire commercial book of business.**

Contact Information

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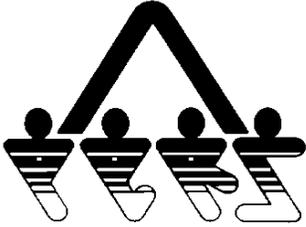


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Memorandum

TO: PERS Board
FROM: Sparb
DATE: April 10, 2012
SUBJECT: BCBS TREND REPORT

Attached is the most recent trend report from BCBS.

Financial/Trend Analysis

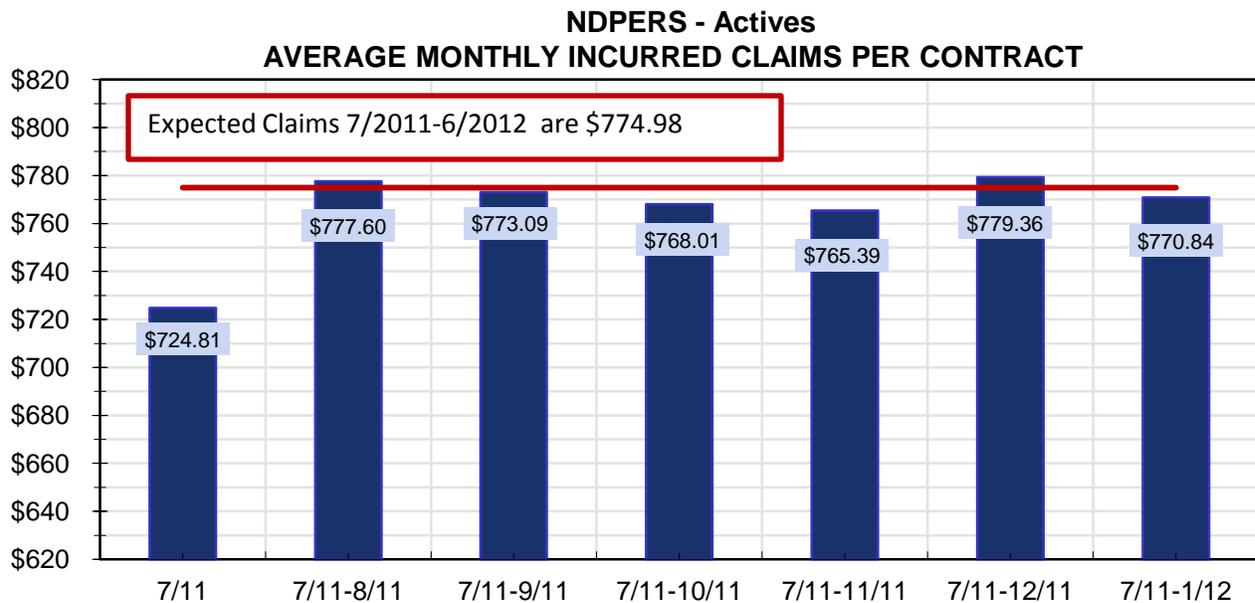
NDPERS Quarterly Trend Analysis

Paid through March 31, 2012

Twelve Month Moving Average				
Incurred Month	Est Incurred Claim/Contract		Annual Trend	
	Actives	Med Retirees	Actives	Med Retirees
2/10	653.64	163.32	3.0%	12.5%
3/10	660.59	164.10	4.2%	10.5%
4/10	659.55	164.27	3.5%	10.2%
5/10	655.55	165.29	2.1%	10.9%
6/10	662.53	165.72	2.9%	10.1%
7/10	667.04	166.28	3.6%	10.8%
8/10	672.41	166.05	4.7%	8.5%
9/10	671.83	165.61	4.1%	7.2%
10/10	674.38	166.41	4.8%	8.0%
11/10	677.31	168.10	4.4%	8.7%
12/10	680.13	167.15	4.9%	7.2%
1/11	686.83	171.01	5.8%	6.1%
2/11	691.00	170.92	5.7%	4.7%
3/11	692.49	170.64	4.8%	4.0%
4/11	699.11	170.86	6.0%	4.0%
5/11	709.82	170.46	8.3%	3.1%
6/11	713.95	171.49	7.8%	3.5%
7/11	714.73	171.18	7.1%	2.9%
8/11	726.54	170.92	8.1%	2.9%
9/11	736.49	170.33	9.6%	2.8%
10/11	739.72	169.24	9.7%	1.7%
11/11	744.31	168.53	9.9%	0.3%
12/11	750.77	167.98	10.4%	0.5%
1/12	755.44	164.49	10.0%	-3.8%

•The 10.4% twelve month rolling trend for NDPERS Actives through December 2011 is greater than the Blue Cross Blue Shield overall trend of 3.6%.

• The table below shows that current experience is just below the claim level that is built into the pricing.





Memo

To: NDPERS Board
From: Bryan T. Reinhardt
Date: 3/23/2012
Re: 2011 BCBS Claims Review

Each year we conduct an audit to check the accuracy of BCBS claims processing. On March 8th, I was at the BCBS corporate office in Fargo to review a sample of 100 NDPERS claims. A list of the claim specifications is attached. Note that this is not a random sample of all claims, but a select sample from specific areas that we felt needed to be looked at. I focused on claims incurred in the year 2011. BCBS did a good job of having everything ready for me and having staff available to answer my questions and explain the claims payment process. The 2011 BCBS audit resulted in similar errors to other recent reviews. All claims with coordinated WSI benefits processed correctly in this audit. These findings are detailed below:

Review Error Findings:

1. An error in calculating coinsurance (\$.68 error). This was a rare situation and now programming will kick these claims out for manual processing.
2. The routine exam counter was not updated for a claim.
3. PSA screenings are not processing correctly. Members age 50+ (40+ with family history) have coinsurance and the remainder paid (\$200 screening benefit is not affected). Members under the age criteria are to have the screening applied to their \$200 screening benefit. Claims for members under age 40 are processing with coinsurance and then applied to their \$200 screening benefit. BCBS will be holding any future claims that would be affected until the programming can be fixed. BCBS will request a tally of all claims affected by this issue back to 7/1/2009.

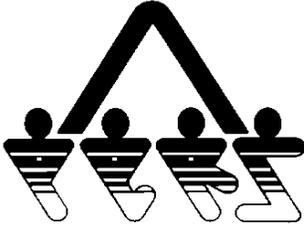
Three of the five mammograms, five of the five Flu vaccinations, five of the five PAP tests, three of the five fecal occult tests, four of the five cholesterol tests, five of the five blood sugar tests, none of the five PSA tests, and five of the HPV vaccine claims for Gardasil were paid at 100% under the screening benefits. The new screening benefits effective 7/1/09 need the 'routine' or 'preventative' diagnosis, but after the \$200 allowance diagnostic procedures will be covered subject to member cost sharing. Note that if an office visit is charged along with the screening benefits, the office visit is not included in the \$200 allowance and the member is charged the \$25 copayment.

If you have any questions, I will be available at the Board meeting.

NDPERS 2011 Audit of 1/2011 – present BCBS Claims Processing

1. Blue Shield Chiropractic (5 claims)
2. Blue Cross COB (1 claim)
3. Blue Cross COB (5 with Medicare Member age 65+)
4. Blue Cross COB (5 with Medicare Member age <65)
5. Blue Cross COB (5 with Workers Compensation)
6. Blue Shield COB (1 claim)
7. Blue Shield COB (5 with Medicare)
8. Blue Shield COB (5 with Workers Compensation)
9. Blue Cross Psych (2 claims)
10. Blue Shield Psych (3 claims)
11. Blue Cross CDU (2 claims)
12. Blue Shield CDU (3 claims)
13. Blue Shield PAP (5 claims)
14. Blue Shield Mammograms (5 claims)
15. Blue Shield Fecal Occult Test (5 claims)
16. Blue Shield Cholesterol Screening (5 claims)
17. Blue Shield Blood Sugar Testing (5 claims)
18. Blue Shield PSA Testing (5 claims)
19. Prescription Drug Formulary (2 claims)
20. Prescription Drug Non-Formulary (2 claims)
21. Prescription Drug for “Gardasil” (HPV drug) (5 claims)
22. Prescription Drug for Flu Vaccine (5 claims)
23. Prescription Drug Medicare Part-D claims (5 claims)
24. Blue Cross 'Denied Experimental' (1 claims)
25. Blue Shield Physical Therapy (4 claims)
25. Claims for Durable Medical Equipment (4 claims)

Total 100 Claims



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Memorandum

TO: NDPERS Board

FROM: Kathy

DATE: April 10, 2012

SUBJECT: Group Health – Special Dependent Enrollment

At its February meeting, the Board was presented information relating to the definition of dependent as provided in NDCC §26.1-36-22 which differed from our understanding as defined in the Affordable Care Act (ACA). State law requires that adult children up to age 26 are eligible regardless of whether the individual has employer-sponsored coverage. The ACA excludes eligibility if there is employer-sponsored coverage available. As a result, during the annual enrollment conducted in the fall of 2011, there may have been some dependents that were not enrolled based on the definition as we understood it at that time.

The Board approved a special enrollment in order to give these dependents the opportunity to be enrolled in the plan. NDPERS, in conjunction with BCBSND, will be conducting a special enrollment from May 21, through June 22, 2012 to allow those individuals to enroll in the health plan effective July 1, 2012. Notice will be sent to the home addresses of participants in the group health plan along with the amendment to the Certificate of Insurance. We will also send out an e-mail announcement to our employer contracts for distribution to their employees and include an article in the employer newsletter. A copy of the participant letter is included for your information.

We are available to answer any questions.

May 2012

Dear Member:

This notice provides you with information about an opportunity to cover your adult children who are Age 19 through the end of the month (EOM) in which they turn 26 in the NDPERS group health plan underwritten by Blue Cross Blue Shield of North Dakota (BCBSND).

The NDPERS group health plan previously permitted coverage for adult children age 19 through the end of the month in which they turn 26 unless they were eligible to enroll in an employer-sponsored group health plan other than a group health plan of a parent. As described in the enclosed Amendment to your Certificate of Insurance, BCBSND has amended the NDPERS group health plan to expand eligibility to your children who are age 19 through 26 (EOM) regardless of their eligibility for other group health plan coverage. So, even if your adult child is eligible for or covered by another employer group plan, or covered by their spouse's employer group coverage, they are also eligible to be added to your NDPERS group health plan.

Because of this change, NDPERS and BCBSND are providing a transitional open enrollment period for those adult children that are eligible for coverage, or are enrolled through a plan by their spouse's employer. You will have the opportunity to enroll those dependent children who are age 19 through 26 (EOM) into your NDPERS group health plan during this time. This does not include the married child's spouse or any grandchildren.

NDPERS and BCBSND will provide the transitional open enrollment period from May 21, 2012 through June 22, 2012 with a July 1, 2012 effective date. This transitional enrollment does not apply to the NDPERS dental and vision plans.

Please contact your employer to confirm eligibility and complete an NDPERS Group Insurance Application (SFN 60036) available from the NDPERS website at: www.nd.gov/ndpers or through your Payroll Office. You will need to indicate on the application, under Part B, that the Change Reason is "Annual Enrollment" and "Add Dependent".

If you have questions about this expanded eligibility or about the transitional open enrollment opportunity, please contact your employer or call the toll-free number on the back of your BCBSND identification card.

NDPERS Benefits Division

How Smoking Affects Medical Costs

- In 2005, tobacco smoking was responsible for approximately 1 in 5 deaths for adults in the US.¹
- Smoking costs an average of \$97 billion in lost productivity and \$96 billion in smoking-attributable health care expenditures annually during 2001-2004.²
 - Data indicates that nonsmokers are more productive, take fewer sick days per year, and use fewer health care resources than smokers.^{3,4,5}
- The estimated proportion of total medical expenditures attributable to smoking for the US was determined by a 1993 study to be 11.8% with a range across states from 6.6% to 14.1%.⁵
- A more recent study based on the same model projected 2001 costs attributable to smoking using revised information regarding smoking prevalence for each state. This study showed the estimated proportion of total medical expenditures attributable to smoking to be approximately 7%.⁶
- Based on the sources referenced above, calculations by Leif Associates, Inc. estimate that smokers have health care costs that average 34% higher than non smokers.*

Smoking Cessation Programs: Success Rates and Cost

- Although approximately 42% of smokers try to quit smoking each year, only between 4% and 7% of people are able to quit smoking on any given attempt without medication or other help.⁷
- The combination of counseling and medication is more effective than either medication or counseling alone.⁸
 - The average success rate of a combination of medication and counseling is estimated at 27.6%.⁸
 - Counseling therapies alone is estimated at 14.6%.⁸
 - Medication alone is estimated at 21.7%.⁸
- The treatment cost would vary with the number of counseling sessions and the medications used, but would likely be in the range of \$600 to \$1,000.*

Health Improvement When Smoking Ceases

- When a smoker quits, the improvements to his or her health are almost immediate.⁷
- The risk of mortality among former smokers approaches the level of never-smokers 10 to 14 years after cessation.⁹
- If there is a gradual improvement over time, it can be assumed that during the first three years, a former smoker's health care costs will be at least 10% less than if they had continued smoking.*

Cost/ Benefit Analysis

- For a hypothetical insured population of 10,000 members, based on the assumptions noted above, calculations by Leif Associates, Inc. estimate the following range of results could be expected within the first three years after smoking ceased*:
 - Number of smokers: 1,660
 - Annual cost of health care per smoker: \$4800 - \$8900
 - Three year health care costs: \$23,904,000 - \$44,322,000
 - Percent of smokers attempting to quit using a cessation program: 2.4% - 10%
 - Success rate: 10% - 30%
 - Health care annual cost savings per success: \$480-\$890
 - Total three year annual health care cost savings: \$5,760-\$133,500

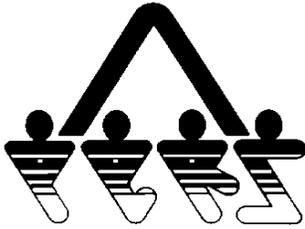
Conclusion

- Over a three-year period, expenditures for smoking cessation programs in the range of \$144 to \$804 per smoker attempting to quit should be fully offset by health care cost savings in a typical commercial population.*
- Greater cost savings likely occur within special populations, such as pregnant women and persons with cardiac conditions, and for persons who remain in the health plan longer than the average of three years assumed in the study.*

References

* Estimates by Leif Associates, Inc.

1. The Preventable Causes of Death in the United States: Comparative Risk Assessment of Dietary, Lifestyle, and Metabolic Risk Factors. *PLoS Medicine*, 2009; 6(4):1-23.
2. Centers for Disease Control and Prevention. Smoking-attributable mortality, years of potential life lost, and productivity losses: United States, 2000-2004. *Morbidity and Mortality Weekly Report*, 2008; 57 (45): 1226-8.
3. Fiore MC, et al. Effective tobacco dependence treatment. *JAMA*, 2002; 288: 1768–1771.
4. Robbins, Anthony S., et al. Amoroso. Short-term Effects of Cigarette Smoking on Hospitalization and Associated Lost Workdays in a Young Healthy Population. *Tobacco Control*, 2000; 9:389-96.
5. Miller LS, et al. State estimates of Medicaid expenditures attributable to cigarette smoking, fiscal year 1993. *Public Health Rep.*, 1998; 113(2):140–151.
6. American Legacy Foundation. —Saving Lives, Saving Money: Why States Should Invest in a Tobacco-Free Future.|| Washington, DC: American Legacy Foundation, 2002.
 - a. Based on these estimations, Leif Associates, Inc. calculated that smokers have healthcare costs that average 34% higher than non smokers ($.206 \times Z + .794 \times 1.00 = 1.07$).
7. "Immediate Rewards of Quitting." Guide to Quitting Smoking. American Cancer Society, 1 Jan. 2011. <<http://www.cancer.org/Healthy/StayAwayfromTobacco/GuidetoQuittingSmoking/guide-to-quitting-smoking-rewards>>.
8. Fiore MC, et al. Clinical Practice Guideline: Treating Tobacco Use and Dependence: 2008 Update. Rockville, MD: US Dept. of Health and Human Services, Public Health Service; 2008.
9. Kawachi I, et al. Smoking cessation and decreased risks of total mortality, stroke, and coronary heart disease incidence among women: a prospective cohort study. In: Changes in Cigarette-Related Disease Risks and Their Implication for Prevention and Control (Burns DM, Garfinkel L, Samet JM, eds). NCI Monograph 8. Bethesda, MD: National Institutes of Health, National Cancer Institute, 1997; 531–564.



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Memorandum

TO: PERS Board
FROM: Sparb
DATE: April 10, 2012
SUBJECT: Legislation

Attached are the four bills that were submitted to the Legislative Council and they are:

1. Retirement Plan - Recovery plan which includes a 2% increase in employee and a 2% increase in employer contributions over 2 years beginning January 2014 and January 2015.
2. Retiree Health Insurance Credit (RHIC) & Pre-Medicare Health Insurance – Allows the RHIC to be used towards any health insurance product and PERS dental, vision, or long term care insurance products. Also provides for discontinuing pre-Medicare health insurance to retirees contingent on the establishment of the health exchanges.
3. Health Plan - Revises the definition of an eligible employee to comply with the ACA and allows political subdivision to select their own health savings account option as part of the high deductible health plan alternative.
4. Retirement Plan – Provides for various administrative changes to the PERS statutes including updating the IRS compliance provisions.

Introduced by

1 A BILL for an Act to amend and reenact sections 39-03.1-09, 39-03.1-10, 54-52-02.9,
2 54-52-05, 54-52-06, 54-52-06.1, 54-52-06.3, and 54-52-06.4, subsection 6 of section
3 54-52.6-02, and section 54-52.6-09 of the North Dakota Century Code, relating to
4 increased employer and employee contributions under the highway patrolmen's
5 retirement plan and public employees retirement system.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 39-03.1-09 of the North Dakota Century
8 Code is amended and reenacted as follows:

9 **39-03.1-09. Payments by contributors - Employer payment of employee**
10 **contribution.**

11 1. Every member, except as provided in section 39-03.1-07, shall contribute
12 into the fund ten and thirty-hundredths percent of the member's monthly
13 salary, which sum must be deducted from the member's salary and
14 credited to the member's account in the fund. Member contributions
15 increase by one percent of the member's monthly salary beginning with
16 the monthly reporting period of January 2012, and ~~with an additional~~
17 increase of annually by one percent, ~~beginning with the~~ monthly reporting
18 period of January 2013, January 2014, and January 2015.

19 2. The state of North Dakota, at its option, may pay the member
20 contributions required by subsection 1 for all compensation earned after
21 June 30, 1983, and may pay the member contributions required to

1 purchase service credit on a pretax basis pursuant to subsection 8 of
2 section 39-03.1-08.2. The amount paid must be paid by the state in lieu of
3 contributions by the member. A member may not receive the contributed
4 amounts directly once the employer has elected to pay the member
5 contributions. If the state decides not to pay the contributions, the amount
6 that would have been paid will continue to be deducted from
7 compensation. If contributions are paid by the state, they must be treated
8 as employer contributions in determining tax treatment under this code
9 and the federal Internal Revenue Code. If contributions are paid by the
10 state, they must not be included as gross income of the member in
11 determining tax treatment under this code and the Internal Revenue Code
12 until they are distributed or made available. The state shall pay these
13 member contributions from the same source of funds used in paying
14 compensation to the members. The state shall pay these contributions by
15 effecting an equal cash reduction in the gross salary of the employee or by
16 an offset against future salary increases or by a combination of a
17 reduction in gross salary and offset against future salary increases. If
18 member contributions are paid by the state, they must be treated for the
19 purposes of this chapter in the same manner and to the same extent as
20 member contributions made prior to the date the contributions were
21 assumed by the state. The option given employers by this subsection
22 must be exercised in accordance with rules adopted by the board.

23 3. For compensation earned after August 1, 2009, all employee contributions
24 required under subsection 1, and not otherwise paid under subsection 2,
25 must be paid by the state in lieu of contributions by the member. All
26 contributions paid by the state under this subsection must be treated as
27 employer contributions in determining tax treatment under this code and

1 the federal Internal Revenue Code. Contributions paid by the state under
2 this subsection may not be included as gross income of the member in
3 determining tax treatment under this code and the Internal Revenue Code
4 until the contributions are distributed or made available. Contributions paid
5 by the state in accordance with this subsection must be treated for the
6 purposes of this chapter in the same manner and to the same extent as
7 member contributions made before the date the contributions were
8 assumed by the state. The state shall pay these member contributions
9 from the same source of funds used in paying compensation to the
10 members. The state shall pay these contributions by effecting an equal
11 cash reduction in the gross salary of the employee. The state shall
12 continue making payments under this section unless otherwise specifically
13 provided for under the agency's biennial appropriation or by law.

14 **SECTION 2. AMENDMENT.** Section 39-03.1-10 of the North Dakota Century
15 Code is amended and reenacted as follows:

16 **39-03.1-10. Contributions by the state.**

17 The state shall contribute to the fund a sum equal to sixteen and
18 seventy-hundredths percent of the monthly salary or wage of a participating member.
19 State contributions increase by one percent of the monthly salary or wage of a
20 participating member beginning with the monthly reporting period of January 2012, and
21 ~~with an additional increase of~~ annually by one percent, ~~beginning~~ with the reporting
22 period of January 2013, January 2014, and January 2015. If the member's contribution
23 is paid by the state under subsection 2 of section 39-03.1-09, the state shall contribute,
24 in addition, an amount equal to the required member's contribution. The state shall pay
25 the associated employer contribution for those members who elect to exercise their
26 rights under subsection 3 of section 39-03.1-10.1.

1 **SECTION 3. AMENDMENT.** Section 54-52-02.9 of the North Dakota Century
2 Code is amended and reenacted as follows:

3 **54-52-02.9. Participation by temporary employees.**

4 A temporary employee may elect, within one hundred eighty days of beginning
5 employment, to participate in the public employees retirement system and receive credit
6 for service after enrollment. The temporary employee shall pay monthly to the fund an
7 amount equal to eight and twelve-hundredths percent times the temporary employee's
8 present monthly salary. The amount required to be paid by a temporary employee
9 increases by two percent times the temporary employee's present monthly salary
10 beginning with the monthly reporting period of January 2012, and ~~with an additional~~
11 increases annually by two percent increase, beginning with the reporting period of
12 January 2013, January 2014, and January 2015. The temporary employee shall also
13 pay the required monthly contribution to the retiree health benefit fund established
14 under section 54-52.1-03.2. This contribution must be recorded as a member
15 contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary
16 employee's contributions. A temporary employee may continue to participate as a
17 temporary employee in the public employees retirement system until termination of
18 employment or reclassification of the temporary employee as a permanent employee. A
19 temporary employee may not purchase any additional credit, including additional credit
20 under section 54-52-17.4 or past service under section 54-52-02.6.

21 **SECTION 4. AMENDMENT.** Section 54-52-05 of the North Dakota Century
22 Code is amended and reenacted as follows:

23 **54-52-05. Membership and assessments - Employer payment of employee**
24 **contributions.**

25 1. Every eligible governmental unit employee concurring in the plan must so
26 state in writing and all future eligible employees are participating
27 members. An employee who was not enrolled in the retirement system

1 when eligible to participate must be enrolled immediately upon notice of
2 the employee's eligibility, unless the employee waives in writing the
3 employee's right to participate for the previous time of eligibility, to avoid
4 contributing to the fund for past service. An employee who is eligible for
5 normal retirement who accepts a retirement benefit under this chapter and
6 who subsequently becomes employed with a participating employer other
7 than the employer with which the employee was employed at the time the
8 employee retired under this chapter may, before reenrolling in the
9 retirement plan, elect to permanently waive future participation in the
10 retirement plan and the retiree health program and maintain that
11 employee's retirement status. An employee making this election is not
12 required to make any future employee contributions to the public
13 employees retirement system nor is the employee's employer required to
14 make any further contributions on behalf of that employee.

15 2. Each member must be assessed and required to pay monthly four percent
16 of the monthly salary or wage paid to the member, and such assessment
17 must be deducted and retained out of such salary in equal monthly
18 installments commencing with the first month of employment. Member
19 contributions increase by one percent of the monthly salary or wage paid
20 to the member beginning with the monthly reporting period of January
21 2012, and ~~with an additional~~ increase of annually by one percent,
22 beginning with the monthly reporting period of January 2013, January
23 2014, and January 2015.

24 3. Each employer, at its option, may pay all or a portion of the employee
25 contributions required by subsection 2 and sections 54-52-06.1,
26 54-52-06.2, 54-52-06.3, and 54-52-06.4 or the employee contributions
27 required to purchase service credit on a pretax basis pursuant to

1 subsection 5 of section 54-52-17.4. Employees may not receive the
2 contributed amounts directly once the employer has elected to pay the
3 employee contributions. The amount paid must be paid by the employer in
4 lieu of contributions by the employee. If the state determines not to pay
5 the contributions, the amount that would have been paid must continue to
6 be deducted from the employee's compensation. If contributions are paid
7 by the employer, they must be treated as employer contributions in
8 determining tax treatment under this code and the federal Internal
9 Revenue Code. If contributions are paid by the employer, they may not be
10 included as gross income of the employee in determining tax treatment
11 under this code and the Internal Revenue Code until they are distributed
12 or made available. The employer shall pay these employee contributions
13 from the same source of funds used in paying compensation to the
14 employee or from the levy authorized by subsection 5 of section
15 57-15-28.1. The employer shall pay these contributions by effecting an
16 equal cash reduction in the gross salary of the employee or by an offset
17 against future salary increases or by a contribution of a reduction in gross
18 salary and offset against future salary increases. If employee contributions
19 are paid by the employer, they must be treated for the purposes of this
20 chapter in the same manner and to the same extent as employee
21 contributions made prior to the date on which employee contributions were
22 assumed by the employer. An employer exercising its option under this
23 subsection shall report its choice to the board in writing.

24 4. For compensation earned after August 1, 2009, all employee contributions
25 required under section 54-52-06.1 and the job service North Dakota
26 retirement plan, and not otherwise paid under subsection 3, must be paid
27 by the employer in lieu of contributions by the member. All contributions

1 paid by the employer under this subsection must be treated as employer
2 contributions in determining tax treatment under this code and the Internal
3 Revenue Code. Contributions paid by the employer under this subsection
4 may not be included as gross income of the member in determining tax
5 treatment under this code and the Internal Revenue Code until the
6 contributions are distributed or made available. Contributions paid by the
7 employer in accordance with this subsection must be treated for the
8 purposes of this chapter in the same manner and to the same extent as
9 member contributions made before the date the contributions were
10 assumed by the employer. The employer shall pay these member
11 contributions from the same source of funds used in paying compensation
12 to the employee. The employer shall pay these contributions by effecting
13 an equal cash reduction in the gross salary of the employee. The
14 employer shall continue making payments under this section unless
15 otherwise specifically provided for under the agency's biennial
16 appropriation or by amendment to law.

17 **SECTION 5. AMENDMENT.** Section 54-52-06 of the North Dakota Century
18 Code is amended and reenacted as follows:

19 **54-52-06. Employer's contribution to retirement plan.**

20 Each governmental unit shall contribute an amount equal to four and
21 twelve-hundredths percent of the monthly salary or wage of a participating member.
22 Governmental unit contributions increase by one percent of the monthly salary or wage
23 of a participating member beginning with the monthly reporting period of January 2012,
24 and ~~with an additional increase of~~ annually by one percent, ~~beginning~~ with the reporting
25 period of January 2013, January 2014, and January 2015. For those members who
26 elect to exercise their rights under section 54-52-17.14, the employing governmental
27 unit, or in the case of a member not presently under covered employment the most

1 recent employing governmental unit, shall pay the associated employer contribution. If
2 the employee's contribution is paid by the governmental unit under subsection 3 of
3 section 54-52-05, the employer unit shall contribute, in addition, an amount equal to the
4 required employee's contribution. Each governmental unit shall pay the contribution
5 monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump
6 sum, into the retirement fund from its funds appropriated for payroll and salary or any
7 other funds available for these purposes. Any governmental unit failing to pay the
8 contributions monthly, or in the case of an election made pursuant to section
9 54-52-17.14 a lump sum, is subject to a civil penalty of fifty dollars and, as interest, one
10 percent of the amount due for each month of delay or fraction thereof after the payment
11 became due. In lieu of assessing a civil penalty or one percent per month, or both,
12 interest at the actuarial rate of return may be assessed for each month the contributions
13 are delinquent. If contributions are paid within ninety days of the date they became due,
14 penalty and interest to be paid on delinquent contributions may be waived. An employer
15 is required to submit contributions for any past eligible employee who was employed
16 after July 1, 1977, for which contributions were not made if the employee would have
17 been eligible to become vested had the employee participated and if the employee
18 elects to join the public employees retirement system. Employer contributions may not
19 be assessed for eligible service that an employee has waived pursuant to subsection 1
20 of section 54-52-05. The board shall report to each session of the legislative assembly
21 the contributions necessary, as determined by the actuarial study, to maintain the fund's
22 actuarial soundness.

23 **SECTION 6. AMENDMENT.** Section 54-52-06.1 of the North Dakota Century
24 Code is amended and reenacted as follows:

25 **54-52-06.1. Contribution by supreme and district court judges - Employer**
26 **contribution.**

1 Each judge of the supreme or district court who is a member of the public
2 employees retirement system must be assessed and required to pay monthly five
3 percent of the judge's monthly salary. Member contributions increase by one percent of
4 the judge's monthly salary beginning with the monthly reporting period of January 2012,
5 and ~~with an additional~~ increase of annually by one percent, beginning with the monthly
6 reporting period of January 2013, January 2014, and January 2015. The assessment
7 must be deducted and retained out of the judge's salary in equal monthly installments.
8 The state shall contribute an amount equal to fourteen and fifty-two one-hundredths
9 percent of the monthly salary of a supreme or district court judge who is a participating
10 member of the system, which matching contribution must be paid from its funds
11 appropriated for salary, or from any other funds available for such purposes. State
12 contributions increase by one percent of the monthly salary of a supreme or district
13 court judge who is a participating member of the system beginning with the monthly
14 reporting period of January 2012, and ~~with an additional~~ increase of annually by one
15 percent, ~~beginning~~ with the monthly reporting period of January 2013, January 2014,
16 and January 2015. If the judge's contribution is paid by the state under subsection 3 of
17 section 54-52-05, the state shall contribute, in addition, an amount equal to the required
18 judge's contribution.

19 **SECTION 7. AMENDMENT.** Section 54-52-06.3 of the North Dakota Century
20 Code is amended and reenacted as follows:

21 **54-52-06.3. Contribution by peace officers and correctional officers**
22 **employed by political subdivisions - Employer contribution.**

23 Each peace officer or correctional officer employed by a political subdivision that
24 enters into an agreement with the retirement board on behalf of its peace officers and
25 correctional officers separately from its other employees and who is a member of the
26 public employees retirement system is assessed and shall pay monthly four percent of
27 the employee's monthly salary. Peace officer or correctional officer contributions

1 increase by one-half of one percent of the member's monthly salary beginning with the
2 monthly reporting period of January 2012, and ~~with an additional~~ increase of annually by
3 one-half of one percent, ~~beginning~~ with the monthly reporting period of January 2013,
4 January 2014, and January 2015. The assessment must be deducted and retained out
5 of the employee's salary in equal monthly installments. The peace officer's or
6 correctional officer's employer shall contribute an amount determined by the board to be
7 actuarially required to support the level of benefits specified in section 54-52-17. If the
8 peace officer's or correctional officer's assessment is paid by the employer under
9 subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount
10 equal to the required peace officer's or correctional officer's assessment.

11 **SECTION 8. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century
12 Code is amended and reenacted as follows:

13 **54-52-06.4. Contribution by peace officers employed by the bureau of**
14 **criminal investigation - Employer contribution.**

15 Each peace officer employed by the bureau of criminal investigation who is a
16 member of the public employees retirement system is assessed and shall pay monthly
17 four percent of the employee's monthly salary. Peace officer contributions increase by
18 one percent of the member's monthly salary beginning with the monthly reporting period
19 of January 2012, and ~~with an additional~~ increase of annually by one percent, ~~beginning~~
20 with the reporting period of January 2013, January 2014, and January 2015. The
21 assessment must be deducted and retained out of the employee's salary in equal
22 monthly installments. The peace officer's employer shall contribute an amount
23 determined by the board to be actuarially required to support the level of benefits
24 specified in section 54-52-17. The employer's contribution must be paid from funds
25 appropriated for salary or from any other funds available for such purposes. If the peace
26 officer's assessment is paid by the employer under subsection 3 of section 54-52-05,

1 the employer shall contribute, in addition, an amount equal to the required peace
2 officer's assessment.

3 **SECTION 9. AMENDMENT.** Subsection 6 of section 54-52.6-02 of the North
4 Dakota Century Code is amended and reenacted as follows:

5 6. A participating member who becomes a temporary employee may still
6 participate in the defined contribution retirement plan upon filing an
7 election with the board within one hundred eighty days of transferring to
8 temporary employee status. The participating member may not become a
9 member of the defined benefit plan as a temporary employee. The
10 temporary employee electing to participate in the defined contribution
11 retirement plan shall pay monthly to the fund an amount equal to eight and
12 twelve-hundredths percent times the temporary employee's present
13 monthly salary. The amount required to be paid by a temporary employee
14 increases by two percent times the temporary employee's present monthly
15 salary beginning with the monthly reporting period of January 2012, and
16 ~~with an additional increase of~~ increases annually by two percent,
17 ~~beginning with the~~ monthly reporting period of January 2013, January
18 2014, and January 2015. The temporary employee shall also pay the
19 required monthly contribution to the retiree health benefit fund established
20 under section 54-52.1-03.2. This contribution must be recorded as a
21 member contribution pursuant to section 54-52.1-03.2. An employer may
22 not pay the temporary employee's contributions. A temporary employee
23 may continue to participate as a temporary employee until termination of
24 employment or reclassification of the temporary employee as a permanent
25 employee.

26 **SECTION 10. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century
27 Code is amended and reenacted as follows:

1 **54-52.6-09. Contributions - Penalty.**

- 2 1. Each participating member shall contribute monthly four percent of the
3 monthly salary or wage paid to the participant, and this assessment must
4 be deducted from the participant's salary in equal monthly installments
5 commencing with the first month of participation in the defined contribution
6 retirement plan established under this chapter. Participating member
7 contributions increase by one percent of the monthly salary or wage paid
8 to the participant beginning with the monthly reporting period of January
9 2012, and ~~with an additional~~ increase of annually by one percent,
10 ~~beginning~~ with the reporting period of January 2013, January 2014, and
11 January 2015.
- 12 2. The employer shall contribute an amount equal to four and
13 twelve-hundredths percent of the monthly salary or wage of a participating
14 member. Employer contributions increase by one percent of the monthly
15 salary or wage of a participating member beginning with the monthly
16 reporting period of January 2012, and ~~with an additional~~ increase of
17 annually by one percent, ~~beginning~~ with the monthly reporting period of
18 January 2013, January 2014, and January 2015. If the employee's
19 contribution is paid by the employer under subsection 3, the employer
20 shall contribute, in addition, an amount equal to the required employee's
21 contribution. The employer shall pay monthly such contribution into the
22 participating member's account from its funds appropriated for payroll and
23 salary or any other funds available for such purposes. If the employer fails
24 to pay the contributions monthly, it is subject to a civil penalty of fifty
25 dollars and, as interest, one percent of the amount due for each month of
26 delay or fraction thereof after the payment became due.

1 3. Each employer, at its option, may pay the employee contributions required
2 by this section for all compensation earned after December 31, 1999. The
3 amount paid must be paid by the employer in lieu of contributions by the
4 employee. If the employer decides not to pay the contributions, the
5 amount that would have been paid will continue to be deducted from the
6 employee's compensation. If contributions are paid by the employer, they
7 must be treated as employer contributions in determining tax treatment
8 under this code and the federal Internal Revenue Code. Contributions paid
9 by the employer may not be included as gross income of the employee in
10 determining tax treatment under this code and the federal Internal
11 Revenue Code until they are distributed or made available. The employer
12 shall pay these employee contributions from the same source of funds
13 used in paying compensation to the employee. The employer shall pay
14 these contributions by effecting an equal cash reduction in the gross
15 salary of the employee or by an offset against future salary increases or
16 by a combination of a reduction in gross salary and offset against future
17 salary increases. Employee contributions paid by the employer must be
18 treated for the purposes of this chapter in the same manner and to the
19 same extent as employee contributions made before the date on which
20 employee contributions were assumed by the employer. An employer shall
21 exercise its option under this subsection by reporting its choice to the board in
22 writing.

Introduced by

1 A BILL for an Act to amend and reenact sections 54-52.1-02, 54-52.1-03.2, and
2 54-52.1-03.3 of the North Dakota Century Code, relating to benefit coverage and health
3 benefits credit for retired employees not eligible for medicare and retired employees
4 eligible for medicare, and to provide a contingent effective date.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 54-52.1-02 of the North Dakota Century
7 Code is amended and reenacted as follows:

8 **54-52.1-02. Uniform group insurance program created - Formation into**
9 **subgroups.**

10 In order to promote the economy and efficiency of employment in the state's
11 service, reduce personnel turnover, and offer an incentive to high-grade individuals to
12 enter and remain in the service of state employment, there is created a uniform group
13 insurance program. The uniform group must be composed of eligible and retired
14 employees and be formed to provide hospital benefits coverage, medical benefits
15 coverage, and life insurance benefits coverage in the manner set forth in this chapter.
16 The uniform group may be divided into the following subgroups at the discretion of the
17 board:

- 18 1. Medical and hospital benefits coverage group consisting of active eligible
19 employees and retired employees not eligible for medicare, except for
20 employees who first retire and are not yet eligible for medicare after the
21 effective date of this Act. In determining premiums for coverage under this
22 subsection for retired employees not eligible for medicare, the rate for a
23 non-medicare retiree single plan is one hundred fifty percent of the active

- 1 member single plan rate, the rate for a non-medicare retiree family plan of
2 two people is twice the non-medicare retiree single plan rate, and the rate
3 for a non-medicare retiree family plan of three or more persons is two and
4 one-half times the non-medicare retiree single plan rate.
- 5 2. In addition to the coverage provided in subsection 1, another coverage
6 option may be provided for retired employees not eligible for medicare,
7 except for employees who first retire and are not yet eligible for medicare
8 after the effective date of this Act, provided the option does not increase
9 the implicit subsidy as determined by the governmental accounting
10 standards board's other postemployment benefit reporting procedure. In
11 offering this additional option, the board may have an open enrollment but
12 thereafter enrollment for this option must be as specified in section
13 54-52.1-03.
- 14 3. Retired medicare-eligible employee group medical and hospital benefits
15 coverage.
- 16 4. Active eligible employee life insurance benefits coverage.
- 17 5. Retired employee life insurance benefits coverage.
- 18 6. Terminated employee continuation group medical and hospital benefits
19 coverage.
- 20 7. Terminated employee conversion group medical and hospital benefits
21 coverage.
- 22 8. Dental benefits coverage.
- 23 9. Vision benefits coverage.
- 24 10. Long-term care benefits coverage.
- 25 11. Employee assistance benefits coverage.
- 26 12. Prescription drug coverage.

1 **SECTION 2. AMENDMENT.** Section 54-52.1-03.2 of the North Dakota Century
2 Code is amended and reenacted as follows:

3 **54-52.1-03.2. Retiree health benefits fund - Appropriation.**

4 1. The board shall establish a retiree health benefits fund account with the
5 Bank of North Dakota for the purpose of prefunding and providing hospital
6 benefits coverage and medical benefits coverage and prescription drug
7 coverage under any health insurance program and dental, vision, and
8 long-term care benefits coverage under the uniform group insurance
9 program for retired eligible employees or surviving spouses of retired
10 eligible employees and their dependents as provided in this chapter. The
11 state shall contribute monthly to the retiree health benefits fund an amount
12 equal to one and fourteen hundredths percent of the monthly salaries and
13 wages of all participating members of the highway patrolmen's retirement
14 system under chapter 39-03.1, and one and fourteen hundredths percent
15 of the monthly salaries of all supreme or district court judges who are
16 participating members of the public employees retirement system under
17 chapter 54-52. Each governmental unit that contributes to the public
18 employees retirement system fund under section 54-52-06 or the
19 retirement plan under chapter 54-52.6 shall contribute monthly to the
20 retiree health benefits fund an amount equal to one and fourteen
21 hundredths percent of the monthly salaries or wages of all participating
22 members of the public employees retirement system under chapter 54-52
23 or chapter 54-52.6, except for nonteaching employees of the
24 superintendent of public instruction who elect to participate in the public
25 employees retirement system pursuant to section 54-52-02.13 and
26 employees of the state board for career and technical education who elect
27 to participate in the public employees retirement system pursuant to

1 section 54-52-02.14. For nonteaching employees of the superintendent of
2 public instruction who elect to participate in the public employees
3 retirement system pursuant to section 54-52-02.13, the superintendent of
4 public instruction shall contribute monthly to the retiree health benefits
5 fund an amount equal to three and twenty-four hundredths percent of the
6 monthly salaries or wages of those nonteaching employee members,
7 beginning on the first of the month following the transfer under section
8 54-52-02.13 and continuing thereafter for a period of eight years, after
9 which time the superintendent of public instruction shall contribute one
10 and fourteen hundredths percent of the monthly salary or wages of those
11 nonteaching employee members. For employees of the state board for
12 career and technical education who elect to participate in the public
13 employees retirement system pursuant to section 54-52-02.14, the state
14 board for career and technical education shall contribute monthly to the
15 retiree health benefits fund an amount equal to two and ninety-nine
16 hundredths percent of the monthly salary or wages of those employee
17 members, beginning on the first of the month following the transfer under
18 section 54-52-02.14 and continuing thereafter for a period of eight years,
19 after which time the state board for career and technical education shall
20 contribute one and fourteen hundredths percent of the monthly salary or
21 wages of those employee members. The employer of a national guard
22 security officer or firefighter shall contribute monthly to the retiree health
23 benefits fund an amount equal to one and fourteen hundredths percent of
24 the monthly salaries or wages of all national guard security officers or
25 firefighters participating in the public employees retirement system under
26 chapter 54-52. Job service North Dakota shall reimburse monthly the
27 retiree health benefits fund for credit received under section 54-52.1-03.3

1 by members of the retirement program established by job service North
2 Dakota under section 52-11-01. The board, as trustee of the fund and in
3 exclusive control of its administration, shall:

4 a. Provide for the investment and disbursement of moneys of the
5 retiree health benefits fund and administrative expenditures in the
6 same manner as moneys of the public employees retirement
7 system are invested, disbursed, or expended.

8 b. Adopt rules necessary for the proper administration of the retiree
9 health benefits fund, including enrollment procedures.

10 2. All moneys deposited in the fund established under subsection 1, not
11 otherwise appropriated, are hereby appropriated to the board for the
12 purpose of making investments for the fund and to make contributions
13 toward hospital and medical benefits coverage and prescription drug
14 coverage under any health insurance program and dental, vision, and
15 long-term care benefits coverage under the uniform group insurance
16 program for eligible retired employees or surviving spouses of eligible
17 retired employees and their dependents ~~under the uniform group~~
18 ~~insurance program~~ as elected.

19 3. If a member terminates employment because of death, permanent and
20 total disability, or any voluntary or involuntary reason prior to retirement,
21 the member or the member's designated beneficiary is entitled to the
22 member's account balance at termination. If a member's account balance
23 is withdrawn, the member relinquishes all rights to benefits under the
24 retiree health benefits fund.

25 **SECTION 3. AMENDMENT.** Section 54-52.1-03.3 of the North Dakota Century
26 Code is amended and reenacted as follows:

1 **54-52.1-03.3. Eligibility for retiree health benefits - Fixed contribution and**
2 **reduction factors.**

3 1. The following persons are entitled to receive credit for hospital and
4 medical benefits coverage and prescription drug coverage under any
5 health insurance program and dental, vision, and long-term care benefits
6 coverage under the uniform group insurance program under subsection 2:

7 a. A member or surviving spouse of the highway patrolmen's
8 retirement system is eligible for the credit beginning on the date
9 retirement benefits are effective unless the premium is billed to the
10 employer.

11 b. A member or surviving spouse of the public employees retirement
12 system is eligible for the credit beginning on the date retirement
13 benefits are effective unless the premium is billed to the employer.

14 c. A member or surviving spouse of the retirement program
15 established by job service North Dakota under section 52-11-01
16 receiving retirement benefits is eligible for the credit beginning on
17 the date retirement benefits are effective unless the premium is
18 billed to the employer.

19 d. A retired judge or surviving spouse receiving retirement benefits
20 under the retirement program established under chapter 27-17 is
21 eligible for the credit beginning on the date retirement benefits are
22 effective unless the premium is billed to the employer.

23 e. A former participating member of the defined contribution
24 retirement plan receiving retirement benefits, or the surviving
25 spouse of a former participating member of that retirement plan
26 who was eligible to receive or was receiving benefits, under section

1 54-52.6-13, is eligible as determined by the board pursuant to its
2 rules.

3 2. The board shall calculate the allowable monthly credit toward hospital and
4 medical benefits coverage and prescription drug coverage under any
5 health insurance program and dental, vision, and long-term care benefits
6 coverage under the uniform group insurance program for a person eligible
7 under subsection 1 in an amount equal to five dollars multiplied by the
8 member's or deceased member's number of years of credited service
9 under the highway patrolmen's retirement system, the public employees
10 retirement system, the retirement program established by job service
11 North Dakota under section 52-11-01, or the judges' retirement program
12 established under chapter 27-17. For a member of the public employees
13 retirement system receiving an early retirement benefit or the surviving
14 spouse of that member, or a former participating member of the defined
15 contribution retirement plan who is receiving a periodic distribution and
16 would not meet the normal retirement provisions of the public employees
17 retirement system, the allowable monthly credit must be reduced by three
18 percent if the member terminates employment within one year prior to
19 attaining the age of sixty-five and an additional reduction factor of six
20 percent shall apply for each year the member terminates employment
21 prior to attaining the age of sixty-four. For a member of the highway
22 patrolmen's retirement system receiving an early retirement benefit or the
23 surviving spouse of that member, the allowable monthly credit must be
24 reduced by three percent if the member terminates employment within one
25 year prior to attaining the age of fifty-five and an additional reduction factor
26 of six percent shall apply for each year the member terminates
27 employment prior to attaining the age of fifty-four. For a member of the

1 retirement program established by job service North Dakota under section
2 52-11-01 receiving an early retirement benefit or a discontinued service
3 annuity under the plan provisions of that retirement program or the
4 surviving spouse of that member, the allowable monthly credit must be
5 reduced by three percent if the member terminates employment within one
6 year prior to attaining the age of sixty-five and an additional reduction
7 factor of six percent applies for each year the member terminates
8 employment prior to attaining the age of sixty-four.

9 3. The board shall apply the credit allowable under subsection 2 as elected
10 by the eligible participant to the payment of monthly premiums required of
11 each person eligible under subsection 1 for hospital benefits coverage and
12 medical benefits coverage and prescription drug coverage under any
13 health insurance program and dental, vision, and long-term care benefits
14 coverage under the uniform group insurance program. The board shall
15 allow spouses who each have credit under subsection 2 to combine their
16 credits and shall apply the combined credit to the required monthly
17 premiums ~~under the uniform group insurance program~~ as elected pursuant
18 to this subsection. However, if the allowable credit under any
19 circumstance exceeds the monthly premium in effect for selected
20 coverage, that amount of the credit which exceeds the premium is
21 forfeited and may not be used for any other purpose.

22 4. The board may, as an alternative to the calculation of the allowable
23 monthly credit under subsection 2, provide actuarially reduced benefit
24 options for the member and the member's surviving spouse including a
25 one hundred percent joint and survivor option, or a fifty percent joint and
26 survivor option, ~~or a five-year or ten-year certain option.~~

1 **SECTION 4. CONTINGENT EFFECTIVE DATE.** This Act becomes effective on
2 January 1, 2014, the effective date for the implementation of state health care
3 exchanges as specified under section 1321 of the Patient Protection and Affordable
4 Care Act of 2010 [P.L. 111-148] in effect on March 23, 2010, as modified by the Health
5 Care and Education Reconciliation Act of 2010 [P.L. 111-152] in effect on March 30,
6 2010, or no later than the first day of the fourth month after a date subsequently
7 designated by the United States Department of Health and Human Services for the
8 implementation of state health care exchanges.

Introduced by

1 A BILL for an Act to create and enact a new section to chapter 54-52.6 of the North
2 Dakota Century Code, relating to plan modifications needed to maintain compliance
3 with the Internal Revenue Code; to amend and reenact sections 39-03.1-11.2,
4 39-03.1-29, subsection 11 of section 54-52-04, sections 54-52-17, 54-52-23, 54-52-28,
5 54-52.6-13 of the North Dakota Century Code, relating to incorporation of Internal
6 Revenue Code compliance under the highway patrolmen's retirement plan and public
7 employees retirement system, updating appropriate committee designations for the
8 savings clauses under the highway patrolmen's retirement plan and public employees
9 retirement system, the board's authority to fund the administrative expenses of chapter
10 54-52.2, the normal retirement dates for a peace officer or correctional officer, a national
11 guard security officer or firefighter, and a peace officer employed by the bureau of
12 criminal investigation, removal of the level social security retirement benefit option under
13 the public employees retirement system, distribution of a deceased participant's
14 accumulated account balance under the defined contribution retirement plan.

15 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

16 **SECTION 1. AMENDMENT.** Section 39-03.1-11.2 of the North Dakota Century
17 Code is amended and reenacted as follows:

18 **39-03.1-11.2. Internal Revenue Code compliance.**

19 The board shall administer the plan in compliance with the following sections of
20 the Internal Revenue Code in effect on August 1, ~~2014~~ 2013, as it applies for
21 governmental plans.

22 1. Section 415, including the defined benefit dollar limitation under section
23 415(b)(1)(A) of the Internal Revenue Code.

- 1 a. The defined benefit dollar limitation under section 415(b)(1)(A) of
2 the Internal Revenue Code, as approved by the legislative
3 assembly, must be adjusted under section 415(d) of the Internal
4 Revenue Code, effective January first of each year following a
5 regular legislative session. The adjustment of the defined benefit
6 dollar limitation under section 415(d) applies to participating
7 members who have had a separation from employment, but that
8 member's benefit payments may not reflect the adjusted limit prior
9 to January first of the calendar year in which the adjustment
10 applies.
- 11 b. If a participating member's benefit is increased by plan amendment
12 after the commencement of benefit payments, the member's annual
13 benefit may not exceed the defined benefit dollar limitation under
14 section 415(b)(1)(A) of the Internal Revenue Code, as adjusted
15 under section 415(d) for the calendar year in which the increased
16 benefit is payable.
- 17 c. If a participating member is, or ever has been, a participant in
18 another defined benefit plan maintained by the employer, the sum
19 of the participant's annual benefits from all the plans may not
20 exceed the defined benefit dollar limitation under section
21 415(b)(1)(A) of the Internal Revenue Code. If the participating
22 member's employer-provided benefits under all such defined
23 benefit plans would exceed the defined benefit dollar limitation, the
24 benefit must be reduced to comply with section 415 of the Internal
25 Revenue Code. This reduction must be made pro rata between the
26 plans, in proportion to the participating member's service in each
27 plan.

- 1 2. The minimum distribution rules under section 401(a)(9) of the Internal
2 Revenue Code, including the incidental death benefit requirements under
3 section 401(a)(9)(G), and the regulations issued under that provision to
4 the extent applicable to governmental plans. Accordingly, benefits must be
5 distributed or begin to be distributed no later than a member's required
6 beginning date, and the required minimum distribution rules override any
7 inconsistent provision of this chapter. A member's required beginning date
8 is April first of the calendar year following the later of the calendar year in
9 which the member attains age seventy and one-half or terminates
10 employment.
- 11 3. The annual compensation limitation under section 401(a)(17) of the
12 Internal Revenue Code, as adjusted for cost-of-living increases under
13 section 401(a)(17)(B).
- 14 4. The rollover rules under section 401(a)(31) of the Internal Revenue Code.
15 Accordingly, a distributee may elect to have an eligible rollover
16 distribution, as defined in section 402(c)(4) of the Internal Revenue Code,
17 paid in a direct rollover to an eligible retirement plan, as defined in section
18 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
- 19 5. If the plan of retirement benefits set forth in this chapter is terminated or
20 discontinued, the rights of all affected participating members to accrued
21 retirement benefits under this chapter as of the date of termination or
22 discontinuance is nonforfeitable, to the extent then funded.

23 **SECTION 2. AMENDMENT.** Section 39-03.1-29 of the North Dakota Century
24 Code is amended and reenacted as follows:

25 **39-03.1-29. Savings clause - Plan modifications.**

26 If the board determines that any section of this chapter does not comply with
27 applicable federal statutes or rules, the board shall adopt appropriate terminology with

1 respect to that section as will comply with those federal statutes or rules, subject to the
2 approval of the employee benefits programs committee ~~on public employees retirement~~
3 ~~programs~~. Any plan modifications made by the board pursuant to this section are
4 effective until the effective date of any measure enacted by the legislative assembly
5 providing the necessary amendments to this chapter to ensure compliance with the
6 federal statutes or rules.

7 **SECTION 3. AMENDMENT.** Subsection 11 of section 54-52-04 of the North
8 Dakota Century Code is amended and reenacted as follows:

9 **54-52-04. Board authority.**

- 10 1. The board shall adopt rules necessary to implement this chapter, and to
11 manage the system, subject to the limitations of this chapter. The board
12 has the powers and privileges of a corporation, including the right to sue
13 and be sued in its own name as the board. The venue of all actions in
14 which the board is a party must be Burleigh County, North Dakota.
- 15 2. The board shall appoint an executive director to serve at its discretion.
16 The executive director shall perform such duties as assigned by the board.
- 17 3. The board shall authorize the creation of whatever staff it deems
18 necessary for sound and economical administration of the system. The
19 executive director shall hire the staff, subject to the approval of the board.
- 20 4. The board shall arrange for actuarial and medical advisers for the system.
21 The board shall cause a qualified, competent actuary to be retained on a
22 consulting basis. The actuary shall make an annual valuation of the
23 liabilities and reserves of the system and a determination of the
24 contributions required by the system to discharge its liabilities and pay the
25 administrative costs under this chapter, and to recommend to the board
26 rates of employer and employee contributions required, based upon the
27 entry age normal cost method, to maintain the system on an actuarial

- 1 reserve basis; once every five years make a general investigation of the
2 actuarial experience under the system including mortality, retirement,
3 employment turnover, and other items required by the board, and
4 recommend actuarial tables for use in valuations and in calculating
5 actuarial equivalent values based on such investigation; and perform other
6 duties as may be assigned by the board.
- 7 5. The state shall provide the board with the retirement systems office or
8 offices to be used for the meetings of the board and for the general
9 purposes of the administrative personnel.
- 10 6. The funds necessary for paying prior service and service benefits,
11 consultant fees, and making withdrawal payments and refunds are hereby
12 appropriated from the retirement fund for those purposes. The amount
13 necessary to pay the consulting fees and insurance benefits related to the
14 uniform group insurance program is hereby appropriated from the
15 insurance premiums received by the board.
- 16 7. The board shall administer chapters 39-03.1, 54-52.1, and 54-52.2, and
17 may administer other optional employee benefit programs, including a
18 flexible benefits plan, an optional employee short-term disability plan, a
19 long-term care plan, or other optional employee benefit programs as the
20 board deems appropriate. The board shall also administer the retirement
21 plan established in 1961 and frozen to new entrants in 1980 for
22 employees of job service North Dakota under chapter 52-11.
- 23 8. The board shall annually report the investment performance of the fund
24 and distribute a copy to each participant.
- 25 9. The board may distribute the employer contribution and applicable interest
26 for any employee of any development foundation associated with a public
27 institution of higher education in this state who may previously have been

- 1 included in the public employees retirement system while employed by
2 such foundation. Such employee is entitled to have that employee's
3 contribution and the contribution of the development foundation, with
4 interest.
- 5 10. The board may audit any books, papers, accounts, bills, vouchers, and
6 other documents or property of any and all departments, boards,
7 commissions, political subdivisions, financial institutions, contractors,
8 health care organizations, and consultants relating to their participation in
9 services provided to programs administered by the board.
- 10 11. The board shall fund the administrative expenses of chapter 54-52.2 from
11 funds collected under chapters 54-52, 54-52.1, and 54-52.3 and from fines
12 and fees collected from deferred compensation services providers
13 including any fees paid for by participant funds, subject to appropriation by
14 the legislative assembly.
- 15 12. Except as provided by section 54-52-17.7, the board may adjust service
16 and make any correction of member, retiree, or beneficiary records and
17 benefits after an error or inequity has been determined.
- 18 13. The board may use any amount credited to the separate uniform group
19 insurance program fund created by section 54-52.1-06 in excess of the
20 costs of administration of the uniform group insurance program to reduce
21 the amount of premium amounts paid monthly by enrolled members of the
22 uniform group insurance program, to reduce any increase in premium
23 amounts paid monthly by enrolled members, or to provide increased
24 insurance coverage to the members, as the board may determine.
- 25 14. The board may create and implement an Internal Revenue Code section
26 115 trust health care savings plan for all supreme and district court judges
27 participating in the public employees retirement system if seventy-five

1 percent of the total active participating supreme and district court judges
2 vote to approve the program. If approved, the contribution level specified
3 in the vote applies to all current and future participating supreme and
4 district court judges and must be paid pursuant to the plan document
5 developed by the board. The contribution level may only be changed by a
6 vote of seventy-five percent of the total active participating supreme and
7 district court judges at that time.

8 **SECTION 4. AMENDMENT.** Section 54-52-17 of the North Dakota Century
9 Code is amended and reenacted as follows:

10 **54-52-17. Formulation of plan.**

11 Participating members shall receive benefits according to this section and
12 according to rules adopted by the board, not inconsistent with this chapter. No person is
13 entitled to receive a prior service benefit if the person was not continuously employed by
14 a governmental unit in North Dakota for a period of not less than two years immediately
15 prior to eligibility for retirement.

16 1. Participating members shall receive credit for full-time employment or its
17 equivalent from the date they attain eligibility until their normal retirement
18 date, postponed retirement date, or early retirement date, as defined in
19 this section. Part-time employment will be recognized as full-time
20 employment on a prorated basis as the board may prescribe.

21 2. Retirement benefits are calculated from the participating member's final
22 average salary, which is the average of the highest salary received by the
23 member for any thirty-six months employed during the last one hundred
24 twenty months of employment. For members who terminate employment
25 on or after August 1, 2010, final average salary is the average of the
26 highest salary received by the member for any thirty-six months employed
27 during the last one hundred eighty months of employment. For members

1 who terminate employment between July 31, 2005, and August 1, 2010,
2 final average salary is the average of the highest salary received by the
3 member for any thirty-six months employed during the period for which the
4 board has appropriate and accurate salary records on its electronic
5 database, but that period may not be more than the last one hundred
6 eighty months of employment. Months not employed are excluded in
7 arriving at the thirty-six months to be used for the purpose of computing an
8 average. If the participating member has worked for less than thirty-six
9 months at the normal retirement date, the final average salary is the
10 average salary for the total months of employment.

11 3. Retirement dates are defined as follows:

12 a. Normal retirement date, except for a national guard security officer
13 or firefighter or a peace officer or correctional officer employed by
14 the bureau of criminal investigation or by a political subdivision, is:

15 (1) The first day of the month next following the month in which
16 the member attains the age of sixty-five years; or

17 (2) When the member has a combined total of years of service
18 credit and years of age equal to eighty-five and has not
19 received a retirement benefit under this chapter.

20 b. Normal retirement date for a national guard security officer or
21 firefighter is the first day of the month next following the month in
22 which the national guard security officer or firefighter attains the
23 age of fifty-five years and has completed at least three ~~consecutive~~
24 eligible years of employment as a national guard security officer or
25 firefighter ~~immediately preceding retirement~~.

26 c. Normal retirement date for a peace officer or correctional officer
27 employed by a political subdivision is:

- 1 (1) The first day of the month next following the month in which
2 the peace officer or correctional officer attains the age of
3 fifty-five years and has completed at least three ~~consecutive~~
4 eligible years of employment as a peace officer or
5 correctional officer; or
- 6 (2) When the peace officer or correctional officer has a
7 combined total of years of service credit and years of age
8 equal to eighty-five and has not received a retirement benefit
9 under this chapter.
- 10 d. Normal retirement date for a peace officer employed by the bureau
11 of criminal investigation is:
- 12 (1) The first day of the month next following the month in which
13 the peace officer attains the age of fifty-five years and has
14 completed at least three ~~consecutive~~eligible years of
15 employment as a peace officer ~~immediately preceding~~
16 ~~retirement~~; or
- 17 (2) When the peace officer has a combined total of years of
18 service credit and years of age equal to eighty-five and has
19 not received a retirement benefit under this chapter.
- 20 e. Postponed retirement date is the first day of the month next
21 following the month in which the member, on or after July 1, 1977,
22 actually severs or has severed the member's employment after
23 reaching the normal retirement date.
- 24 f. Early retirement date, except for a national guard security officer or
25 firefighter or a peace officer or correctional officer employed by the
26 bureau of criminal investigation or by a political subdivision, is the
27 first day of the month next following the month in which the member

1 attains the age of fifty-five years and has completed three years of
2 eligible employment. For a national guard security officer or
3 firefighter, early retirement date is the first day of the month next
4 following the month in which the national guard security officer or
5 firefighter attains the age of fifty years and has completed at least
6 three years of eligible employment. For a peace officer or
7 correctional officer employed by the bureau of criminal investigation
8 or by a political subdivision, early retirement date is the first day of
9 the month next following the month in which the peace officer or
10 correctional officer attains the age of fifty years and has completed
11 at least three years of eligible employment.

12 g. Disability retirement date is the first day of the month after a
13 member becomes permanently and totally disabled, according to
14 medical evidence called for under the rules of the board, and has
15 completed at least one hundred eighty days of eligible employment.
16 For supreme and district court judges, permanent and total
17 disability is based solely on a judge's inability to perform judicial
18 duties arising out of physical or mental impairment, as determined
19 pursuant to rules adopted by the board or as provided by
20 subdivision a of subsection 3 of section 27-23-03. A member is
21 eligible to receive disability retirement benefits only if the member:
22 (1) Became disabled during the period of eligible employment;
23 and
24 (2) Applies for disability retirement benefits within twelve months
25 of the date the member terminates employment.

26 A member is eligible to continue to receive disability benefits as
27 long as the permanent and total disability continues and the

1 member submits the necessary documentation and undergoes
2 medical testing required by the board, or for as long as the member
3 participates in a rehabilitation program required by the board, or
4 both. If the board determines that a member no longer meets the
5 eligibility definition, the board may discontinue the disability
6 retirement benefit. The board may pay the cost of any medical
7 testing or rehabilitation services it deems necessary and these
8 payments are appropriated from the retirement fund for those
9 purposes.

10 4. The board shall calculate retirement benefits as follows:

11 a. Normal retirement benefits for all retirees, except supreme and
12 district court judges, reaching normal retirement date equal an
13 annual amount, payable monthly, comprised of a service benefit
14 and a prior service benefit, as defined in this chapter, which is
15 determined as follows:

16 (1) Service benefit equals two percent of final average salary
17 multiplied by the number of years of service employment.

18 (2) Prior service benefit equals two percent of final average
19 salary multiplied by the number of years of prior service
20 employment.

21 b. Normal retirement benefits for all supreme and district court judges
22 under the public employees retirement system reaching normal
23 retirement date equal an annual amount, payable monthly,
24 comprised of a benefit as defined in this chapter, determined as
25 follows:

26 (1) Benefits must be calculated from the time of appointment or
27 election to the bench and must equal three and one-half

1 percent of final average salary multiplied by the first ten
2 years of judicial service, two and eighty hundredths percent
3 of final average salary multiplied by the second ten years of
4 judicial service, and one and one-fourth percent of final
5 average salary multiplied by the number of years of judicial
6 service exceeding twenty years.

7 (2) Service benefits must include, in addition, an amount equal
8 to the percent specified in subdivision a of final average
9 salary multiplied by the number of years of nonjudicial
10 employee service and employment.

11 c. Postponed retirement benefits are calculated as for single life
12 benefits for those members who retired on or after July 1, 1977.

13 d. Early retirement benefits are calculated as for single life benefits
14 accrued to the date of termination of employment, but must be
15 actuarially reduced to account for benefit payments beginning prior
16 to the normal retirement date, which is the earlier of age sixty-five
17 or the age at which current service plus age equals eighty-five. A
18 retiree, other than a supreme or district court judge, is eligible for
19 early retirement benefits only after having completed three years of
20 eligible employment. A supreme or district court judge retiree is
21 eligible for early retirement benefits only after having completed five
22 years of eligible employment.

23 e. Except for supreme and district court judges, disability retirement
24 benefits are twenty-five percent of the member's final average
25 salary. Disability retirement benefits for supreme and district court
26 judges are seventy percent of final average salary reduced by the
27 member's primary social security benefits and by any workforce

1 safety and insurance benefits paid. The minimum monthly disability
2 retirement benefit under this section is one hundred dollars.

3 5. Upon termination of employment after completing three years of eligible
4 employment, except for supreme and district court judges, who must
5 complete five years of eligible employment, but before normal retirement
6 date, a member who does not elect to receive early retirement benefits is
7 eligible to receive deferred vested retirement benefits payable
8 commencing on the member's normal retirement date in one of the
9 optional forms provided in subsection 9. Members who have delayed or
10 inadvertently failed to apply for retirement benefits to commence on their
11 normal retirement date may choose to receive either a lump sum payment
12 equal to the amount of missed payments, or an actuarial increase to the
13 form of benefit the member has selected, which increase must reflect the
14 missed payments.

15 6. If before retiring a member dies after completing three years of eligible
16 employment, except for supreme and district court judges, who must have
17 completed five years of eligible employment, the board shall pay the
18 member's account balance to the member's designated beneficiary as
19 provided in this subsection. If the member has designated an alternate
20 beneficiary with the surviving spouse's written consent, the board shall pay
21 the member's account balance to the named beneficiary. If the member
22 has named more than one primary beneficiary, the board shall pay the
23 member's account balance to the named primary beneficiaries in the
24 percentages designated by the member or, if the member has not
25 designated a percentage for the beneficiaries, in equal percentages. If one
26 or more of the primary beneficiaries has predeceased the member, the
27 board shall pay the predeceased beneficiary's share to the remaining

1 primary beneficiaries. If any beneficiary survives the member, yet dies
2 before distribution of the beneficiary's share, the beneficiary must be
3 treated as if the beneficiary predeceased the member. If there are no
4 remaining primary beneficiaries, the board shall pay the member's account
5 balance to the contingent beneficiaries in the same manner. If there are no
6 remaining designated beneficiaries, the board shall pay the member's
7 account balance to the member's estate. If the member has not
8 designated an alternate beneficiary or the surviving spouse is the
9 beneficiary, the surviving spouse of the member may select a form of
10 payment as follows:

11 a. If the member was a supreme or district court judge, the surviving
12 spouse may select one of the following optional forms of payment:

13 (1) A lump sum payment of the member's retirement account as
14 of the date of death.

15 (2) Payments as calculated for the deceased member as if the
16 member was of normal retirement age at the date of death,
17 payable until the spouse dies.

18 b. The surviving spouse of all other members may select one of the
19 following options:

20 (1) A lump sum payment of the member's retirement account as
21 of the date of death.

22 (2) Payment of a monthly retirement benefit equal to fifty
23 percent of the deceased member's accrued single life
24 retirement benefits until the spouse dies.

25 (3) If the member dies on or after the member's normal
26 retirement date, the payment of a monthly retirement benefit
27 equal to an amount that would have been paid to the

1 surviving spouse if the member had retired on the day of the
2 member's death and had selected a one hundred percent
3 joint and survivor annuity, payable until the spouse dies. A
4 surviving spouse who received a benefit under this
5 subsection as of July 31, 1995, is entitled to the higher of
6 that person's existing benefit or the equivalent of the accrued
7 benefit available under the one hundred percent joint and
8 survivor provision as if the deceased member were of
9 normal retirement age, with the increase payable beginning
10 August 1, 1995.

11 7. If a member not coming under the provisions of subsection 6 terminates
12 employment because of death, permanent and total disability, or any
13 voluntary or involuntary reason prior to retirement, the member or the
14 member's designated beneficiary is entitled to the member's account
15 balance at termination. The board automatically shall refund a member's
16 account balance if the member has completed less than three years of
17 eligible employment, has an account balance of less than one thousand
18 dollars, and was not a supreme or district court judge. If the member was
19 a supreme or district court judge, the board automatically shall refund a
20 member's account balance if the member completed less than five years
21 of eligible employment. A member may waive the refund if the member
22 submits a written statement to the board, within thirty days after
23 termination, requesting that the member's account balance remain in the
24 fund.

25 8. The surviving spouse of a member receiving retirement benefits must be
26 the member's primary beneficiary unless there is no surviving spouse or
27 the surviving spouse designates an alternate beneficiary in writing. If a

1 member receiving retirement benefits or the member's surviving spouse
2 receiving retirement benefits dies before the total amount of benefits paid
3 to either or both equals the amount of the member's account balance at
4 retirement, the difference must be paid to the named beneficiary of the
5 recipient or, if there is no named beneficiary, to the recipient's estate.

6 9. The board shall adopt rules providing for the receipt of retirement benefits
7 in the following optional forms:

8 a. Single life.

9 b. An actuarially equivalent joint and survivor option, with fifty percent
10 or one hundred percent options.

11 ~~c. An actuarially equivalent level social security option, which is~~
12 ~~available only to members who retire prior to attaining the age at~~
13 ~~which they may begin to receive unreduced social security benefits.~~

14 ~~d.~~ Actuarially equivalent life with ten-year or twenty-year certain
15 options.

16 ~~e.~~ d. An actuarially equivalent partial lump sum distribution option with a
17 twelve-month maximum lump sum distribution.

18 ~~f.~~ e. An actuarially equivalent graduated benefit option with either a one
19 percent or two percent increase to be applied the first day of
20 January of each year.

21 Except for supreme and district court judges, unless a member specifically
22 requests that the member receive benefits according to one of these
23 options at the time of applying for retirement, all retirement benefits must
24 be in the form of a single life benefit. For supreme and district court
25 judges, unless a member specifically requests that the member receive
26 benefits according to one of these options at the time of applying for
27 retirement, all retirement benefits must be in the form of a lifetime monthly

1 pension with fifty percent of the benefit continuing for the life of the
2 surviving spouse, if any.

3 10. The fund may accept rollovers from other eligible plans under rules
4 adopted by the board for the purchase of additional service credit, but only
5 to the extent the transfer is a rollover contribution that meets the
6 requirement of section 408 of the Internal Revenue Code.

7 11. The board may accept trustee-to-trustee transfers as permitted by Internal
8 Revenue Code section 403(b)(13) and section 457(e)(17) from an Internal
9 Revenue Code section 403(b) annuity or Internal Revenue Code section
10 457 deferred compensation plan for the purchase of permissive service
11 credit, as defined in Internal Revenue Code section 415(n)(3)(A) or as
12 repayment of a cashout from a governmental plan under Internal Revenue
13 Code section 415(k)(3).

14 12. The board may establish individual retirement accounts and individual
15 retirement annuities as permitted under section 408(q) of the Internal
16 Revenue Code to allow employees to make voluntary employee
17 contributions. The board may adopt rules to implement and administer the
18 accounts and annuities under this section.

19 **SECTION 5. AMENDMENT.** Section 54-52-23 of the North Dakota Century
20 Code is amended and reenacted as follows:

21 **54-52-23. Savings clause - Plan modifications.**

22 If the board determines that any section of this chapter does not comply with
23 applicable federal statutes or rules, the board shall adopt appropriate terminology with
24 respect to that section as will comply with those federal statutes or rules, subject to the
25 approval of the employee benefits programs committee ~~on public employees retirement~~
26 ~~programs~~. Any plan modifications made by the board pursuant to this section are
27 effective until the effective date of any measure enacted by the legislative assembly

1 providing the necessary amendments to this chapter to ensure compliance with the
2 federal statutes or rules.

3 **SECTION 6. AMENDMENT.** Section 54-52-28 of the North Dakota Century
4 Code is amended and reenacted as follows:

5 **54-52-28. Internal Revenue Code compliance.**

6 The board shall administer the plan in compliance with the following sections of
7 the Internal Revenue Code in effect on August 1, ~~2014~~ 2013, as it applies for
8 governmental plans.

9 1. Section 415, including the defined benefit dollar limitation under section
10 415(b)(1)(A) of the Internal Revenue Code.

11 a. The defined benefit dollar limitation under section 415(b)(1)(A) of
12 the Internal Revenue Code, as approved by the legislative
13 assembly, must be adjusted under section 415(d) of the Internal
14 Revenue Code, effective January first of each year following a
15 regular legislative session. The adjustment of the defined benefit
16 dollar limitation under section 415(d) applies to participating
17 members who have had a separation from employment, but that
18 member's benefit payments may not reflect the adjusted limit prior
19 to January first of the calendar year in which the adjustment
20 applies.

21 b. If a participating member's benefit is increased by plan amendment
22 after the commencement of benefit payments, the member's annual
23 benefit may not exceed the defined benefit dollar limitation under
24 section 415(b)(1)(A) of the Internal Revenue Code, as adjusted
25 under section 415(d) for the calendar year in which the increased
26 benefit is payable.

- 1 c. If a participating member is, or ever has been, a participant in
2 another defined benefit plan maintained by the employer, the sum
3 of the participant's annual benefits from all the plans may not
4 exceed the defined benefit dollar limitation under section
5 415(b)(1)(A) of the Internal Revenue Code. If the participating
6 member's employer-provided benefits under all such defined
7 benefit plans would exceed the defined benefit dollar limitation, the
8 benefit must be reduced to comply with section 415 of the Internal
9 Revenue Code. The reduction must be made pro rata between the
10 plans, in proportion to the participating member's service in each
11 plan.
- 12 2. The minimum distribution rules under section 401(a)(9) of the Internal
13 Revenue Code, including the incidental death benefit requirements under
14 section 401(a)(9)(G), and the regulations issued under that provision to
15 the extent applicable to governmental plans. Accordingly, benefits must be
16 distributed or begin to be distributed no later than a member's required
17 beginning date, and the required minimum distribution rules override any
18 inconsistent provision of this chapter. A member's required beginning date
19 is April first of the calendar year following the later of the calendar year in
20 which the member attains age seventy and one-half or terminates
21 employment.
- 22 3. The annual compensation limitation under section 401(a)(17) of the
23 Internal Revenue Code, as adjusted for cost-of-living increases under
24 section 401(a)(17)(B).
- 25 4. The rollover rules under section 401(a)(31) of the Internal Revenue Code.
26 Accordingly, a distributee may elect to have an eligible rollover
27 distribution, as defined in section 402(c)(4) of the Internal Revenue Code,

1 paid in a direct rollover to an eligible retirement plan, as defined in section
2 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.

3 5. If the plan of retirement benefits set forth in this chapter is terminated or
4 discontinued, the rights of all affected participating members to accrued
5 retirement benefits under this chapter as of the date of termination or
6 discontinuance is nonforfeitable, to the extent then funded.

7 **SECTION 7. AMENDMENT.** Section 54-52.6-13 of the North Dakota Century
8 Code is amended and reenacted as follows:

9 **54-52.6-13. Distributions.**

10 1. A participating member is eligible to receive distribution of that person's
11 accumulated balance in the plan upon becoming a former participating
12 member.

13 2. Upon the death of a participating member or former participating member,
14 the board shall pay the accumulated account balance of that deceased
15 participant ~~is considered to belong to the~~ deceased participant's refund
16 beneficiary, if any, ~~of that deceased participant~~ as provided in this
17 subsection. ~~If a valid nomination of the deceased participant designated~~
18 an alternative refund beneficiary ~~is not on file~~ with the surviving spouses
19 written consent, the board, ~~the board, in a lump sum distribution,~~ shall
20 distribute the accumulated balance to a legal representative, if any, of the
21 named beneficiary. ~~If the deceased participant~~ named more than one
22 primary beneficiary with the surviving spouses written consent, the board
23 shall pay the accumulated account balance to the named primary
24 beneficiaries in the percentages designated by the deceased participant
25 or, if the deceased participant had not designated a percentage for the
26 beneficiaries, in equal percentages. ~~If one or more of the primary~~

1 beneficiaries has predeceased the deceased participant, the board shall
2 pay the predeceased beneficiary's share to the remaining primary
3 beneficiaries. If any beneficiary survives the deceased participant, yet dies
4 before distribution of the beneficiary's share, the beneficiary must be
5 treated as if the beneficiary predeceased the deceased participant. If there
6 is are no legal representative remaining primary beneficiaries, to the board
7 shall pay the accumulated account balance of that deceased participant to
8 the contingent beneficiaries in the same manner. If there are no remaining
9 designated beneficiaries, the board shall pay the accumulated account
10 balance of that deceased participant to the deceased participant's estate.
11 If the deceased participant had not designated an alternate refund
12 beneficiary or the surviving spouse is the refund beneficiary, the surviving
13 spouse of the deceased participant may select a form of payment as
14 provided in subsection 3(d).

- 15 3. A former participating member may elect one or a combination of several
16 of the following methods of distribution of the accumulated balance:
- 17 a. A lump sum distribution to the recipient.
 - 18 b. A lump sum direct rollover to another qualified plan, to the extent
19 allowed by federal law.
 - 20 c. Periodic distributions, as authorized by the board.
 - 21 d. No current distribution, in which case the accumulated balance
22 must remain in the plan until the former participating member or
23 refund beneficiary elects a method or methods of distribution under
24 this section, to the extent allowed by federal law. A surviving
25 spouse beneficiary may elect one or a combination of several of the

1 methods of distribution provided in subdivisions a, b, or c if the
2 surviving spouse is the sole refund beneficiary. A If the surviving
3 spouse is not the sole refund beneficiary who is not the surviving
4 spouse, the refund beneficiary may only choose a lump sum
5 distribution of the accumulated balance.

- 6 4. If the former participating member's vested account balance is less than
7 one thousand dollars, the board shall automatically refund the member's
8 vested account balance upon termination of employment. The member
9 may waive the refund if the member submits a written statement to the
10 board, within one hundred twenty days after termination, requesting that
11 the member's vested account balance remain in the plan.

12 **SECTION 8.** A new section to chapter 54-52.6 of the North Dakota Century
13 Code is created and enacted as follows:

14 **Internal Revenue Code compliance.** The board shall administer the plan in
15 compliance with the following sections of the Internal Revenue Code in effect on
16 August 1, 2013, as it applies for governmental plans.

- 17 1. Section 415, including the defined contribution limitations under section
18 415(c)(1)(A) and (B) of the Internal Revenue Code and the Treasury
19 Regulations thereunder, which are incorporated herein by reference.

- 20 a. In accordance with the defined contribution limitations under
21 section 415(c) of the Internal Revenue Code, in no event shall
22 annual additions (as defined in section 415(c)(2) of the Internal
23 Revenue Code) under this plan exceed the limitations set forth in
24 section 415(c)(1)(A) and (B), as adjusted under section 415(d) of
25 the Internal Revenue Code, effective January first of each year
26 following a regular legislative session.

- 1 b. If a participating member's aggregate annual additions exceed the
2 defined contribution limitations under section 415(c) of the Internal
3 Revenue Code, the member's annual additions shall be reduced to
4 the extent necessary to comply with section 415(c) of the Internal
5 Revenue Code and the Treasury Regulations thereunder.
- 6 2. The minimum distribution rules under section 401(a)(9) of the Internal
7 Revenue Code and the regulations issued under that provision to the
8 extent applicable to governmental plans. Accordingly, benefits must be
9 distributed or begin to be distributed no later than a member's required
10 beginning date, and the required minimum distribution rules override any
11 inconsistent provision of this chapter. A member's required beginning
12 date is April first of the calendar year following the later of the calendar
13 year in which the member attains age seventy and one-half or terminates
14 employment.
- 15 3. The annual compensation limitation under section 401(a)(17) of the
16 Internal Revenue Code, as adjusted for cost-of-living increases under
17 section 401(a)(17)(B).
- 18 4. The rollover rules under section 401(a)(31) of the Internal Revenue Code.
19 Accordingly, a distributee may elect to have an eligible rollover
20 distribution, as defined in section 402(c)(4) of the Internal Revenue Code,
21 paid in a direct rollover to an eligible retirement plan, as defined in section
22 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
- 23 5. If the plan of retirement benefits set forth in this chapter is terminated or
24 discontinued, the rights of all affected participating members to accrued
25 retirement benefits under this chapter as of the date of termination or
26 discontinuance is nonforfeitable, to the extent then funded.

Introduced by

1 A BILL for an Act to amend and reenact sections 54-52.1-03.4 and 54-52.1-18 of the
2 North Dakota Century Code, relating to revising the definition of an eligible employee,
3 payment of the cost of uniform group insurance premiums for temporary employees,
4 deleting the health savings account option offered to political subdivisions as part of the
5 high deductible health plan alternative, and to provide an effective date.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 54-52.1-03.4 of the North Dakota Century
8 Code is amended and reenacted as follows:

9 **54-52.1-03.4. Temporary employees and employees on unpaid leave of**
10 **absence.**

11 A temporary employee employed before August 1, 2007, may elect to participate
12 in the uniform group insurance program by completing the necessary enrollment forms
13 and qualifying under the medical underwriting requirements of the program. A
14 temporary employee employed on or after August 1, 2007, is only eligible to participate
15 in the uniform group insurance program if the employee is employed at least twenty
16 hours per week and at least twenty weeks each year of employment, a temporary
17 employee first employed on or after January 1, 2014, is only eligible to participate in the
18 uniform group insurance program if the employee meets the definition of a full time
19 employee under section 4980H(c)(4) of the Internal Revenue Code [26 U.S.C.
20 4980H(c)(4)] in effect on April 15, 2011. The temporary employee or the temporary
21 employee's employer shall pay monthly to the board the premiums in effect for the

1 coverage being provided but in no event shall the temporary employee's required
2 contribution exceed the maximum employee required contribution specified under
3 section 36B(c)(2)(C) of the Internal Revenue Code [26 U.S.C. 36B(c)(2)(C)] in effect on
4 March 23, 2010, and the employer shall pay any difference between the maximum
5 employee required contribution and the cost of the premiums in effect for the coverage
6 being provided. An employer may pay health or life insurance premiums for a
7 permanent employee on an unpaid leave of absence. A political subdivision,
8 department, board, or agency may make a contribution for coverage under this section.

9 **SECTION 2. AMENDMENT.** Section 54-52.1-18 of the North Dakota Century
10 Code is amended and reenacted as follows:

11 **54-52.1-18. High-deductible health plan alternative with health savings**
12 **account option.**

13 The board shall develop and implement a high-deductible health plan ~~with a~~
14 ~~health savings account~~ as an alternative to the plan under section 54-52.1-06. The
15 high-deductible health plan alternative with a health savings account must be made
16 available to state employees by January 1, 2012, ~~and~~ The high-deductible health plan
17 alternative may be offered, at the discretion of the board, to political subdivisions after
18 June 30, 2013. Health savings account fees for participating state employees must be
19 paid by the employer. The difference between the cost of the single and family premium
20 for eligible state employees under section 54-52.1-06 and the premium for those
21 employees electing to participate under the high-deductible health plan under this
22 section must be deposited in a health savings account for the benefit of each
23 participating employee. ~~For political subdivision employees, the board shall deposit into~~
24 ~~a health savings account for the benefit of the participating political subdivision~~
25 ~~employee, an amount equal to the difference between the primary plan premium as~~
26 ~~established by the board and the premium for the high-deductible health plan under this~~
27 ~~section.~~ Each new employee of a participating employer under this section must be

1 provided the opportunity to elect the high-deductible health plan alternative. At least
2 once each biennium, the board shall have an open enrollment period allowing existing
3 employees of a participating employer under this section to change their coverage.

4 **SECTION 3. EFFECTIVE DATE.** Section 1 of this Act becomes effective on
5 January 1, 2014.



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MEMORANDUM

TO: NDPERs Board
FROM: Jim Smrcka
DATE: April 4, 2012
SUBJECT: Consultant Fees

Attached is a report showing the consulting, investment and administrative fees paid during the quarter ended March 31, 2012.

Attachment

**Consulting/Investment/Administrative Fees
For the Quarter ended March 31, 2012**

Actuary/Consulting Fees: CALLAN ASSOCIATES	Program/Project	Fee Type	Fees Paid During The Quarter			
			Jan-12	Feb-12	Mar-12	
Mid Dakota Clinic	Retirement Disability	Time charges	1,018			1,018
The Segal Company	Retirement (DB)	Fixed Fee	350	300	100	750
The Segal Company	Ret Health Credit	Fixed Fee	16,400			16,400
The Segal Company	FlexComp	Fixed Fee	3,025			3,025
The Segal Company	Job Service	Fixed Fee	1,620		450	2,070
The Segal Company	QDRO/Compliance	Fixed Fee	4,400			4,400
The Segal Company	Legislation	Time charges	3,784	990	1,890	6,664
The Segal Company	Retirement (DC)	Time charges		12,346	19,845	32,191
The Segal Company	Health plan	Time charges			360	360
The Segal Company	Deferred Comp	Time charges	3,335			3,335
			\$ 33,932	\$ 13,636	\$ 22,645	\$ 70,213
Audit Fees:						
Brady Martz	Annual audit & CAFR	Fixed Fee	2,968			2,968
Brady Martz	Other items					-
Legal Fees:						
ICE MILLER LLP	IT Project	Time charges				-
ND Attorney General	Administrative	Time charges	1,838	1,865	1,858	5,561
Calhoun Law Group	Administrative	Time charges				-
Investment Fees:						
SIB - Investment Fees	Retirement (DB)	% Allocation	157,421	323,056	999,010	1,479,487
SIB - Investment Fees	Ret Health Credit	% Allocation	459	33,856	33,796	68,111
SIB - Investment Fees	Insurance	% Allocation	149	60	120	329
SIB - Administrative Fees	Retirement (DB)	% Allocation	14,798	23,597	23,373	61,768
					\$	\$ 1,609,695
Administrative Fee:						
Blue Cross Blue Shield	Health Plan	Fixed fee	1,048,795	1,050,746	*	2,099,541

* fees not yet available