

NDPERS BOARD MEETING

Agenda

Bismarck Location:
Bank of North Dakota, Room 238
1200 Memorial Highway
Fargo Location:
Conference Call

November 7, 2008

Time: 1:30 PM

I. RETIREMENT

A. Job Service COLA – Kathy (Board Action)

II. DEFERRED COMPENSATION

A. 457 Limits – Kathy (Information)

III. GROUP INSURANCE

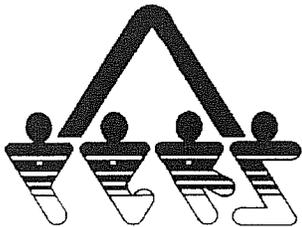
A. Wellness Forum – Rebecca (Information)

IV. MISCELLANEOUS

- A. Proposed Legislation (Board Action)
- B. Retirement Appeal – Sparb (Board Action)
- C. Board Education – Sparb (Board Action)
- D. Proposed 2009 Board Meeting Dates – Sparb (Information)

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.

Those attending the Board meeting, please park in the parking lot located on the north side of the Bank. The main entrance to the Bank is located on the West. Thank you.



**North Dakota
Public Employees Retirement System**
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Sparb Collins
Executive Director
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1-800-803-7377

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Memorandum

TO: PERS Board
FROM: Sparb & Kathy
DATE: November 4, 2008
SUBJECT: Job Service COLA

Board Action Requested and Staff Recommendation

At the October meeting the Board was unable to make a decision on the Job Service COLA since the federal government only released the index the day of the meeting, consequently staff/consultants were not able to do the necessary evaluation. We have completed that assessment and at this meeting the Board needs to determine the cost of living adjustment, if any, for the Job Service retirees. To assist the Board with its decision, the following information is provided: history of the Plan; agreement on the unfunded liability; background on the COLA, 2009 CPI, the Plan's investment performance since July; the 2008 actuarial review and the funding implications of granting or not granting the increase and related work efforts that are ongoing concerning this Plan. Based upon this information, it is **staff's recommendation** to approve a 5.8% increase for the retirees based upon the following information including:

1. The funded status of the Plan.
2. The agreement with the Department of Labor to resume payments if the funded status dips below 100%.
3. The review by Segal indicating that it would not compromise the funded status of the Plan by granting this increase at this time.
4. The Plan document and its provisions relating to the COLA.
5. The Board's authority and responsibility in the Plan document.

History of the Plan

The Job Service Plan (Plan) was established in 1960 with the support of the U. S. Department of Labor (USDOL) because at that time there was not a state Plan for public employees. Job Service and the USDOL decided to enhance Plan benefits and freeze the Plan to new entrants as of October 1, 1980 because the State of North Dakota had since established a statewide public employee's retirement program. All Job Service new hires since that time are participants in PERS.

Until 1980 the Plan maintained a deposit administration fund with The Travelers and annuities were purchase for retirees from that fund. In October 1993, the Plan selected the North Dakota Investment Board to be the Plan investment manager and contracted with PERS for administrative services only to make the monthly payments to its members that retired beginning October 1, 1993. In addition, since that time, annual cost-of-living adjustments are paid from Plan assets for these pensioners as well as annuitants with The Travelers. In 2003 the legislature transferred responsibility for the Plan from Job Service to NDPERS.

PERS administers benefits for two groups of Job Service retirees:

Travelers Annuitants: NDPERS assumed the administrative and recordkeeping services for the Job Service Travelers Plan on August 1, 2003. This group is comprised of those individuals for whom annuities were purchased through The Travelers. Job Service staff performed all benefit calculations, record maintenance, benefit adjustments and administration of the COLA for this group prior to August 1.

There are 99 retirees which represents the entire eligible group for this Plan. Travelers' pays the monthly base annuity benefit. PERS pays the accumulated COLA amount from Plan assets. In 2006 MetLife purchased The Travelers. Each month, PERS transfers a lump sum payment to MetLife from the Plan assets to pay the accumulated COLA adjustments for these pensioners. This means the members receive one benefit payment rather than a separate payment from MetLife and a separate payment from PERS. MetLife maintained the same fees of \$3.25 per payee/per benefit payment made by check, and the

fee of \$2.50 per payee/per benefit payment made by electronic funds transfer (EFT). This equates to a monthly expense of approximately \$252.00 (6 by check and 93 EFT).

JSND Annuitants: PERS pays this group from the Plan assets per our ASO agreement with Job Service dated October 1, 1993. Since August 1, 2003 we are now also responsible for the administration and recordkeeping to include benefit calculations, record maintenance, benefit adjustments and administration of the annual COLA increase. At this time there are 98 members in this group.

It was the Plans understanding that when the annuity contract with The Travelers was terminated, all dollars were transferred to the Plan. However, in 2002 Travelers notified Job Service it had retained an amount that is referred to as the "paid up annuity" which includes contributions made during the period 1960 to 1971. Of the 120 retirees, 47 have a "paid up annuity" and there are 3 active participants eligible for these benefits. When this was discovered, Job Service and Travelers agreed that the retirees in the "paid up" group are receiving the correct monthly retirement benefit and that Travelers should pay the funds to the Plan so that the these participants could continue to receive one benefit payment

Agreement on Unfunded liability

In 1975, the Department of Labor negotiated a package of benefits designed to upgrade the independent retirement Plans. Improvements to the Plans were adopted and employee contributions were increased. The Department of Labor chose to amortize the unfunded liability created by these improvements over a period of 20 years.

In 1980, discussion began between states which still maintained independent retirement Plans, and the Department of Labor. As a result of those discussions, the Department of Labor agreed to allow cost of living and military service credit provisions in 1980 while the states agreed to close enrollments in the independent Plans as of October 1, 1980. The Department of Labor chose to amortized the unfunded liability created by these changes over a period of 30 years.

From 1983 to 1998, the United States Department of Labor has paid the required amortization of the unfunded liability of the Job Service North Dakota independent retirement Plan. Fifteen years remain on the 30-year amortization schedule with a remaining balance for the unfunded liability of the North Dakota Plan in the amount of \$9.7 million as of July 1998. Also at this time, the funded status of the Plan had reached a point where the actuarial value of the benefits was \$50.6 million and the actuarial value of assets was \$61.7 million. The funded status of the Plan was 119%. Based upon this funded status, the United States Department of Labor question why it should continue to make the amortization payments.

To resolve this issue Job Service and the United States Department of Labor agreed to the following:

1. Commencing with the 1999 payment the United States Department of Labor will suspend the unfunded liability payments.
2. The unfunded liability payments will be reactivated and resumed by the United States Department of Labor at any time when the actuarial valuation indicates the Plan is in an under funded status.
3. The trigger mechanism for determining when the Plan goes into an underfunded status is when the actuarial value of assets is less than the actuarial present value of benefits. This information will be made available in the annual Plan actuarial valuation report.

Background on the COLA

According to the Plan document each year PERS must authorize a COLA for Job Service retirees, if one is to occur. The Plan documents also states that the basis for determining the amount of the COLA is the increase for the federal Civil Service Commission. In past years this decision has been fairly straightforward due to the funded status of the Plan and the earnings environment. Consequently, PERS has approved the increase in an amount equal to that approved for the federal civil service. The following is a history of the NDPERS Board approved COLA increases for the Job Service Plan from 2003 to 2007.

2003	2.1%
2004	2.7%

2005	4.1%
2006	3.3%
2007	2.3%

The above increases were effective December 1st of the year in which they were approved.

Civil Service Increase

Attachment #1 is the notice from the federal government on the increase for the federal Civil Service Retirement System. You will note that this is the guidance the Plan document provides to the Board for approving a cost of living adjustment.

Board Authority relating to COLA's

Aaron Webb reviewed the Plan document to determine what the Board authority is relating to the COLA and determined the following:

According to Article VII, subsection 3, a cost of living adjustment must be made effective on December 1st of any year. If authorized by the PERS Board, the Plan document provides that the benefit payment "...shall be increased by the percent increase, if any, in the consumer price index." The Plan document provision goes on to state that the consumer price index means the "Urban Wage Earners and Clerical Workers" published by the U.S. Department of Labor. Therefore, effective December 1, the PERS Board has the option of authorizing a COLA in the amount of the consumer price index, or choosing not to authorize such a payment.

I do not see any additional methods of authorizing COLA payments under the existing language of the Job Service Plan document (for example - deferring such an action until a date later than December 1st or authorizing a COLA in an amount less than the value of the consumer price index).

Investment Overview

The fund return last year based upon the actuarial report was a -1.43% on market value & 6.37% on actuarial value. The estimated return through October 31, 2008 was -14.35%.

2008 actuarial valuation and funding Implications

Brad Ramirez (Segal) will be at the Board meeting via teleconference to review the funding implications of granting or not granting a COLA. At the last meeting he presented the valuation for the Job Service Retirement Plan for the year ending June 30, 2008. The following highlights of that evaluation were discussed by Segal at the last meeting:

2008 Actuarial Valuation - Job Service

- Frozen plan; declining membership
- Gain this year from salary increases (4.0% vs. 5.0% assumed)
- Gain this year from COLA (2.2% vs. 5.0% assumed)
- Loss from investment return (6.4% vs. 7.5% assumed)

2008 Actuarial Valuation - Job Service

	2008	2007	Change
Total Number of Active Members	38	40	5.0% decrease
Average Age of Active Members	56.4 years	55.5 years	increase
Average Annual Salary	\$46,385	\$46,079	0.7% increase
Total Payroll	\$1,763,000	\$1,843,000	4.4% decrease

Job Service - Funded Ratio

<u>Year</u>	<u>Present Value of Projected Benefits (millions)</u>	<u>Actuarial Value of Assets (millions)</u>	<u>Funded Ratio</u>
2000	\$56.6	\$71.0	125%
2001	58.7	70.8	121%
2002	59.9	67.6	113%
2003	60.7	66.0	109%
2004	61.8	67.5	109%
2005	63.3	69.3	109%
2006	70.0	70.6	101%
2007	71.7	75.7	106%
2008	71.8	77.0	107%

North Dakota Public Employees
Retirement System

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The assets as noted above at actuarial value on July 1 were \$77 million and at market value was \$89.9 million. However, since then the fund has lost about 14% and the market value of assets is about \$77 million.

Attachment #2 is the information from Segal on the funding implications of granting the COLA and it shows the following:

1. The funded status at market value of assets on July 1, 2008 was 125%
2. The funded status at market value of assets on July 1, 2008 was 107%
3. Granting the increase will not cause the funded status to fall below 100% at market next year
4. Granting the increase could cause the fund to drop below the actuarial funded status at the next actuarial value only if the returns stay strongly in the negative position (if that occurs then the federal contribution could start again).
5. The fund assume a 5% COLA so this is priced into the liabilities and while this increase could be slightly over the assumption future years (like past years) could be less.

Related Work Efforts

This last June the Board authorized an asset liability study for the Job Service Retirement Plan. This activity will include:

- Developing best estimates of capital market expectations,
- Evaluating the system's liabilities under differing future return scenarios,
- Estimating risk/return expectations for various asset classes,
- Assessing the interaction of assets and liabilities,
- Assessing the viability of innovative tools for improving asset liability management, and
- Modeling alternative asset allocation mixes.

When this study is completed it will provide the Board with a good vision of the long term funding for the Plan, the implications of changes to the Plan and probability of the Plan's assets matching its liabilities.

SEI has been selected as the firm to conduct this study. Now that the valuation is complete they will be starting their work on this project. Based upon the information we are able to address in this project, we should review the investment strategy, the Plans return assumption, the method for providing a COLA and the reasonableness of the Plans earnings in being able to sustain increases.

2009 COLA increase is biggest since 1982

Attachment 1

BY RICK MAZE
DECEMBER 1, 2009

The Dec. 1 cost-of-living adjustment for federal retirees will be 4.8 percent or 5.8 percent, with the increase first appearing in Jan. 1 checks.

Annuitants and survivors in the Civil Service Retirement System will see the 5.8 percent increase. Those in the Federal Employees Retirement System will receive a 4.8 percent annuity adjustment.

COLAs are based on the annual change in the Consumer Price Index for Urban Wage Earners and Clerical Workers. When the CPI/W increases by 3 percent or more, CSRS employees receive the full increase in their annuities, while the COLAs of FERS beneficiaries are increased by the CPI/W minus 1 percentage point. FERS employees also receive Social Security benefits, which will rise 5.8 percent.

The 5.8 percent increase will also go to military retirees, and disabled veterans and survivors.

The 5.8 percent hike is a little less than some expected. In the last few months, rising crude oil prices had a broad effect across the economy — increasing not only the cost of filling up gas tanks but also boosting transportation costs to drive up the price of retail goods and food.

But oil prices have fallen as the overall economy has suffered a major meltdown, resulting in a final COLA that is still the biggest increase since 1982.

The COLA also is far bigger than the 3.9 percent pay raise for civilian employees and military personnel signed into law by President Bush. That's because the two increases are based on different concepts.

Retired pay automatically increases each year to keep pace with inflation, measured by the change in the cost of goods and services. Increases in military and federal civilian pay, which generally involve an act of Congress, are designed to match private-sector wage growth.

Retirement COLAs, which also apply to survivor benefits, take effect automatically. Recipients do not have to do anything to get the extra pay. Annual adjustments in veterans' disability pay, low-income pensions and dependency and indemnity compensation for survivors of deceased service members and veterans are not automatic, but Congress usually passes legislation guaranteeing veterans' benefits will increase by the same rate as Social Security.

President Bush signed the 2009 veterans' COLA measure Sept. 25.



DIRECT DIAL NUMBER
303-714-9952

Attachment 2

THE SEGAL COMPANY
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E-MAIL ADDRESS
bramirez@segalco.com

November 3, 2008

Mr. Sparb Collins, Executive Director
North Dakota Public Employees Retirement System
P.O. Box 1657
Bismarck, ND 58502

RE: Proposed 2008 Job Service COLA

Dear Sparb:

Segal was asked to analyze the current and projected funded position of the Retirement Plan for Employees of Job Service North Dakota (the Plan).

Each December 1 the Board has the option to grant a Cost of Living Adjustment (COLA) to retirees and beneficiaries of the Plan. The amount of that COLA is based on the Consumer Price Index, and the 2008 COLA would be 5.8% if granted. In light of recent market activity, the Board would like to know if granting that COLA this year would jeopardize the Plan's funded status.

Background

The Plan is closed to new members and is fully funded on a Present Value of Benefits (PVB) basis. No employer contributions are currently being made, and if all actuarial assumptions are met in the future, then no further employer contributions will ever be needed. As of July 1, 2008, the Plan's funded ratio on a market value basis was 125%.

If the Plan were to fall below 100% funding, employer contributions may be required. It is our understanding that the Department of Labor (DOL) would be required to make the necessary contributions; however, it is not known how much difficulty or delay there might be in trying to collect those contributions. This is why a thorough analysis is being made before the COLA is granted.



Assumptions

Unless noted otherwise, the estimates that follow are based on the July 1, 2008 actuarial valuation results, including the participant data and actuarial assumptions on which that valuation was based. Calculations were completed under the supervision of John Monroe, ASA, MAAA, Enrolled Actuary.

The key assumptions that are being varied in this analysis are the assumed investment return of 7.5% per year, and the assumed annual COLA of 5% per year. We believe 7.5% is still a reasonable long-term assumption. The 5% annual COLA assumption implicitly assumes that CPI will increase 5% per year, which is at the high end of what we believe is a reasonable assumption. For the calculations that follow, we have not changed those long-term assumptions.

What we have varied in this analysis is that we know the COLA based on CPI for December 1, 2008 would be 5.8% if it were granted and 0% otherwise. We have also varied the assumed market value return on Plan assets for the period July 1, 2008 to June 30, 2009.

The first exhibit shows the projected market value funded ratios under various return scenarios if the 2008 COLA is not granted, and the second exhibit shows the same projections if the 2008 COLA of 5.8% is granted. The third and fourth exhibits show the projected actuarial value funded ratios under the same scenarios.

Please let me know if you have any questions.

Sincerely,

Brad Ramirez, FSA, MAAA, EA
Consulting Actuary

//

cc:

Exhibit 1
North Dakota Job Service
Projected Funded Ratio
Actual COLA Awarded December 1, 2008 is 0.0%
Market Value of Assets to the Present Value of Benefits
(Market Return After FY 2009 Always 7.5%)

Valuation	Fiscal Year 2009 Market Value Return							
	-14.0%	-10.0%	-7.5%	-4.0%	0.0%	4.0%	7.5%	10.0%
2009	107%	112%	115%	120%	125%	130%	134%	137%
2010	107%	113%	116%	121%	126%	131%	136%	139%
2011	108%	114%	117%	122%	128%	133%	138%	142%
2012	109%	115%	118%	124%	130%	136%	141%	145%
2013	109%	116%	120%	125%	132%	138%	144%	148%
2014	110%	117%	121%	127%	134%	141%	147%	151%
2015	111%	118%	123%	129%	136%	144%	150%	155%
2016	112%	120%	125%	131%	139%	147%	154%	159%
2017	113%	121%	127%	134%	143%	151%	159%	164%
2018	114%	123%	129%	137%	146%	156%	164%	169%
2019	115%	125%	132%	140%	151%	161%	169%	176%
2020	117%	128%	135%	144%	155%	166%	176%	183%
2021	119%	131%	138%	149%	161%	173%	184%	191%
2022	121%	134%	142%	154%	167%	180%	192%	200%
2023	123%	138%	147%	160%	174%	189%	202%	211%
2024	125%	142%	152%	166%	183%	199%	213%	224%
2025	128%	147%	158%	174%	192%	211%	227%	238%
2026	132%	152%	165%	183%	203%	224%	242%	254%
2027	136%	159%	173%	193%	216%	239%	259%	273%
2028	141%	167%	183%	205%	231%	257%	279%	296%

Exhibit 2
North Dakota Job Service
Projected Funded Ratio
Actual COLA Awarded December 1, 2008 is 5.8%
Market Value of Assets to the Present Value of Benefits
(Market Return After FY 2009 Always 7.5%)

Valuation	Fiscal Year 2009 Market Value Return							
	-14.0%	-10.0%	-7.5%	-4.0%	0.0%	4.0%	7.5%	10.0%
2009	100%	105%	108%	112%	117%	121%	126%	129%
2010	100%	105%	108%	113%	118%	123%	127%	130%
2011	100%	106%	109%	114%	119%	124%	129%	132%
2012	100%	106%	110%	115%	120%	126%	131%	134%
2013	101%	107%	110%	116%	122%	128%	133%	137%
2014	101%	107%	111%	117%	123%	130%	135%	139%
2015	101%	108%	112%	118%	125%	132%	138%	142%
2016	101%	108%	113%	120%	127%	134%	141%	145%
2017	101%	109%	114%	121%	129%	137%	144%	149%
2018	101%	110%	116%	123%	132%	141%	148%	154%
2019	102%	111%	117%	125%	135%	144%	153%	158%
2020	102%	112%	119%	128%	138%	148%	158%	164%
2021	102%	113%	121%	131%	142%	153%	163%	170%
2022	102%	115%	123%	134%	146%	159%	170%	178%
2023	103%	117%	125%	137%	151%	165%	177%	186%
2024	103%	119%	128%	142%	157%	173%	186%	196%
2025	104%	121%	132%	147%	164%	181%	196%	207%
2026	104%	123%	135%	152%	172%	191%	208%	220%
2027	105%	126%	140%	159%	180%	202%	221%	234%
2028	106%	130%	145%	166%	191%	215%	236%	252%

Exhibit 3
North Dakota Job Service
Projected Funded Ratio
Actual COLA Awarded December 1, 2008 is 0.0%
Actuarial Value of Assets to the Present Value of Benefits
(Market Return After FY 2009 Always 7.5%)

Valuation	Fiscal Year 2009 Market Value Return							
	-14.0%	-10.0%	-7.5%	-4.0%	0.0%	4.0%	7.5%	10.0%
2009	108%	109%	110%	111%	112%	113%	114%	114%
2010	104%	106%	107%	109%	111%	113%	115%	116%
2011	101%	104%	105%	108%	111%	113%	116%	118%
2012	98%	102%	104%	107%	111%	114%	117%	119%
2013	97%	101%	103%	107%	111%	115%	119%	122%
2014	96%	100%	103%	107%	112%	117%	121%	124%
2015	95%	100%	103%	108%	114%	119%	124%	127%
2016	94%	100%	104%	109%	115%	121%	127%	130%
2017	94%	101%	105%	111%	117%	124%	130%	134%
2018	94%	101%	106%	112%	120%	127%	134%	138%
2019	94%	102%	108%	115%	123%	131%	138%	143%
2020	95%	104%	109%	117%	126%	135%	143%	149%
2021	96%	106%	112%	121%	131%	141%	149%	156%
2022	97%	108%	115%	124%	135%	146%	156%	163%
2023	98%	110%	118%	129%	141%	153%	164%	172%
2024	100%	113%	122%	134%	148%	161%	173%	182%
2025	103%	117%	127%	140%	155%	171%	184%	194%
2026	106%	122%	132%	147%	164%	181%	196%	207%
2027	109%	127%	139%	155%	174%	194%	211%	223%
2028	113%	133%	146%	165%	187%	208%	227%	241%

Exhibit 4
North Dakota Job Service
Projected Funded Ratio
Actual COLA Awarded December 1, 2008 is 5.8%
Actuarial Value of Assets to the Present Value of Benefits
(Market Return After FY 2009 Always 7.5%)

Valuation	Fiscal Year 2009 Market Value Return							
Year	-14.0%	-10.0%	-7.5%	-4.0%	0.0%	4.0%	7.5%	10.0%
2009	101%	102%	103%	104%	105%	106%	106%	107%
2010	97%	99%	100%	102%	103%	105%	107%	108%
2011	94%	96%	98%	100%	103%	105%	108%	109%
2012	91%	94%	96%	99%	102%	106%	109%	111%
2013	89%	93%	95%	99%	103%	107%	110%	112%
2014	87%	92%	95%	99%	103%	108%	111%	114%
2015	86%	91%	94%	99%	104%	109%	113%	116%
2016	85%	91%	94%	99%	105%	110%	115%	119%
2017	84%	90%	94%	100%	106%	112%	118%	122%
2018	83%	90%	95%	101%	108%	115%	121%	125%
2019	83%	90%	95%	102%	109%	117%	124%	129%
2020	82%	91%	96%	103%	112%	120%	128%	133%
2021	82%	91%	97%	105%	115%	124%	132%	138%
2022	82%	92%	98%	107%	118%	128%	137%	144%
2023	82%	93%	100%	110%	122%	133%	143%	151%
2024	83%	95%	103%	113%	126%	139%	150%	158%
2025	83%	97%	105%	117%	131%	146%	158%	167%
2026	83%	99%	108%	122%	137%	153%	168%	178%
2027	84%	101%	112%	127%	144%	162%	178%	190%
2028	85%	104%	116%	133%	153%	173%	191%	204%



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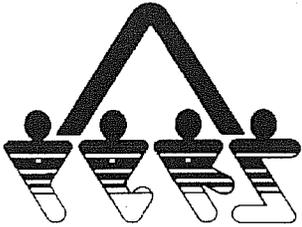
Memorandum

TO: NDPERS Board
FROM: Kathy
DATE: October 31, 2008
SUBJECT: Deferred Comp Plan Limits

The Internal Revenue Service has announced the cost-of-living adjustments applicable to dollar limitations for pension plans for tax year 2009. The following highlights those changes that apply to the Section 457 deferred compensation plan:

	2009	2008
457(b) Annual Deferral Limit	\$16,500	\$15,500
Age 50 Catch-Up Limit	5,500	5,000
457(b) Special Catch-Up (3 year)	\$16,500	\$15,500

Staff is updating all communication materials accordingly as well as sending notification through our e-mail system to our payroll contacts so they may notify their staff members.



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Memorandum

TO: NDPERs Board

FROM: Rebecca

DATE: October 27, 2008

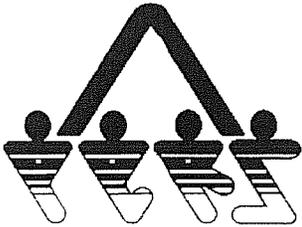
SUBJECT: 2008 Wellness Forum

The 2008 NDPERS Wellness Forum will be held on Wednesday, November 19, at the Heritage Center Auditorium. The wellness forum is designed for all Wellness Coordinators who are responsible for creating the wellness programming for their employers. For those employers currently not participating in the wellness program, the forum is an opportunity to learn more about the program and to consider participation for the July 1, 2009-June 30, 2010 plan year. The forum is web cast for those that can not attend in person. Also, the web cast is archived and posted to our website for viewing after the forum.

The following are some of the items that will be covered:

- Overview of upcoming plan design changes for NDPERS group health insurance plan
- Discussion of various disease management efforts
- Overview of what you will need to do for the 2009-2010 plan year wellness programming in order to receive the 1% discount for health insurance
- Break-out sessions to promote exchange of information between resources and employers regarding programs being administered and their successes

Attached for your information is the forum agenda. This item is informational only and requires no action by the board.



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

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

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

Memorandum

TO: PERS Board
FROM: Sparb
DATE: November 3, 2008
SUBJECT: Proposed Legislation

Attached is the matrix of the proposed legislation as well as a summary of the Board's considerations at previous meetings. This last month the Legislative Employee Benefits Committee met to give the proposed legislation their final consideration. As you will note the 4 PERS bills received 3 "favorable" recommendations and 1 "no recommendation". This year we did not get any "unfavorable" recommendations.

The next step in the process is for you to make your final determination on whether or not the bills should be prefiled with the Legislative Council office by the December 4, 2008 deadline for consideration by the next legislative session.

Board Action Requested

To approve prefiling the proposed PERS legislation (90111, 90112, 90113 & 90114) with the Legislative Council Office as amended.

**2009 Legislative Session
North Dakota Public Employees Retirement System**

LC Bill Number	Sponsor	Bill Summary	Technical Review Issues, positions and amendments as approved at 07/08 PERS Board meeting (The amendments were forwarded and accepted at the July Employee Benefits Committee meeting)	Hearing Issues, Technical Review Issues, amendments And PERS positions as approved at the October 21st meeting (The amendments were forwarded and accepted at the last Employee Benefits Committee meeting)	Employee Benefits Committee Recommendation
90033.0300	Senator Mathern	A BILL for an Act to provide for establishment of the healthy North Dakota health insurance plan; to amend and reenact section 54-52.1-02 of the North Dakota Century Code, relating to subgroups under the uniform group health insurance plan; to provide an effective date; and to provide a continuing appropriation.	PERS remain neutral on the bill at this time subject to final Board considerations in October	PERS remain neutral.	Unfavorable
90084.0100	Senator O'Connell	A BILL for an Act to create and enact a new section to chapter 26.1-36 and a new section to chapter 54-52.1 of the North Dakota Century Code, relating to parity for health insurance coverage of prosthetics.	PERS remain neutral on the bill at this time subject to final Board considerations in October	PERS remain neutral.	No Recommendation

LC Bill Number	Sponsor	Bill Summary	Technical Review Issues, positions and amendments as approved at 07/08 PERS Board meeting (The amendments were forwarded and accepted at the July Employee Benefits Committee meeting)	Hearing Issues, Technical Review Issues, amendments And PERS positions as approved at the October 21st meeting (The amendments were forwarded and accepted at the last Employee Benefits Committee meeting)	Employee Benefits Committee Recommendation
90111.0100	PERS	<p>A BILL for an Act to create and enact a new subsection to section 39-03.1-09 and a new subsection to section 54-52-05 of the North Dakota Century Code, relating to payment of employee contributions under the highway patrolmen's retirement plan and public employees retirement system; and to amend and reenact sections 21-10-01(1), 39-03.1-08.2, 39-03.1-11(8) and (9), 39-03.1-11.2, 54-52-17(6), (8), and (9), 54-52-17.4(6), 54-52-28, 54-52.1-03(7), and 54-52.1-03.4 of the North Dakota Century Code, relating to membership on state investment board, purchase of service credit, member benefit options, Internal Revenue Code compliance, and board</p>	<p>Several item have been highlighted in the review:</p> <ol style="list-style-type: none"> 1. ITD has estimated the cost of programming the enhancements as follows: <ol style="list-style-type: none"> a. Enhanced purchase for the HP system \$22,500 b. Enhanced purchase for PERS - \$22,500 c. Graduated Benefit Option HP - \$27,500 d. Graduated Benefit Option PERS - \$27,500 <p>Since PERS is replacing its existing business system and the new system is schedule to be operational by January 2011 the above amount could be saved if the effective date of these</p>	<p>Issues and actuarial costs:</p> <ol style="list-style-type: none"> 1. The actuarial report indicates that allowing members to designate nonspouse beneficiaries has an actuarial effect on the judges and the HP plans. On the HP plan it would increase employer contributions by .3% and the judges plan by .54% 2. The bill also allows the designation of subsequent beneficiaries <p>PERS Amendment: Withdraw this provision for HP and judges due to the actuarial cost. Also withdraw it for the PERS system at this time. In addition withdraw the subsequent beneficiary provision since that was originally proposed as a companion to the</p>	Favorable, as amended by PERS

LC Bill Number	Sponsor	Bill Summary	<p>Technical Review Issues, positions and amendments as approved at 07/08 PERS Board meeting</p> <p>(The amendments were forwarded and accepted at the July Employee Benefits Committee meeting)</p>	<p>Hearing Issues, Technical Review Issues, amendments And PERS positions as approved at the October 21st meeting</p> <p>(The amendments were forwarded and accepted at the last Employee Benefits Committee meeting)</p>	Employee Benefits Committee Recommendation
		<p>elections under the highway patrolmen's retirement plan and public employees retirement system, and participation and employer payments under uniform group insurance program.</p>	<p>provision was effective on the same date. This would save adding this functionality to the old system for a short period of time. PERS amendment was to modify the bill to have the effective date of these provisions be January 2011.</p> <p>2. The provision of the bill that provides a graduated increase of 1% or 2% in monthly retirement benefits may need to be clarified to indicate the frequency of the increase (e.g., each year, every two years).</p> <p>PERS amendment was to modify the bill to indicate the change would be each year in January.</p> <p>3. Pursuant to previous action of the board, propose a change to the automatic</p>	<p>nonspouse beneficiary provision</p>	

LC Bill Number	Sponsor	Bill Summary	Technical Review Issues, positions and amendments as approved at 07/08 PERS Board meeting (The amendments were forwarded and accepted at the July Employee Benefits Committee meeting)	Hearing Issues, Technical Review Issues, amendments And PERS positions as approved at the October 21st meeting (The amendments were forwarded and accepted at the last Employee Benefits Committee meeting)	Employee Benefits Committee Recommendation
			distribution provision		
90112.0100	PERS	<p>A BILL for an Act to create and enact a new subsection to section 54-52-17.4 of the North Dakota Century Code, relating to purchase of service credit under the public employees retirement system; to amend and reenact sections 39-03.1-10, 39-03.1-11(9), 39-03.1-11.3, 54-52-06, 54-52-17.5, 54-52-17.11, 54-52-17.13, and 54-52.6-09(2) of the North Dakota Century Code, relating to employer contributions, cost of living adjustments and supplemental retiree payments under the highway patrolmen's retirement system and public employees retirement system.</p>	<p>The following issues were discussed in the review:</p> <ol style="list-style-type: none"> 1. The timeframe for political subdivision elections is short 2. Limiting the time eligible for the subsidized purchase to what can be electronically determined (from 2000 forward). 3. The cost of the PEP enhancement is about \$24,000. Changing the effective date to after implementation of the new business system would mean the expense of this change would not have to be made to the existing system. <p>PERS amendment was to modify the bill to have the effective date for the PEP enhancement to be January</p>	<p>Issues and Actuarial Costs: The actuarial report identifies the following actuarial costs:</p> <ol style="list-style-type: none"> 1. The PEP enhancement would have an actuarial cost of .3%. 2. The retiree 2% increase would have an actuarial cost effect of 1.3% on the main, .49% on the National Guard plan, .8% on the Law Enf with prior service, .03 on the Law Enf. Without prior service and 5.34% on the HP plan. 3. The increase in the normal form of benefit for the HP from an automatic 50% J&S benefit to a 100% benefit would increase contributions by 3.02%. 4. The election timeframe for political subdivisions 	No Recommendation as amended by PERS

LC Bill Number	Sponsor	Bill Summary	<p>Technical Review Issues, positions and amendments as approved at 07/08 PERS Board meeting</p> <p>(The amendments were forwarded and accepted at the July Employee Benefits Committee meeting)</p>	<p>Hearing Issues, Technical Review Issues, amendments And PERS positions as approved at the October 21st meeting</p> <p>(The amendments were forwarded and accepted at the last Employee Benefits Committee meeting)</p>	Employee Benefits Committee Recommendation
			<p>of 2011 and limiting the retroactivity of the provision to 2000.</p> <p>Based upon action at a previous board meeting we will be requesting the addition to this bill of an increase for OASIS retirees</p>	<p>is short</p> <p>5. The provision for those retiree that would be eligible is limited to those that immediately retire from an employer that elects to participate. This could result in an inequitable situation if a long term employee of an employer that elects to participate actually works for their last year of employment with one that does not would result in them not being able to get the increase.</p> <p>6. It is not clear if an employers election applies to all PERS plans of it the election applies individually.</p> <p>PERS Amendment:</p> <p>1. Drop the PEP enhancement provision due to the actuarial cost.</p> <p>2. Drop the increase in the normal form of benefit</p>	

LC Bill Number	Sponsor	Bill Summary	<p>Technical Review Issues, positions and amendments as approved at 07/08 PERS Board meeting</p> <p>(The amendments were forwarded and accepted at the July Employee Benefits Committee meeting)</p>	<p>Hearing Issues, Technical Review Issues, amendments And PERS positions as approved at the October 21st meeting</p> <p>(The amendments were forwarded and accepted at the last Employee Benefits Committee meeting)</p>	Employee Benefits Committee Recommendation
				<p>for the HP plan from 50% to J&S to 100%.</p> <p>3. Amend the bill to add an appropriation for the increased employer contribution to support the 2% increase in retiree contributions. Also consider reducing the return assumption in calculating the actuarial effect from 8% to 3%. We previously discussed this and decided not to make the change but in light of the markets performance since then we may want to consider this again since it would the risk to the system of a shortfall. Staff is working with the consultant to prepare some additional information for your consideration at the board meeting. We will also meet with the</p>	

LC Bill Number	Sponsor	Bill Summary	<p>Technical Review Issues, positions and amendments as approved at 07/08 PERS Board meeting</p> <p>(The amendments were forwarded and accepted at the July Employee Benefits Committee meeting)</p>	<p>Hearing Issues, Technical Review Issues, amendments And PERS positions as approved at the October 21st meeting</p> <p>(The amendments were forwarded and accepted at the last Employee Benefits Committee meeting)</p>	Employee Benefits Committee Recommendation
				<p>retiree committee to discuss this as well a couple of days before the board meeting to solicit their thoughts for your consideration as well.</p> <p>4. Amend the bill to provide that retirees who would be eligible to receive the increase would be those that had 3 years of employment with an employer that elects to pay the increased benefits instead of having retired from an employer that elects to participate.</p> <p>5. Amend the bill to add a late election opportunity for participating employers who do not elect by July 1, 2009. Allow them to participate if they agree to pay with interest at 8% contributions on payroll</p>	

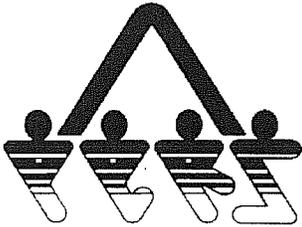
LC Bill Number	Sponsor	Bill Summary	Technical Review Issues, positions and amendments as approved at 07/08 PERS Board meeting (The amendments were forwarded and accepted at the July Employee Benefits Committee meeting)	Hearing Issues, Technical Review Issues, amendments And PERS positions as approved at the October 21st meeting (The amendments were forwarded and accepted at the last Employee Benefits Committee meeting)	Employee Benefits Committee Recommendation
				<p>from July 1, 2008 to the date of election and then agree to the increased rate for the remainder of the period. The late election should only be available to July 2010.</p> <p>6. Amend the bill to clarify that employer elections to participate are by plan. For example a county that participated in both PERS and the Law Enforcement Plan would have to make two elections.</p>	
90113.0100	PERS	A BILL for an Act to amend and reenact section 54-52.1-02 of the North Dakota Century Code, relating to non-Medicare retiree insurance rates.	No issues	Issues and actuarial costs: The board has previously indicated its preference to fund this bill from reserves and requested that up to \$2 million be used. As written the bill would require about 2.5 million. The bill proposed to drop the ratio of preMedicare premiums to active from 150% to 125%.	Favorable

LC Bill Number	Sponsor	Bill Summary	Technical Review Issues, positions and amendments as approved at 07/08 PERS Board meeting (The amendments were forwarded and accepted at the July Employee Benefits Committee meeting)	Hearing Issues, Technical Review Issues, amendments And PERS positions as approved at the October 21st meeting (The amendments were forwarded and accepted at the last Employee Benefits Committee meeting)	Employee Benefits Committee Recommendation
				To get into the range of available funds the minimum would be 130% which would result in an increase of about a 13% increase and a ratio of 135% would be a about a 17% increase. The existing 150% ratio would be about a 30% increase PERS Amendment: Propose a ratio of 135%.	
90114.0100	PERS	A BILL for an Act to amend and reenact sections 54-52.1-03.2(1) and 54-52.1-03.3(2) of the North Dakota Century Code, relating to the retiree health benefits fund.	No issues	Issues and actuarial costs: The actuarial report shows a cost of .15% of employer contributions to pay for the benefit. Since we have requested that this be funded in the Executive Budget, we do not need to request an appropriation on the bill. If it is not included in the Executive Budget, we will need to request the appropriation during the session.	Favorable as amended by PERS
90118.0100	Senator Lyson	A BILL for an Act to create and enact a new section to	PERS remain neutral on the bill at this time subject to	PERS remain neutral.	

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		chapter 54-52 of the North Dakota Century Code, relating to participation by peace officers and correctional officers in the defined benefit retirement plan; and to amend and reenact sections 54-52-01(3) and (11), 54-52-05(3), and 54-52-17(3) of the North Dakota Century Code, relating to participation by peace officers and correctional officers in the defined benefit retirement plan.	final Board considerations in October.		
90124.0100	Rep. Potter	A BILL for an Act to create and enact a new section to chapter 54-52.1 of the North Dakota Century Code, relating to public employees retirement system health insurance coverage of colorectal cancer screening; and to provide an expiration date.	PERS remain neutral on the bill at this time subject to final Board considerations in October.	PERS remain neutral.	Unfavorable
90125.0100	Senator Mathern	A BILL for an Act to create and enact a new	PERS remain neutral on the bill at this time subject to	PERS remain neutral.	Unfavorable

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		subsection to section 54-52-04, a new subsection to section 54-52.1-01, and five new sections to chapter 54-52.1 of the North Dakota Century Code, relating to the expansion of the uniform group insurance program to allow participation by permanent and temporary employees of private sector employers and by any other individual who is otherwise without health insurance coverage; to amend and reenact section 54-52.1-02 of the North Dakota Century Code, relating to subgroups under the uniform group insurance program; to provide an appropriation; to provide a continuing appropriation; and to provide an effective date.	final Board considerations in October with the exception of requesting that the Executive Director's assignment to chair the board of the new agency be withdrawn. This request would be made to the bill sponsor. If this bill was approved this would be a full time effort.		
90206.0100	Rep.	A BILL relating to the	PERS remain neutral on the	PERS remain neutral.	

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	Klemin	creation and enactment of a new subsection to section 54-52-04 of the North Dakota Century Code to provide the public employees retirement system the authority to create a trust health care savings plan for all supreme and district court judges participating in the public employees' retirement system.	bill at this time subject to final Board considerations in October.		



**North Dakota
Public Employees Retirement System**
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Memorandum

TO: NDPERS Board

FROM: Kathy & Sparb

DATE: October 30, 2008

SUBJECT: Retirement Appeal #2008-001R

The member is appealing on the basis of our request to repay an overpayment of pension benefits. The employer notified us that the member retired effective June 30, 2008. The first retirement check was issued on August 1, 2008 and included payment for July and August. On August 22, 2008 we received a retirement contribution for the member. We contacted the employer and were told that the contribution was paid for one day of work on June 30 which was the first day of a new payroll period. As the employer has a bi-weekly payroll cycle, this day fell into the pay period paid on July 18 and was subsequently reported on the August transmittal. According to the North Dakota Administrative Code (NDAC) §71-02-04-02.1:

The termination date for purposes of processing an application for retirement benefits must be the last date for which a member receives salary except for a member who is on an approved leave of absence. For members who are paid salary in any month following actual separation from employment when the salary is received after the normal processing date, the termination date for purposes of processing the application must be the same date as the date that the last paycheck was issued as salary.

Based on the above, the termination date for processing the retirement application should have been July 18th. This means the benefit eligibility date should have been August 1 not July 1. This has resulted in an overpayment of benefits in the amount of \$2,018.88 for the month of July. According to NDAC §71-02-04-10 "an "overpayment "means a payment of money by the Public Employees Retirement System that results in a person receiving a higher payment than the person is entitled to under the provision of the retirement plan of membership." This section further states that "A person who receives an overpayment is liable to refund those payments upon receiving a written explanation and request for the amount to be refunded."

On September 23, a letter was sent to the member informing him of the overpayment paid in July, the recalculated benefit effective August 1, 2008, and the repayment options. The member is appealing and requesting to be released from liability for the overpayment of benefits that occurred in July citing an error on the part of the payroll office.

Attachment 1 is a chronological outline of the events that resulted in the overpayment. Attachments 2 through 5 are copies of the payroll notice, correspondence with the member, a copy of the appeal letter, and a memo from the member's payroll office documenting its involvement in this matter.

Board Action Requested

Approve or deny appeal #2008-001R to release the member from liability for repayment of the pension overpayment.

Attachment 1

6/2/08 - received Notice of Status/Employment change; last retirement transmittal July 08; last day of service 6/30/08.

6/6/08 - received application for retirement benefits; retirement effective 7/1/08.

6/18/08 - file complete notice sent to member.

8/1/08 - first check mailed; pension for July and August.

8/22/08 - retirement contribution received after member had started receiving pension benefits.

Contacted Employer – 1 day salary (sick leave) for June 30.

Payroll cycle is every 2 weeks:

Pay Period	Check Date
6/2 – 6/15	6/20
6/16 – 6/29	7/3
6/30 – 7/13	7/18

Last transmittal should have been August. Member is entitled to one month service credit for July and retirement effective date should be 8/1/08.

9/23/08 - letter sent to member informing him of the overpayment of benefits for July; the recalculated amount for benefits beginning 8/1/08 and repayment options.

10/1/08 - request for appeal received.



NOTICE OF STATUS OR EMPLOYMENT CHANGE
NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM
SFN 53611 (Rev. 07-2007)



In compliance with the Federal Privacy Act of 1974, the disclosure of the individual's social security number on this form is mandatory pursuant to 26 U.S.C. Sec. 3402. The individual's social security number will be used for tax reporting and as an identification number.

THIS FORM MUST BE COMPLETED IN ITS ENTIRETY BY THE AUTHORIZED AGENT

NDPERS • PO Box 1657 • Bismarck, • North Dakota 58502-1657
(701) 328- 3900 • 1-800-803-7377 • Fax 701-328-3920

PART A MEMBER INFORMATION

Name (Last, First, Mi)	Social Security Number
Department Name	Department Number

PART B CHANGE OF STATUS NOTICE

Effective Date July 1, 2008

Leave of Absence/Leave without Pay
Reason for Leave: _____
Recertification Date: _____ Date of Return: _____

Classification Change:

From			To		
<input type="checkbox"/> Classified State	<input type="checkbox"/> Non-Classified State	<input type="checkbox"/> Non-State	<input type="checkbox"/> Classified State	<input type="checkbox"/> Non-Classified State	<input type="checkbox"/> Non-State
<input type="checkbox"/> Seasonal	<input type="checkbox"/> Elected Official	<input type="checkbox"/> Salaried	<input type="checkbox"/> Seasonal	<input type="checkbox"/> Elected Official	<input type="checkbox"/> Salaried
<input type="checkbox"/> Non-Seasonal	<input type="checkbox"/> Appointed Official	<input type="checkbox"/> Hourly	<input type="checkbox"/> Non-Seasonal	<input type="checkbox"/> Appointed Official	<input type="checkbox"/> Hourly

Reduction in Hours:
 _____ Hours to _____ Hours
 Permanent to Temporary/Part-time (Distribute SFN 17627 to employee)

PART C SEPARATION OF EMPLOYMENT

Notice of Retirement Notice of Long Term Disability Notice of Death Notice of Termination
(Do not use this form for Notice of Transfer-Complete a Notice of Transfer Kit)

Has the appropriate "KIT" been provided to employee/surviving spouse? No Yes, Date May 23, 2008

Last Date of Service with Agency June 30, 2008 Date of Last Regular Paycheck July 18, 2008

Last Month Insurance Premium(s) will be paid by your agency/or this employee. (last month on employer billing) (Month & Year): July 2008 Projected Accumulated hours of sick leave to date of separation: 0

Last retirement transmittal of deduction (Month & Year): July 2008 Last retirement transmittal due: (Month, 8th, & Year): July 2008

PART D PLAN INFORMATION (Check all the plans the employee is currently participating in)

Group Insurance	Retirement	Other Plans
<input checked="" type="checkbox"/> Health Insurance <input type="checkbox"/> Single Coverage <input checked="" type="checkbox"/> Family Coverage	<input checked="" type="checkbox"/> Defined Benefit <input type="checkbox"/> Defined Contribution	<input type="checkbox"/> Deferred Compensation (457/403(b))
<input type="checkbox"/> PERS Dental; Current Dental Premium \$ _____	<input type="checkbox"/> TIAA-CREF	<input type="checkbox"/> PERS Flex Comp (125)
<input type="checkbox"/> PERS Vision; Current Vision Premium \$ _____	<input type="checkbox"/> TFFR	
<input checked="" type="checkbox"/> PERS Life Insurance	<input type="checkbox"/> Job Service	
<input type="checkbox"/> PERS Long Term Care	<input type="checkbox"/> Highway Patrol	

PART E AUTHORIZATION OF AUTHORIZED AGENT

I certify that the above information is true and correct.

Authorized Agent Signature

May 30, 2008
Date of Signature



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

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

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

September 23, 2008

RE: Overpayment of Benefits
SSN:

Dear

After you retired and received your first check your employer reported your salary for the month of July. Because you had earnings in the month of July you were not eligible to begin retirement benefits. Therefore you have been overpaid benefits in the amount of \$2,018.88.

You also earned 1 month of service credit for the month of July. This caused an adjustment in your monthly benefits. Your new monthly benefit amount is \$2,023.62

In August you received a check for 2 months benefit in the amount of \$4,037.76 (\$2,018.88 per month). The correct amount should have been \$2,023.62. As a result you have been overpaid \$2009.40.

Your correct monthly benefit amount is \$2,023.62. Beginning October 1, 2008 your benefit amount will be \$2,023.62.

The laws governing NDPERS state that a person who receives an overpayment is liable to refund those payments upon receiving an explanation and a written request for the amount to be returned. See Item #1 on the enclosed "North Dakota Century Code and Administrative Code Summation". Pursuant to that section, you have the following three options in which to address the situation:

- 1) Pay back the \$2,009.40 in a one time lump sum by personal check.
- 2) Propose a repayment schedule, which can be no less than \$50.00 a month and cannot exceed 36 months. Any proposal you make must be approved by NDPERS executive director.
- 3) Direct the NDPERS executive director to offset the amount of the overpayment from the amount of future benefit payments so that the actuarial equivalent of the overpayment is spread over your lifetime. It has been determined that the reduced amount would be \$2,017.85 per month for the remainder of your lifetime

If you do not select one of the above options within 60 days of the date of this letter, option three (3) will automatically be selected and implemented effective December 1, 2008. Please complete and

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

9/23/2008

Page 2 of 4

return the enclosed "Memorandum of Understanding" by November 21, 2008 to inform us of your repayment option.

If you have any questions, please contact our office at (701) 328-3900 or toll free at 1-800-803-7377.

Sincerely,

Barbara J. Dammen
Benefit Programs Specialist

Encs. Memorandum of Understanding
 Defined Benefit Hybrid Retirement Plan and North Dakota Century Code

CERTIFIED MAIL 7008 0150 0001 1613 4564

9/23/2008

Page 3 of 4

**MEMORANDUM OF UNDERSTANDING
REPAYMENT OF BENEFIT OVERPAYMENT**

NAME:

SSN:

This memorandum of understanding is confirmation that NDPERS RETIREE will accept the following election to repay the excess benefits of \$2,009.40 received in error from the North Dakota Public Employees Retirement System.

- Pay by personal check a lump sum amount of \$2,009.40 payable by 11/21/08.
- Pay a monthly payment in the amount of \$_____ effective 11/21/2008. This amount will continue for _____ months. (Monthly payment can be no less that \$50.00 a month and cannot exceed 36 months).
- Permanently reduce month payment by \$5.77 effective December 1, 2008. The reduction amount will continue for as long as the benefit is payable. The adjusted monthly benefit amount will be \$2,017.85.

Signature of Member

ND Public Employees Retirement System

Date Signed

Date Signed

North Dakota Century Code and Administrative Code Summation

Item #1

The North Dakota Administrative Code Chapter 71-02-04-10 states:

Erroneous payment of benefits - Overpayments.

1. An "overpayment" means a payment of money by the public employees retirement system that results in a person receiving a higher payment than the person is entitled to under the provision of the retirement plan of membership.
2. A person who receives an overpayment is liable to refund those payments upon receiving a written explanation and request for the amount to be refunded. All overpayments must be collected using the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like gains. If the cost of recovering the amount of the overpayment is estimated to exceed the overpayment, the repayment is considered to be unrecoverable.
3. If the overpayment of benefits was not the result of any wrongdoing, negligence, misrepresentation, or omission by the recipient, the recipient may make repayment arrangements subject to the executive director's approval within sixty days of the written request for refund. If repayment arrangements are not in place within sixty days of the date of the written notice of overpayment, the executive director shall offset the amount of the overpayment from the amount of future retirement benefit payments so that the actuarial equivalent of the overpayment is spread over the individual's benefit payment period.
4. If the overpayment of benefits was the result, in whole or in part, of the wrongdoing, negligence, misrepresentation, or omission of the recipient, the recipient is liable to pay interest charges at the rate of six percent on the outstanding balance, from the time the erroneous benefit was paid through the time it has been refunded in full, plus applicable interest.
5. If an individual dies prior to fully refunding an erroneous overpayment of benefits, the public employees retirement system must make application to the estate of the deceased to recover the remaining balance.

71-02-04-12. Erroneous payment of benefits - Appeals.

1. A person not satisfied with repayment arrangements made under section 71-02-04-10 may appeal the executive director's decision in writing to the board. The written request must explain the basis of the appeal and must be received in the office within sixty days of the executive director's written decision.
2. The board may release a person from liability to refund an overpayment, in whole or in part, if it determines:
 - a. The receipt of overpayment is not the fault of the recipient.
 - b. It would be contrary to equity and good conscience to collect the refund.

9/29/08

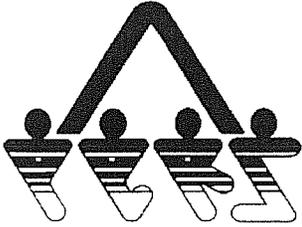
SPARIS COLLINS
EXECUTIVE DIRECTOR
N.D. PUBLIC EMPLOYEES RETIREMENT
SYSTEM - 400 EAST BROADWAY, SUITE 505
P.O. 1657 BISMARCK, N.D. 58502-1657

DEAR MR. COLLINS

I RECEIVED A CERTIFIED LETTER FROM
BARBARA J. DAMMEN LAST WEEK STATING
THAT I RECEIVED AN OVERPAYMENT OF
BENEFITS, HER LETTER SAID THAT I
RECEIVED EARNINGS, FROM MY FORMER
EMPLOYER, FOR THE MONTH OF JULY.
THAT IS INCORRECT BECAUSE AS OF JUNE
30TH I HAVE BEEN RETIRED. I DID
RECEIVE MONEY FROM MY EMPLOYER IN
JULY, BUT THIS WAS MONEY I ACCRUED
IN JUNE FOR UNUSED VACATION AND SICK
LEAVE. MY RETIREMENT ON ALL PAPER-
WORK BEGAN JULY 1ST. I HAVE SINCE
CONTACTED BARBARA DAMMEN AND
SHE STATED THAT SHE IS WORKING ON
THIS ISSUE FROM HER END. MY
FORMER EMPLOYER - HAS A NEW PAYROLL
CLERK AND I BELIEVE SHE ERRORED IN
MY PAPER-WORK TO THE RETIREMENT
BOARD. THANK-YOU FOR YOUR TIME.

*

RECEIVED
OCT 01 2008
ND PERS



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

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

FAX: (701) 328-3920 • EMAIL: NDPERS@state.nd.us • discovernd.com/NDPERS

Memorandum

TO: PERS Board
FROM: Sparb
DATE: November 3, 2008

PROPOSED 2009 NDPERS BOARD MEETING DATES

All meetings are scheduled to be held at the North Dakota Association of Counties conference room located at 1661 Capitol Way, Bismarck, unless otherwise noted.

- **January 22**
- **February 19**
- **March 19**
- **April 16**
- **May 21**
- **June 18**
- **July 16**
- **August 20**
- **September 17**
- **October 15 – location to be announced**
- **November 19**
- **December 17**