NDPERS BOARD MEETING
Agenda

Bismarck Location:
ND Association of Counties
1661 Capitol Way
Fargo Location:
BCBS, 4510 13th Ave SW

January 22, 2009 **Time: 8:30 AM**

I. MINUTES
- A. December 16, 2008
- B. December 30, 2008

II. RETIREMENT
- A. Public Fund Survey Summary 2007 – Sparb (Information)
- B. Pension Protection Act – Sparb (Information)
- C. Public Pension Coordinating Council Award – Deb (Information)
- D. IRS Letter of Determination Update – Deb (Information)

III. GROUP INSURANCE
- A. BCBS Annual Report – BCBS (Information)
- B. Heart of America Health Plan/Rugby – Kathy (Board Action)
- C. ICD9 Inpatient Comparison – Bryan (Information)
- D. Prescription Drug Update – Bryan (Information)
- E. Surplus/Affordability Update – Bryan (Information)

IV. DEFINED CONTRIBUTION PLAN
- A. 2008 Enrollment – Kathy (Information)

V. FLEXCOMP PLAN
- A. 2009 Enrollment – Kathy (Information)

VI. MISCELLANEOUS
- A. 2008 Comprehensive Annual Financial Report – Sharon (Information)
- B. Quarterly Consultant Fees – Jim (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.

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Memorandum

TO: PERS Board

FROM: Sparb

DATE: January 14, 2008

SUBJECT: Public Fund Survey

Attached is the Public Fund Survey Summary of Findings for FY 2007 prepared by the National Association of State Retirement Administrators.

Public Fund Survey Summary of Findings for FY 2007

Prepared by Keith Brainard
Research Director
National Association of State Retirement Administrators
November 2008

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Overview of the Public Fund Survey

The Public Fund Survey is an online compendium of key characteristics of most of the nation's largest public retirement systems. The Survey is sponsored by the National Association of State Retirement Administrators and the National Council on Teacher Retirement.

Beginning with fiscal year 2001, the Survey contains data on public retirement systems that provide pension and other benefits for 13.2 million active (working) members and 6.5 million annuitants (those receiving a regular benefit, including retirees, disabilitants and beneficiaries). Based on the latest information published in annual financial reports, systems in the Survey hold in trust $2.79 trillion. The membership and assets of systems included in the Survey represent approximately 85 percent of the entire state and local government retirement system community.

According to a 2007 study by the Government Accountability Office, employees of state and local government comprise 12 percent of the nation's full-time workforce. These are public school teachers and administrators, firefighters, judges, police officers, public health officials, correctional officers, transportation workers, game wardens, compliance officers, nurses, engineers, inspectors, procurement specialists, computer programmers, custodians, and many others responsible for providing myriad public services.

The source of Survey data is primarily public retirement system annual financial reports. Data also is taken from actuarial valuations, benefits guides, system websites, and input from system representatives. The Survey is updated continuously as new information, particularly annual financial reports, becomes available. This report of findings focuses on fiscal year 2007, which is reported for 94 of the 101 systems in the survey. As other systems report their FY 07 data, results presented in this report may change slightly.

A key objective of the Survey is to increase the transparency and understanding of the public pension community and pension funding levels by providing a factual and objective basis on which to discuss many issues related to retirement benefits for public employees.

The Public Fund Survey is accessible online at www.publicfundsurvey.org.

The Meaning and Implications of Actuarial Funding Ratios

The most recognized measure of a public retirement plan's health is its actuarial funding ratio, derived by dividing the actuarial value of plan assets by the value of its liabilities. Pension benefits for public employees usually are pre-funded, meaning that all or some of the assets needed to fund pension liabilities are accumulated during an employee's working life, then paid out during the participant's years in retirement.

Pre-funding is one way of financing a pension benefit. The opposite of pre-funding is pay-as-you-go, an arrangement under which current benefit obligations are paid with current revenues. In most cases, a pay-as-you-go pension plan eventually becomes too expensive to support with only current receipts and contributions. Investment earnings account for most revenue generated by a pre-funded pension plan, which reduces required contributions from employees and employers (taxpayers).

A pension plan whose assets equal its liabilities is funded at 100% and is considered to be *fully funded.* A plan with assets less than its accrued liabilities is considered *underfunded*.

Underfunding is a matter of degree, not of kind, That is, simply because a plan is underfunded is not necessarily a sign of fiscal or actuarial distress; many pension plans remain underfunded for decades without causing fiscal stress for the plan sponsor.

As an illustration, the status of a plan whose funding level declines from 101 percent in year one to 99 percent the following year, changes from overfunded to underfunded. Yet despite this diametric shift in terminology, the reality of the plan's funding condition has changed little.

The critical factor in assessing the current and future health of a pension plan is whether or not funding its liabilities creates fiscal stress for the pension plan sponsor.

Although a pension plan that is fully funded is preferable to one that is underfunded, other factors held equal, a plan's funded status is simply a snapshot in a long-term, continuous financial process. A plan's funding level is akin to a single frame of a movie that spans decades. Because public pensions are "going concerns," operating essentially as perpetual entities, there is nothing particularly important about being fully funded at any particular point. Likewise, the fact that a plan is underfunded does not necessarily present a fiscal or actuarial challenge to the plan sponsor. Even with no changes to funding policies or plan design, most underfunded plans are positioned to pay promised benefits for decades. Public pension liabilities typically extend years into the future, during which the pension fund can accumulate the assets needed to fund liabilities.

Attaining full funding of a pension plan has been likened to a mortgage. At the end of the process, when fully paid, the mortgage would be considered fully funded. Although at any point during the 30-year mortgage, the outstanding liability may be considered an unfunded liability, more relevant considerations are a) whether the creditor has the resources to continue making payments until the obligation is resolved; and b) whether the obligation is indeed being amortized.

Likewise, more pertinent considerations with regard to funding a public pension plan are the ability of the plan sponsor to continue to pay promised benefits and to make required contributions without causing fiscal stress; and whether the plan's unfunded liability is being amortized.

All plans, underfunded and fully funded alike, that are open to newly hired workers, rely on future contributions and investment returns. A key difference between underfunded and fully funded plans is that underfunded plans require revenue to amortize the shortfall between assets and accrued liabilities. The degree of underfunding and its associated cost to the plan sponsor are key considerations in assessing a plan's overall condition.

Other factors indicative of a pension plan's health include:

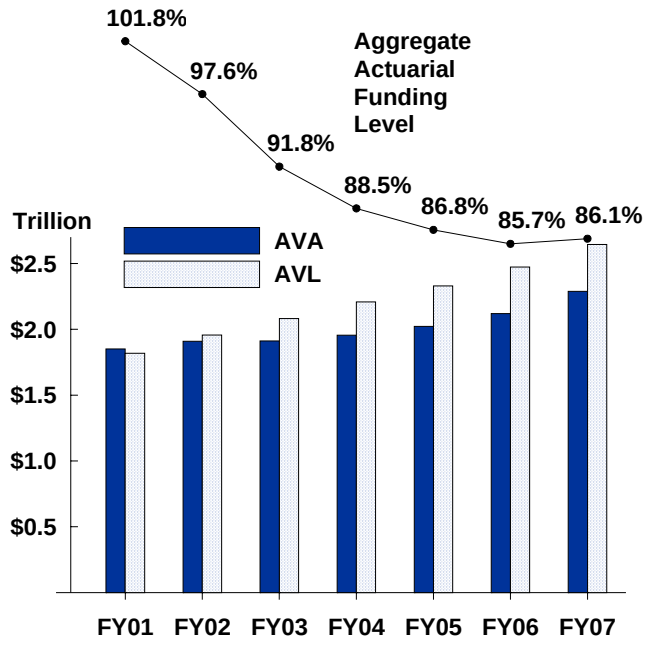
- the length of the funding amortization period
- required current and future contribution rates
- the plan's demographics
- the reasonableness of the plan's actuarial assumptions
- the sustainability of the plan design
- the plan's governance structure
- the fiscal health of the plan sponsor
- the commitment of the plan sponsor to continue to fund the plan

Information about many of these factors is readily available in annual reports and other material published by most public retirement systems.

Past and Current Funding Levels

For the first time since FY 01, aggregate public pension funding levels rose in FY 07, from 85.7 percent to 86.1 percent. Figure A summarizes aggregate assets and liabilities and the resulting actuarial funding ratio for plans in the Public Fund Survey. The bar graph reflects assets and liabilities for 114 plans for which data is available for all seven years, excluding the four plans that report a funding level only on the basis of the aggregate cost actuarial method (which does not identify an unfunded liability; plans that use this method are always funded at 100 percent).

Figure A: Change in aggregate actuarial assets, liabilities, and funding levels, FY 01 to FY 07



After declining sharply from FY 01 to FY 04, then more slowly for another two years, the funding level in FY 07 is higher for the first time since FY 01. This experience illustrates the gradual, long-term nature of funding a public pension plan and stands in sharp contrast to the drastic changes in funding level and required costs of corporate pensions.

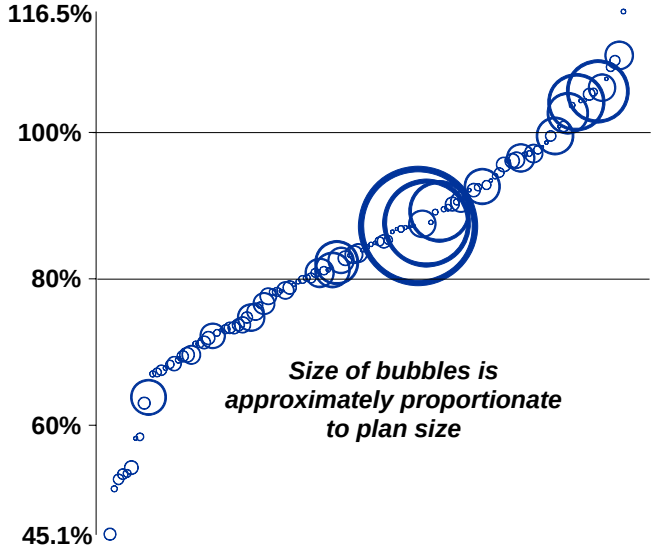
Public pensions are designed to moderate year-to-year changes in funding levels and required costs in the face of events such as investment market volatility. This is accomplished with actuarial smoothing methods, which phase in investment gains and losses over several years; amortization periods that average 25 years, which enable plans to set and pursue long-term funding and investment policies; use of a discount rate that is consistent with historic and projected long-term investment returns; and required employee contributions, which provide a steady and reliable stream of revenue with which to defray the cost of benefits and to meet current benefit obligations.

Per federal law, corporate pensions are limited to two-year smoothing periods; must be funded above 90 percent and on track to attain full funding within a few years; must use a risk-free discount rate to measure funding levels and make contributions; and typically do not require employees to make contributions. As a result of these factors, corporate pension funding levels and required costs vacillate significantly, which has led many corporations to abandon their pension plan in lieu of defined contribution plans.

Figure B plots funding levels of the 121 individual plans in the Survey that do not use the aggregate cost actuarial valuation method The size of each circle on the chart is roughly proportionate to the plan's size: larger plans are indicated by larger bubbles; smaller plans, by smaller bubbles.

Seventy-five of the 121 plans (62 percent, up from 59 percent in FY 06), are funded at or above 80 percent, an informal threshold of actuarial health. Notably, plans funded above 80 percent comprise three-fourths of the assets of all plans in the survey, indicating that as a group, larger plans constitute a larger portion of plans funded above the 80 percent level. The median funding level is 84.3 percent.

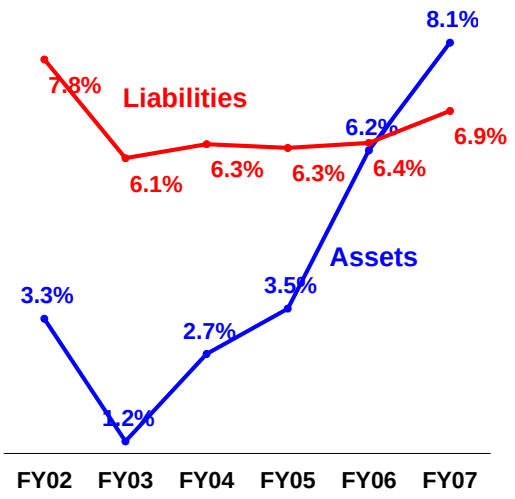
Figure B: Actuarial funding ratios for 121 public pension plans



Managing liability growth is key to attainment of full funding. When liability growth exceeds growth in assets, funding levels decline; when asset growth exceeds liability growth, funding levels rise. As Figure

C shows, for the first time since inception of the Survey, growth in actuarial assets exceeded growth in liabilities, an experience consistent with this year's uptick in aggregate actuarial funding levels. The modest rate of growth in assets from FY 04 through FY 06 occurred despite double-digit investment returns in fund market values during these years due to most plans' use of actuarial smoothing methods.

Figure C: Median change from prior year in actuarial value of assets and liabilities



Median liability growth has been below the average implicit assumption of 8.0 percent since inception of the survey, an experience attributable chiefly to plan sponsors (e.g., state legislatures) not approving benefit enhancements (with some exceptions).

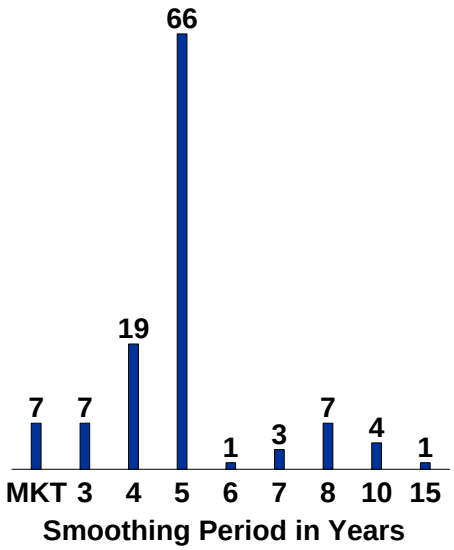
The direction of aggregate near-term future funding levels is unclear

Predicting the direction of aggregate public pension funding levels over the next three years or so is difficult in the current environment due to several factors, including recent volatility in investment returns, actuarial valuation dates that lag many plans' fiscal year-end dates, and actuarial smoothing periods that extend as long as 15 years.

- **Market volatility -** Because investment earnings comprise a majority of projected public pension revenues, compared with other actuarial assumptions, investment returns are a major determinant of public pension funding levels.
- **Lagging actuarial valuation dates -** Forty percent of plans in the Survey have a valuation date that lags the fiscal year-end date—meaning that these plans have not yet incorporated investment experience from FY 07, among other actuarial factors, into their actuarial valuation.
- **Smoothing periods -** The length of smoothing periods used to determine the actuarial value of assets affects the funding ratio in the short-term; plans using a shorter smoothing period recognize recent investment gains and losses more quickly compared to those using longer smoothing periods, which phase in investment gains and losses over longer periods. As shown in Figure D, most plans calculate the actuarial value of their assets over five years, although the number of plans using longer periods has grown, particularly since 2005.

Any comparison of actuarial funding levels among plans must recognize these and other actuarial variables. Because of the dramatic volatility in investment returns in recent years, combined with varying smoothing periods and valuation dates, the direction of plans' funding levels also will vary through 2010.

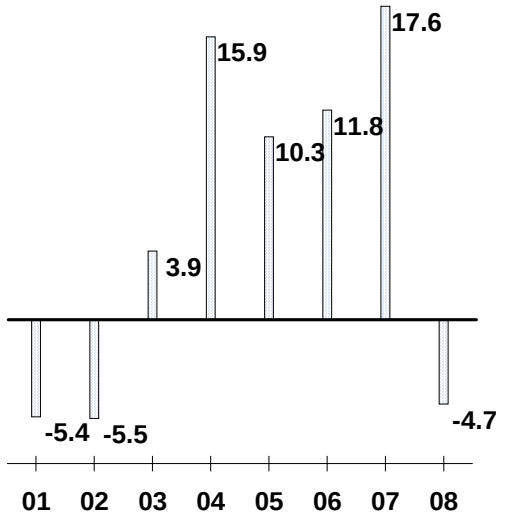
Figure D: Distribution of smoothing periods used to calculate actuarial value of plan assets



In the absence of unusually strong investment returns, in 2009 and 2010, funding levels over the next three to five years are likely be lower due to the sharp decline in asset values experienced during the June to October 2008 period.

Figure E plots median public pension fund investment returns for the period FY 01 to FY 08. Figure E illustrates the volatility in public pension investment returns: median returns in three of the last eight years have been negative, but four of the years shown have produced strong, double-digit median returns.

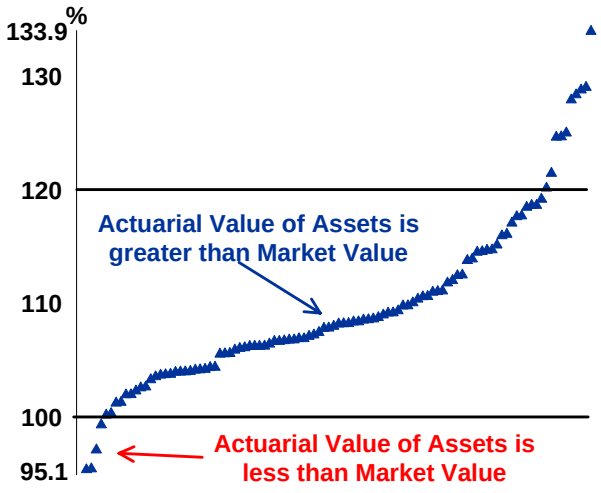
Figure E: Median annual public pension fund investment returns (in percent) for years ended 6/30, 2001 to 2008



Source: Callan Associates

Figure F shows the distribution of plans' market values as a percentage of their actuarial value. The disparity between actuarial and market value reflects most plans' use of an actuarial smoothing period. (Plans that do not use a smoothing period are not included in the chart)

Figure F: Distribution of plan market value of assets as a percentage of actuarial value of assets



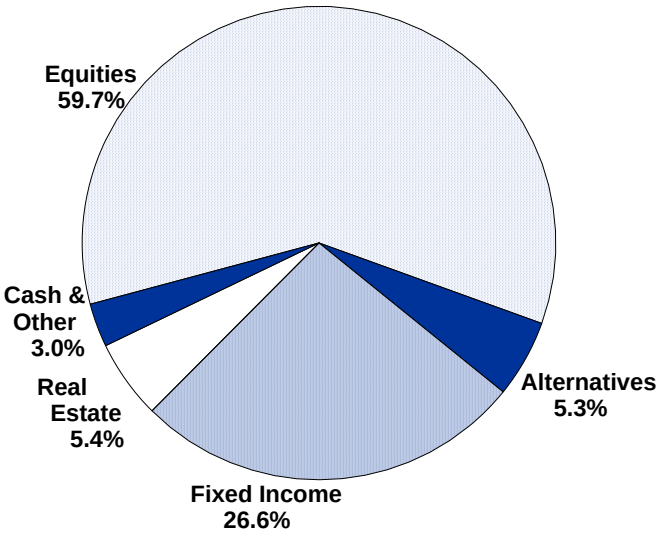
As of FY 07, plans in the Survey had some $200 billion in unrecognized investment gains as a result of deferring actuarial recognition. Some of these gains were eliminated by the negative returns experienced in FY 08, and any gains remaining after 6/30/08 were wiped out by the July to October 2008 market decline. These unrecognized gains did, however, serve as a buffer to offset the effects of the market decline.

As a result of the market decline, in FY 07 and so far in FY 08, most plans are likely to have an actuarial value of assets that is greater than the market value.

Asset Allocation and Investment Expenses

Average asset allocations for the 97 systems for which this data is available, are summarized in Figure G. The effective date for most of these funds is either 6/30/07 or 12/31/07. Notable changes from the prior year are increases in real estate and alternatives, which have been increasing slowly but steadily each of the past few years, and a reduction in the allocation to Fixed Income.

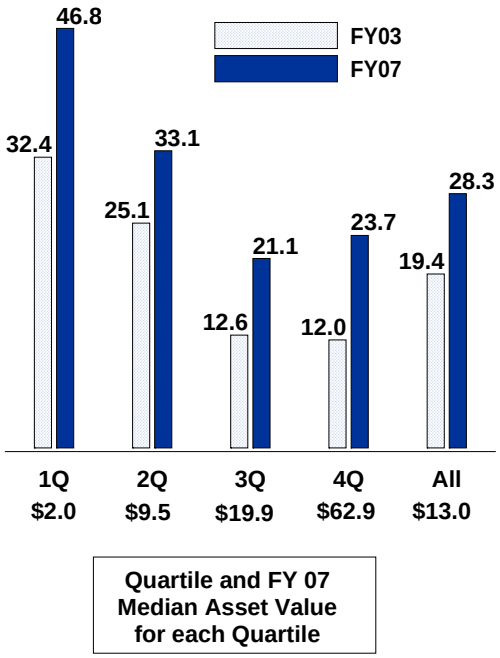
Figure G: Average Asset Allocation, FY 07



Investment management expenses paid by public funds have been rising in recent years, as evidenced in Figure H, which compares FY 03 and FY 07 median investment expenses, by quartile, for the 90 funds in the Survey for which this data is available. Median costs in each quartile are significantly higher in FY 07 than they were in FY 03, perhaps due to increased use of real estate and alternative assets, such as private equities and hedge funds.

Larger funds generally are able to negotiate lower asset management fees than smaller funds and individual investors; however, perhaps because larger funds are more likely to be invested in pricier alternative classes, expenses for the largest quartile are higher than those for the third quartile of funds.

Figure H: FY 03 and FY 07 median investment management expenses, by quartile



Membership Changes

The Survey tracks two groups of members: actives, who are working and currently receiving service credit in their retirement plan; and annuitants, which includes any member receiving a regular benefit from the system: retirees, beneficiaries and disabilitants.

Figure I summarizes changes in these membership groups from FY 01 to FY 07. A notable trend affecting state and local government pension plans in recent years has been the rate of growth in annuitants that significantly outpaces growth among actives. The ratio of actives to annuitants has declined from 2.45 in FY 01 to 2.05 in FY 07. The number of annuitants has increased since FY 01 by more than one-fourth.

By itself, a declining ratio of actives to annuitants does not pose a problem, because most public pensions are largely pre-funded. However, to the extent that a plan is underfunded, a low or declining ratio of actives to annuitants can complicate a plan's ability to move toward full funding, as fewer active, contributing workers, relatively, are available to amortize the plan's unfunded liability. An extreme example of this is evident in the case of pension plans that are closed. The cost of such plans, as a percentage of payroll, rises, often precipitously when spread among a diminishing pool of active participants.

A declining ratio of actives to annuitants also can have financial and operational effects. For example, fewer active members creates a larger negative cash flow (contributions minus benefit payments and administrative expenses). At a certain point, a negative external cash flow can require a pension fund to maintain a larger percentage of its assets in more liquid securities, or to make other adjustments to its asset allocation which may reduce long-term investment returns. In addition, as a group, annuitants tend to require more time and attention than actives from the retirement system staff.

Figure I: Percentage change over prior year in active members and annuitants, FY 01 to FY 07

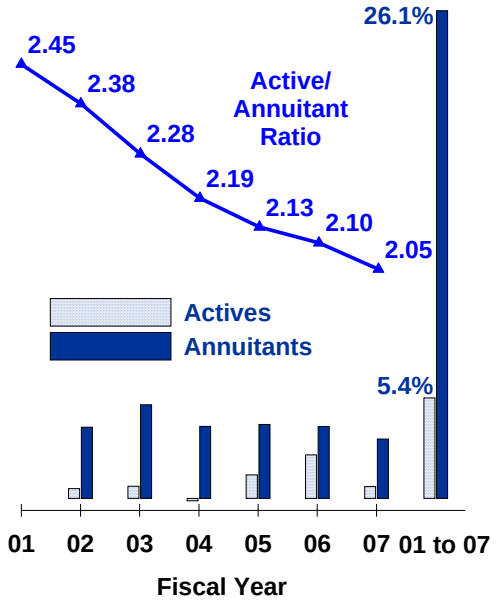
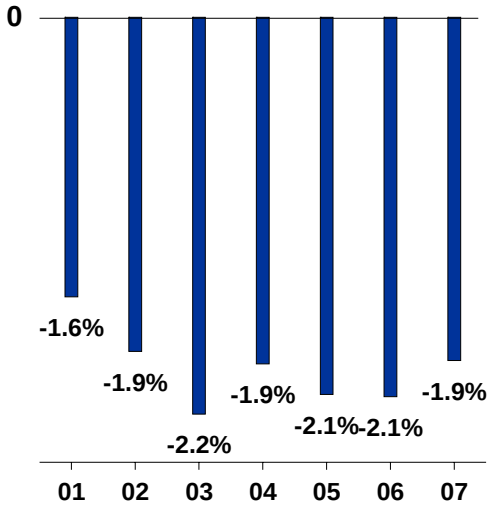


Figure J displays the median external cash flow among systems in the Public Fund Survey. External cash flow is the difference between a fund's revenue from non-investment earnings sources, and the fund's required expenditures, primarily benefits and administrative expenses. Eighty-three of the 94 plans (88 percent) whose external cash flow was measured in FY 07, had a negative external cash flow.

External cash flows for the Survey as a whole are expected to become increasingly negative over time. This is a normal development as a pension plan matures. The FY 07 cash flow figure was affected by larger asset values than the prior year (making it smaller than it would be otherwise), which increases the fund size from which benefit payments are drawn. FY 08 figures are likely to be affected by lower asset values and continuing decline in the ratio of active members to annuitants.

Figure J: Median external cash flow, FY 01 to FY 07



Contribution rates

According to the U.S. Census, from 1982 to 2006, contributions from employees and employers accounted for approximately 12 and 24 percent, respectively, of public pension fund revenues. While employer contributions for the public pension community have been volatile, contributions from employees are steady, reliable, and predictable, rising by roughly six percent annually, reflecting the sum of wage inflation and employee growth.

Figure K: Median employee and employer contribution rates, Social Security-eligible workers, FY 01 to FY 07

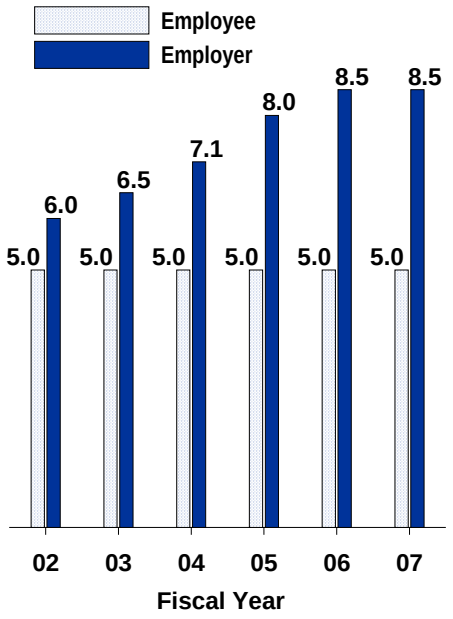
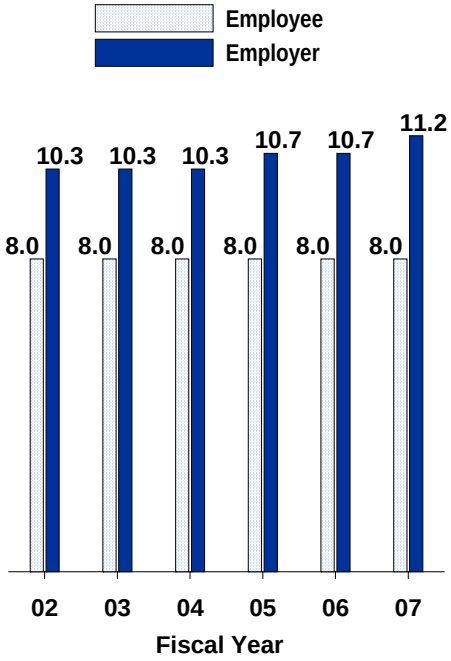


Figure K plots median contribution rates for employers and employees since FY 02 for general employees and school teachers who also participate in Social Security. This data does not include public safety personnel, such as firefighters and police officers, or narrow employee groups, such as legislators or judges.

After rising each of the previous four fiscal years, median employer contribution rates for workers who also participate in Social Security held steady at 8.5 percent. The median and modal employee contribution rate for this group remained five percent.

Approximately one-fourth of all employees of state and local government do not participate in Social Security, including nearly one-half of public school teachers, a majority of firefighters and police officers, and most or substantially all public employees in seven states: Alaska, Colorado, Louisiana, Maine, Massachusetts, Ohio, and Nevada. Contribution rates usually are higher for non-Social Security eligible employers and workers, because benefits usually are higher to compensate for the absence of Social Security.

Figure L: Median employee and employer contribution rates, non-Social Security-eligible workers, FY 01 to FY 07



Median employer contribution rates for non-Social Security-eligible workers rose in FY 07 to 11.2 percent of pay, up from 10.7 percent each of the prior two years.

Employers and employees participating in non-Social Security plans each save the 6.2 percent contribution used to fund Social Security; these workers and their employers are required to pay the 1.45 percent Medicare contribution.

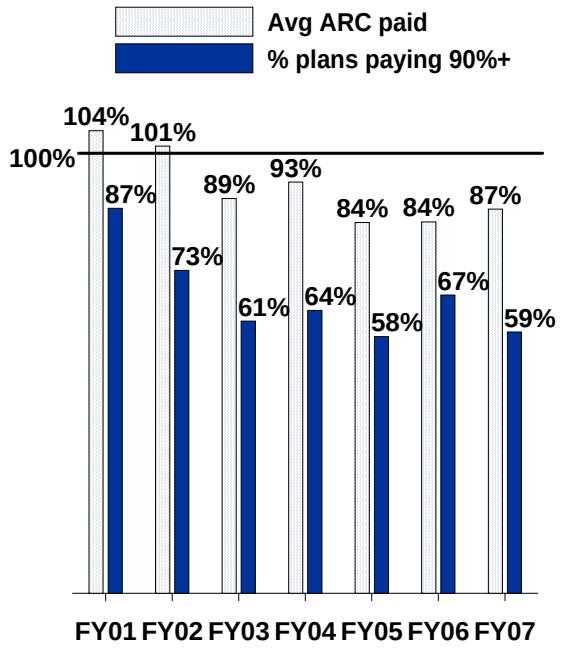
Annual Required Contribution

A plan's annual required contribution, or ARC, is the amount needed to fund benefits accrued in the current period (the normal cost) plus the amount necessary to retire the plan's unfunded liability over a designated period (known as the amortization period). A Government Accountability Office study published in January 2008 found, "[T]he percentage of governments contributing less than the full ARC has risen in recent years. This continues a trend in recent years of about half of governments making full contributions."

Survey findings confirm the GAO finding. Figure M plots ARC history for plans in the Survey on the basis of two measures: the overall average ARC paid, and the percentage of plans receiving at least 90 percent of the ARC.

The overall average ARC paid by public plan sponsors has not returned to the levels of FY 01 and 02. Also, at 59 percent, the percentage of plan sponsors paying at least 90 percent of their ARC was lower in FY 07 than in any of the years measured.

Figure M: Average annual required contribution paid and percentage of plans paying at least 90 percent of their ARC, FY 01 to 07



The GAO study, mentioned above, also noted that many of the plan sponsors failing to pay their ARC also had plans in relatively poorer funding condition. The GAO stated, "[T]he failure of some [plan sponsors] to consistently make the annual required contributions undermines [funding] progress and is cause for concern, particularly as state and local governments will likely face increasing fiscal pressure in the coming decades. While unfunded liabilities do not generally put benefits at risk in the near-term, they do shift costs and risks to the future."

Assumptions for Inflation and Investment Return

Among the many actuarial assumptions used to calculate a plan's liabilities, rates of inflation, investment return, and the real rate of return have a major effect on plan costs. The assumed inflation rate affects projected wage growth, which is a major driver of benefit levels. Inflation also is part of the investment return assumption: the difference between the inflation and investment return assumptions is the real rate of investment return.

The real rate of return, which is the difference between the inflation rate and the nominal investment return assumption, reflects investment returns after removing the cost of inflation.

Figure N: Comparison of distribution of inflation assumptions, FY 01 and FY 07

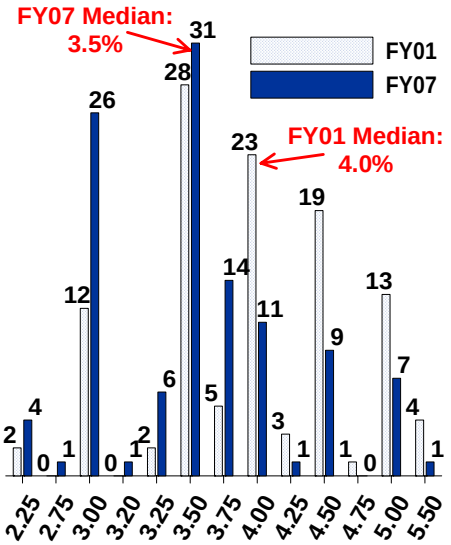
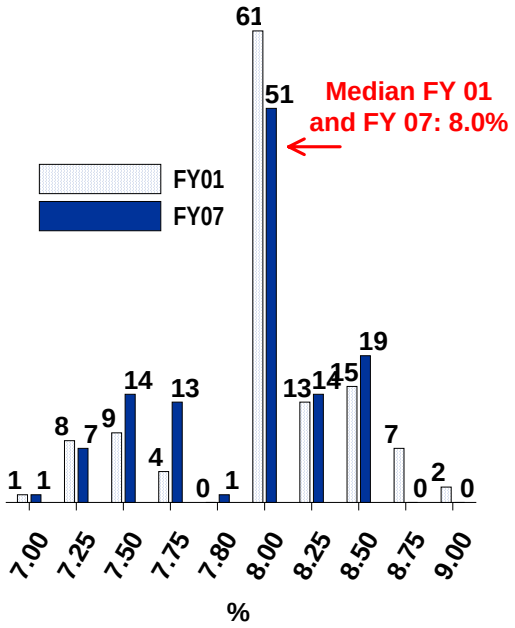


Figure N compares the distribution of inflation assumptions among plans in the Public Fund Survey in FY 01 and FY 07. Many plans have reduced their inflation assumptions in recent years, resulting in a shift of the median and modal inflation assumption to 3.5%, down from 4.0% in FY 01.

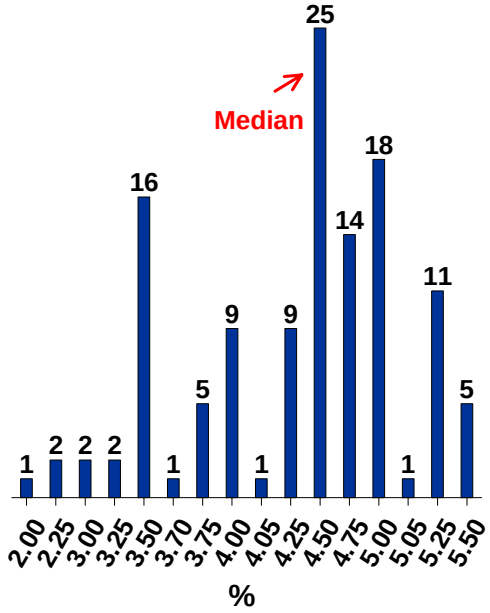
Figure O compares the distribution of investment return assumptions. As with inflation assumptions, investment return assumptions for many plans have declined in recent years, although the median and modal assumption remains unchanged at 8.0 percent.

Figure O: Distribution of investment return assumptions, FY 07



As shown in Figure P, largely because many plans have reduced their nominal inflation assumption, the median assumption for the real rate of return has increased from 4.0 percent in FY 01 to 4.50 percent in FY 07.

Figure P: Distribution of real rate of return assumptions, FY 07



Conclusion

The actuarial condition of the public pension community improved in FY 07, due chiefly to continued modest growth in liabilities combined with a fourth consecutive year of strong investment earnings. The direction of funding levels over the next couple of years is likely to vary by plan depending on a variety of actuarial factors and methods. In the wake of the decline in global equity markets since October 2007, the outlook for funding levels in FY 10 and years beyond will depend on funds' investment performance and level of plan sponsor support for making annual required contributions.

C

Appendix A

State	System	Market Value of Assets ($000s)	Active Members	Annuitants	As of (Fiscal Year-End)
AK	Alaska Public Employees Retirement System	7,439,387	32,009	22,992	6/30/2007
AK	Alaska Teachers Retirement System	3,806,494	9,256	9,669	6/30/2007
AL	Retirement Systems of Alabama	23,274,437	208,685	75,498	9/30/2007
AR	Arkansas Teachers Retirement System	11,636,935	69,226	24,153	6/30/2007
AR	Arkansas Public Employees Retirement System	5,970,244	43,630	22,409	6/30/2007
AZ	Arizona State Retirement System	27,069,558	224,766	83,603	6/30/2007
AZ	Arizona Public Safety Personnel Retirement System	5,531,794	18,624	7,633	6/30/2007
AZ	Phoenix Employees' Retirement System	1,930,535	9,564	4,289	6/30/2007
CA	California Public Employees Retirement System	251,907,000	824,553	457,342	6/30/2007
CA	California State Teachers Retirement System	172,377,918	455,693	215,641	6/30/2007
CA	Los Angeles County Employees Retirement Association	40,908,106	92,096	51,392	6/30/2007
CA	San Francisco City and County Retirement System	16,952,043	30,190	20,605	6/30/2007
CA	San Diego County Employees Retirement Association	8,260,774	17,733	12,504	6/30/2007
CA	Contra Costa County Employees' Retirement Association	5,199,117	9,421	6,896	12/31/2007
CO	Colorado Public Employees Retirement Association	41,150,362	186,842	78,244	12/31/2007
CO	Denver Employees Retirement Plan	2,040,172	9,303	6,590	12/31/2007
CO	Denver Public Schools Retirement System	3,006,971	7,303	6,168	12/31/2007
CT	Connecticut Teachers Retirement Board	12,227,995	53,546	28,042	6/30/2007
CT	Connecticut State Employees Retirement System	8,146,302	48,919	36,705	6/30/2005
DC	District of Columbia Retirement Board	4,371,373	10,577	3,142	9/30/2007
DE	Delaware Public Employees Retirement System	7,325,323	42,465	21,699	6/30/2007
FL	Florida Retirement System	134,315,241	680,302	263,198	6/30/2007
GA	Georgia Teachers Retirement System	53,133,101	218,141	76,133	6/30/2007
GA	Georgia Employees Retirement System	16,479,404	113,127	47,485	6/30/2007
HI	Hawaii Employees Retirement System	11,462,417	65,251	35,324	6/30/2007
IA	Iowa Public Employees Retirement System	23,217,167	165,241	84,949	6/30/2007
ID	Idaho Public Employee Retirement System	11,257,958	65,800	29,619	6/30/2007
IL	Illinois Municipal Retirement Fund	24,223,495	177,783	87,687	12/31/2007
IL	Illinois Teachers Retirement System	41,909,317	160,317	89,236	6/30/2007
IL	Illinois State Universities Retirement System	15,985,730	72,092	43,395	6/30/2007
IL	Illinois State Employees Retirement System	12,078,909	67,699	55,265	6/30/2007
IL	Chicago Public School Teachers Pension and Retirement I	12,772,609	32,968	23,623	6/30/2007
IN	Indiana Public Employees Retirement Fund	17,155,566	153,139	60,868	6/30/2007
IN	Indiana State Teachers Retirement Fund	8,980,794	73,350	39,849	6/30/2007
KS	Kansas Public Employees Retirement System	14,183,073	151,449	65,765	6/30/2007
KY	Kentucky Retirement Systems	14,228,184	147,849	76,829	6/30/2007
KY	Kentucky Teachers Retirement System	15,492,519	75,144	39,506	6/30/2007
LA	Louisiana Teachers Retirement System	16,148,730	79,796	59,530	6/30/2007
LA	Louisiana State Employees Retirement System	9,351,148	60,444	36,742	6/30/2007
MA	Massachusetts State Employees' Retirement System	20,494,694	84,677	50,412	12/31/2006
MA	Massachusetts Teachers Retirement Board	15,973,000	84,255	39,755	12/31/2003
MD	Maryland State Retirement and Pension System	39,444,781	196,262	108,355	6/30/2007
ME	Maine Public Employees Retirement System	10,972,415	52,060	33,586	6/30/2007
MI	Michigan Public School Employees Retirement System	48,362,943	295,984	162,844	9/30/2007
MI	Municipal Employees' Retirement System of Michigan	6,066,337	37,672	22,737	12/31/2007
MI	Michigan State Employees Retirement System	12,103,057	30,864	46,886	9/30/2007
MN	Minnesota Public Employees Retirement Association	19,422,403	160,512	68,743	6/30/2007
MN	Minnesota Teachers Retirement Association	19,938,882	77,694	46,538	6/30/2007
MN	Minnesota State Retirement System	10,955,687	53,917	28,327	6/30/2007
MN	St. Paul Teachers' Retirement Fund Association	1,156,017	3,982	2,738	6/30/2007
MN	Duluth Teachers Retirement Fund Association	318,974	1,227	1,150	6/30/2007

Appendix A

State	System	Market Value of Assets ($000s)	Active Members	Annuitants	As of (Fiscal Year-End)
MN	Minneapolis Employees Retirement Fund	1,282,717	552	4,981	6/30/2004
MO	Missouri Public Schools Retirement System	31,964,843	126,402	57,367	6/30/2007
MO	Missouri State Employees Retirement System	8,129,174	54,763	29,129	6/30/2007
MO	Missouri Local Government Employees Retirement Syster	4,082,057	30,607	12,649	6/30/2007
MO	MoDOT & Patrol Employees' Retirement System	1,825,204	8,639	7,155	6/30/2007
MO	St. Louis Public School Retirement System	1,150,961	5,010	4,084	12/31/2007
MS	Mississippi Public Employees Retirement System	21,912,350	163,619	73,720	6/30/2007
MT	Montana Public Employees Retirement Board	4,977,947	33,456	19,119	6/30/2007
MT	Montana Teachers Retirement System	3,209,275	18,188	10,971	6/30/2007
NC	North Carolina Retirement Systems	73,473,088	496,235	194,596	6/30/2007
ND	North Dakota Public Employees Retirement System	1,939,135	18,725	6,872	6/30/2007
ND	North Dakota Teachers Fund for Retirement	2,029,777	9,599	6,077	6/30/2007
NE	Nebraska Retirement Systems	8,036,562	52,373	15,390	6/30/2007
NH	New Hampshire Retirement System	5,795,605	50,802	21,248	6/30/2007
NJ	New Jersey Division of Pension and Benefits	89,193,906	519,886	230,227	6/30/2007
NM	New Mexico Educational Retirement Board	8,219,290	61,829	28,539	6/30/2006
NM	New Mexico Public Employees Retirement Association	13,290,538	60,712	24,384	6/30/2007
NV	Nevada Public Employees Retirement System	22,701,360	103,693	35,687	6/30/2007
NY	New York State and Local Retirement Systems	156,625,243	601,480	342,245	3/31/2007
NY	New York State Teachers Retirement System	104,912,949	270,045	133,356	6/30/2007
NY	New York City Employees Retirement System	42,514,329	175,332	127,714	6/30/2007
NY	New York City Teachers Retirement System	37,142,791	104,850	65,168	6/30/2007
OH	Ohio Public Employees Retirement System	70,116,505	382,177	161,348	12/31/2007
OH	Ohio State Teachers Retirement System	72,935,433	174,110	122,934	6/30/2007
OH	Ohio School Employees Retirement System	11,546,062	123,013	63,529	6/30/2007
OH	Ohio Police & Fire Pension Fund	11,895,472	28,609	24,683	12/31/2007
OK	Oklahoma Teachers Retirement System	9,651,042	88,133	43,506	6/30/2007
OK	Oklahoma Public Employees Retirement System	6,640,477	44,712	25,233	6/30/2007
OR	Oregon Employees Retirement System	62,891,942	164,548	103,368	6/30/2007
PA	Pennsylvania Public School Employees Retirement Systen	67,340,997	263,000	256,000	6/30/2007
PA	Pennsylvania State Employees Retirement System	35,516,198	109,610	107,130	12/31/2007
RI	Rhode Island Employees Retirement System	7,329,177	35,737	22,388	6/30/2006
SC	South Carolina Retirement Systems	28,048,780	211,922	110,703	6/30/2007
SD	South Dakota Retirement System	8,158,169	37,311	18,719	6/30/2007
TN	Tennessee Consolidated Retirement System	32,365,969	206,150	89,893	6/30/2007
TX	Teacher Retirement System of Texas	112,128,800	799,934	265,307	8/31/2007
TX	Texas Employees Retirement System	24,460,276	133,036	71,059	8/31/2007
TX	Texas County & District Retirement System	16,910,164	116,858	34,362	12/31/2007
TX	Texas Municipal Retirement System	14,715,861	98,440	34,510	12/31/2007
TX	Austin Employees' Retirement System	1,698,197	8,358	3,653	12/31/2007
TX	Houston Firefighters Relief and Retirement Fund	2,966,082	3,819	2,309	6/30/2007
UT	Utah Retirement Systems	20,950,656	102,009	40,510	12/31/2007
VA	Virginia Retirement System	56,890,203	339,215	130,500	6/30/2007
VA	Educational Employees' Supplementary Retirement Syster	2,015,738	19,371	8,029	6/30/2007
VT	Vermont Teachers Retirement System	1,647,173	10,675	5,192	6/30/2007
VT	Vermont State Employees Retirement System	1,392,418	8,411	4,399	6/30/2007
WA	Washington Department of Retirement Systems	60,116,556	293,001	121,117	6/30/2007
WI	Wisconsin Retirement System	71,470,524	263,122	131,674	12/31/2005
WV	West Virginia Consolidated Public Retirement Board	8,710,758	59,446	43,187	6/30/2007
WY	Wyoming Retirement System	6,600,812	39,872	19,527	12/31/2007
	Total	2,789,636,934	13,174,795	6,537,737	

Appendix B

State	Plan Name	Funding Ratio (%)	Actuarial Value of Assets ($000s)	Actuarial Value of Liabilities ($000s)	Unfunded Liability (Surplus) ($000s)	Date of Actuarial Valuation	As of Fiscal Year-End
AK	Alaska PERS	78.2	6,331,065	8,094,043	1,762,978	6/30/2006	6/30/2007
AK	Alaska Teachers	67.8	3,296,934	4,859,336	1,562,402	6/30/2006	6/30/2007
AL	Alabama Teachers	82.8	19,821,133	23,945,100	3,779,131	9/30/2006	9/30/2007
AL	Alabama ERS	81.1	9,287,531	11,457,564	2,170,033	9/30/2006	9/30/2007
AR	Arkansas Teachers	85.3	10,519,000	12,329,000	1,810,000	6/30/2007	6/30/2007
AR	Arkansas PERS	89.1	5,498,000	6,174,000	676,000	6/30/2007	6/30/2007
AZ	Arizona SRS	83.3	25,310,000	30,390,000	5,080,000	6/30/2007	6/30/2007
AZ	Arizona Public Safety Personnel	68.9	4,829,521	7,011,385	2,181,864	6/30/2007	6/30/2007
AZ	Phoenix ERS	83.9	1,816,508	2,166,119	349,611	6/30/2007	6/30/2007
CA	California PERF	87.2	199,033,000	228,131,000	29,098,000	6/30/2006	6/30/2007
CA	California Teachers	87.6	146,419,000	167,129,000	20,710,000	6/30/2007	6/30/2007
CA	LA County ERS	90.5	32,819,725	36,258,929	3,439,204	6/30/2006	6/30/2007
CA	San Francisco City & County	108.9	13,597,646	12,515,463	(1,082,183)	7/1/2006	6/30/2007
CA	San Diego County ERA	89.7	7,250,404	8,082,517	832,113	6/30/2007	6/30/2007
CA	Contra Costa County ERA	84.3	4,460,871	5,293,977	833,106	12/31/2006	12/31/2007
CO	Colorado School	75.5	22,070,769	29,241,428	7,170,659	12/31/2007	12/31/2007
CO	Colorado State	73.3	14,220,681	19,390,296	5,169,615	12/31/2007	12/31/2007
CO	Denver Schools	87.7	2,968,794	3,383,258	414,464	1/1/2008	12/31/2007
CO	Colorado Municipal	81.2	2,892,847	3,563,199	670,352	12/31/2007	12/31/2007
CO	Denver Employees	98.6	1,837,476	1,862,773	25,297	1/1/2007	12/31/2007
CT	Connecticut Teachers	63.0	11,781,338	18,703,793	6,922,455	6/30/2006	6/30/2007
CT	Connecticut SERS	53.3	8,517,677	15,987,547	7,469,870	6/30/2005	6/30/2005
DC	DC Police & Fire	104.3	2,631,828	2,522,400	(109,428)	10/1/2007	9/30/2007
DC	DC Teachers	104.4	1,437,072	1,376,206	(60,866)	10/1/2007	9/30/2007
DE	Delaware State Employees	103.7	6,437,916	6,208,025	(229,891)	6/30/2007	6/30/2007
FL	Florida Retirement System	105.6	125,584,704	118,870,513	(6,714,191)	7/1/2007	6/30/2007
GA	Georgia Teachers	96.5	49,263,027	51,059,681	1,796,654	6/30/2006	6/30/2007
GA	Georgia ERS	94.5	13,461,132	14,242,845	781,713	6/30/2006	6/30/2007
HI	Hawaii ERS	67.5	10,589,773	15,696,546	5,106,773	6/30/2007	6/30/2007
IA	Iowa PERS	90.2	20,759,628	23,026,114	2,266,486	6/30/2007	6/30/2007
ID	Idaho PERS	105.5	10,945,800	10,372,400	(573,400)	7/1/2007	6/30/2007
IL	Illinois Teachers	63.8	41,909,318	65,648,395	23,739,077	7/1/2007	6/30/2007
IL	Illinois Municipal	96.1	23,274,361	24,221,544	947,183	12/31/2007	12/31/2007
IL	Illinois Universities	68.4	15,985,700	23,362,100	7,376,400	6/30/2007	6/30/2007
IL	Illinois SERS	54.2	12,078,909	22,280,916	10,202,007	6/30/2007	6/30/2007
IL	Chicago Teachers	80.1	11,759,699	14,677,184	2,917,485	6/30/2007	6/30/2007
IN	Indiana PERF	97.6	11,177,971	11,450,928	272,957	7/1/2006	6/30/2007
IN	Indiana Teachers	45.1	8,476,559	18,815,812	10,339,253	6/30/2006	6/30/2007
KS	Kansas PERS	69.4	12,189,197	17,552,790	5,363,593	12/31/2006	6/30/2007
KY	Kentucky Teachers	71.9	15,284,955	21,254,974	5,970,019	6/30/2007	6/30/2007
KY	Kentucky County	80.1	7,107,113	8,868,182	1,761,069	6/30/2007	6/30/2007
KY	Kentucky ERS	58.4	5,864,070	10,044,932	4,180,862	6/30/2007	6/30/2007
LA	Louisiana Teachers	71.3	14,812,298	20,772,330	5,960,032	6/30/2007	6/30/2007
LA	Louisiana SERS	67.2	8,345,495	12,421,907	4,076,412	6/30/2007	6/30/2007
MA	Massachusetts SERS	85.1	18,445,225	21,670,810	3,225,585	1/1/2007	12/31/2006
MA	Massachusetts Teachers	69.6	17,074,000	24,519,000	7,445,000	1/1/2002	12/31/2003
MD	Maryland Teachers	78.4	22,814,760	29,112,727	6,297,967	6/30/2007	6/30/2007
MD	Maryland PERS	74.7	13,025,078	17,429,417	4,404,339	6/30/2007	6/30/2007
ME	Maine State and Teacher	71.1	7,504,220	10,547,299	3,043,079	6/30/2006	6/30/2007
ME	Maine Local	107.3	1,846,304	1,720,130	(126,174)	6/30/2006	6/30/2007
MI	Michigan Public Schools	87.5	42,995,000	49,136,000	6,141,000	9/30/2006	9/30/2007
MI	Michigan SERS	85.1	10,890,000	12,799,000	1,909,000	9/30/2006	9/30/2007
MI	Michigan Municipal	76.4	5,493,700	7,187,700	1,694,000	12/31/2006	12/31/2007
MN	Minnesota Teachers	92.1	18,794,389	21,470,315	2,675,926	6/30/2007	6/30/2007
MN	Minnesota PERF	73.3	12,985,324	17,705,627	4,720,303	6/30/2007	6/30/2007
MN	Minnesota State Employees	92.5	8,904,517	9,627,305	722,788	6/30/2007	6/30/2007
MN	Minneapolis ERF	92.1	1,513,389	1,643,140	129,751	7/1/2004	6/30/2004
MN	St. Paul Teachers	73.0	1,015,722	1,391,298	375,576	6/30/2007	6/30/2007
MN	Duluth Teachers	86.8	288,265	332,217	43,952	7/1/2007	6/30/2007
MO	Missouri Teachers	83.5	27,049,004	32,396,722	5,347,718	6/30/2007	6/30/2007
MO	Missouri State Employees	86.8	7,377,289	8,500,429	1,123,140	6/30/2007	6/30/2007
MO	Missouri Local	96.1	3,557,389	3,700,814	143,425	2/28/2007	6/30/2007
MO	Missouri PEERS	83.2	2,481,562	2,982,812	501,250	6/30/2007	6/30/2007
MO	Missouri DOT and Highway Patrol	58.2	1,685,807	2,897,267	1,211,460	6/30/2007	6/30/2007
MO	St. Louis School Employees	87.2	1,003,400	1,150,200	146,800	1/1/2007	12/31/2007

Appendix B

State	Plan Name	Funding Ratio (%)	Actuarial Value of Assets ($000s)	Actuarial Value of Liabilities ($000s)	Unfunded Liability (Surplus) ($000s)	Date of Actuarial Valuation	As of Fiscal Year-End
MS	Mississippi PERS	73.7	19,791,564	26,862,636	7,071,072	6/30/2007	6/30/2007
MT	Montana PERS	91.1	3,825,324	4,201,251	375,927	6/30/2007	6/30/2007
MT	Montana Teachers	79.6	3,127,086	3,928,500	801,414	7/1/2007	6/30/2007
NC	North Carolina Teachers/State Employee	106.1	52,420,808	49,391,907	(3,028,901)	12/31/2006	6/30/2007
NC	North Carolina Local Govt	99.5	15,564,789	15,643,377	78,588	12/31/2006	6/30/2007
ND	North Dakota Teachers	79.2	1,750,100	2,209,300	459,200	7/1/2007	6/30/2007
ND	North Dakota PERS	93.4	1,503,100	1,610,200	107,100	6/30/2007	6/30/2007
NE	Nebraska Schools	90.5	6,396,337	7,070,309	673,972	7/1/2007	6/30/2007
NH	New Hampshire Retirement System	67.0	4,862,256	7,259,725	2,397,469	6/30/2007	6/30/2007
NJ	New Jersey Teachers	74.7	36,714,579	49,161,247	12,446,668	6/30/2007	6/30/2007
NJ	New Jersey PERS	76.6	28,933,194	37,793,090	8,859,896	6/30/2007	6/30/2007
NJ	New Jersey Police & Fire	77.6	21,715,926	27,988,827	6,272,901	6/30/2007	6/30/2007
NM	New Mexico PERF	92.8	12,049,358	12,982,072	932,714	6/30/2007	6/30/2007
NM	New Mexico Teachers	68.3	7,813,900	11,436,300	3,622,400	6/30/2006	6/30/2006
NV	Nevada Regular Employees	78.8	17,189,181	21,804,988	4,615,807	6/30/2007	6/30/2007
NV	Nevada Police and Firefighter	71.1	4,169,845	5,866,605	1,696,760	6/30/2007	6/30/2007
NY	NY State & Local ERS	104.1	112,209,000	107,785,000	(4,424,000)	4/1/2006	3/31/2007
NY	New York State Teachers	102.6	78,335,300	76,353,000	(1,982,300)	6/30/2006	6/30/2007
NY	New York City ERS	82.5	38,367,100	46,478,800	8,111,700	6/30/2006	6/30/2007
NY	New York City Teachers	72.2	32,405,600	44,861,700	12,456,100	6/30/2006	6/30/2007
NY	NY State & Local Police & Fire	105.2	19,827,000	18,853,000	(974,000)	4/1/2006	3/31/2007
OH	Ohio Teachers	82.2	66,671,511	81,126,642	14,455,131	6/30/2007	6/30/2007
OH	Ohio PERS	92.6	61,296,000	66,161,000	4,865,000	12/31/2006	12/31/2007
OH	Ohio School Employees	80.8	10,513,000	13,004,000	2,491,000	6/30/2007	6/30/2007
OH	Ohio Police & Fire	78.2	10,158,000	12,988,000	2,830,000	1/1/2007	12/31/2007
OK	Oklahoma Teachers	52.6	8,421,900	16,024,400	7,602,500	6/30/2007	6/30/2007
OK	Oklahoma PERS	72.6	6,110,230	8,413,248	2,303,018	7/1/2007	6/30/2007
OR	Oregon PERS	110.5	56,616,500	51,252,900	(5,363,600)	12/31/2006	6/30/2007
PA	Pennsylvania School Employees	81.2	52,464,700	64,627,300	12,162,600	6/30/2006	6/30/2007
PA	Pennsylvania State ERS	97.1	30,840,000	31,754,000	914,000	12/31/2007	12/31/2007
RI	Rhode Island ERS	53.4	5,651,068	10,575,852	4,924,784	6/30/2006	6/30/2006
RI	Rhode Island Municipal	87.1	945,876	1,085,648	139,772	6/30/2006	6/30/2006
SC	South Carolina RS	69.6	22,293,446	32,018,519	9,725,073	7/1/2006	6/30/2007
SC	South Carolina Police	84.7	2,935,841	3,466,281	530,440	7/1/2006	6/30/2007
SD	South Dakota PERS	97.1	6,526,500	6,718,800	192,300	6/30/2007	6/30/2007
TN	TN State and Teachers	96.2	26,214,995	27,240,151	1,025,156	7/1/2007	6/30/2007
TN	TN Political Subdivisions	89.5	4,897,974	5,475,620	577,646	7/1/2007	6/30/2007
TX	Texas Teachers	89.2	103,419,000	115,964,000	12,545,000	8/31/2007	8/31/2007
TX	Texas ERS	95.6	22,938,947	23,987,165	1,048,218	8/31/2007	8/31/2007
TX	Texas County & District	109.8	16,870,537	15,364,500	(1,506,037)	12/31/2007	12/31/2007
TX	Texas Municipal	73.7	14,203,300	19,278,800	5,075,500	12/31/2007	12/31/2007
TX	Houston Firefighters	87.0	2,325,000	2,671,000	342,000	7/1/2006	6/30/2007
TX	City of Austin ERS	78.3	1,653,500	2,112,800	459,300	12/31/2007	12/31/2007
TX	Texas LECOS	98.0	747,765	762,666	14,901	8/31/2007	8/31/2007
UT	Utah Noncontributory	100.8	16,209,330	16,084,896	(124,434)	12/31/2007	12/31/2007
VA	Virginia Retirement System	80.8	42,669,000	52,822,000	10,153,000	6/30/2006	6/30/2007
VA	Fairfax County Schools	86.4	1,818,530	2,105,552	287,022	12/31/2006	6/30/2007
VT	Vermont Teachers	84.9	1,541,860	1,816,650	274,790	6/30/2007	6/30/2007
VT	Vermont State Employees	100.8	1,318,687	1,307,643	(11,044)	6/30/2007	6/30/2007
WA	Washington PERS 2/3*	100.0	12,274,100	12,274,100	0	9/30/2006	6/30/2007
WA	Washington PERS 1	73.1	9,591,000	13,129,000	3,538,000	9/30/2006	6/30/2007
WA	Washington Teachers Plan 1	79.9	8,275,000	10,359,000	2,084,000	9/30/2006	6/30/2007
WA	Washington LEOFF Plan 1	116.5	5,018,000	4,309,000	(709,000)	9/30/2006	6/30/2007
WA	Washington Teachers Plan 2/3*	100.0	4,411,200	4,411,200	0	9/30/2006	6/30/2007
WA	Washington LEOFF Plan 2*	100.0	3,329,100	3,329,100	0	9/30/2006	6/30/2007
WA	Washington School Ees Plan 2/3*	100.0	1,747,400	1,747,400	0	9/30/2006	6/30/2007
WI	Wisconsin Retirement System	99.5	68,615,100	68,978,600	363,500	12/31/2005	12/31/2005
WV	West Virginia PERS	97.0	4,291,296	4,426,051	134,755	7/1/2007	6/30/2007
WV	West Virginia Teachers	51.3	3,665,993	7,142,711	3,476,718	6/30/2007	6/30/2007
WY	Wyoming Public Employees	94.0	5,654,023	6,015,985	361,962	1/1/2008	12/31/2007
	Total	86.1	2,454,817,345	2,850,510,694	395,344,513		

* Plans with an unfunded liability of zero report their funding level on the basis of only the aggregate cost actuarial method, which does not identify an unfunded liability.

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Memorandum

TO: PERS Board

FROM: Sparb

DATE: January 14, 2008

SUBJECT: Pension Protection Act (PPA) Amendments

President Bush signed into law H.R. 7327, the "Worker, Retiree, and Employer Recovery Act of 2008" (see http://www.whitehouse.gov/news/releases/2008/12/print/20081223-2.html), which includes long-sought technical amendments to the Pension Protection Act (PPA)—such as the governmental DB plan interest crediting rate fix, a clarification to extend the public safety retiree health exclusion to self-insured plans, and a modification to the tax treatment of certain state medical reimbursements to beneficiaries—as well as a delay in required minimum distributions from certain retirement accounts for one year and changes to funding requirements for ERISA DB plans.

Attached is the legislative history. Notable provisions include:

- Permitting governmental DB plans to credit participant accounts with a rate of interest without being capped by PPA's "market rate of return."
- Clarifying the $3,000 retiree health care exclusion for public safety officers applies to amounts paid to a self-funded plan.
- Permitting a State or local government HRA to provide health care expense reimbursements to a designated non-spouse or non-dependent beneficiary.
- Waiving required minimum distributions for the 2009 calendar year for defined contribution employer-sponsored qualified retirement plans (including 403(b) plans and 457(b) plans maintained by a government employer).
- Clarifying tax-qualified plans are required to allow non-spouse rollovers and provide direct rollover notices (sec. 402(f)) as a condition of plan qualification. The correction would be effective for plan years beginning after December 31, 2009.

- Clarifying the rules permitting rollovers from a tax-qualified plan, 403(b) annuity or governmental 457 plan directly to a Roth IRA do not apply to rollovers to a Roth IRA from a Roth 401(k) or Roth 403(b).
- Clarifying the mortality table required to be used in calculating the minimum value of optional forms of benefit is also used in adjusting benefits and limits for purposes of applying 415 limitation on benefits that may be provided under a defined benefit plan.
- Correcting the effective date of the exemption from the 10% early withdrawal penalty for "qualified reservist distributions."

TECHNICAL EXPLANATION OF H.R. 7327, THE "WORKER, RETIREE, AND EMPLOYER RECOVERY ACT OF 2008," AS PASSED BY THE HOUSE ON DECEMBER 10, 2008

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION

December 11, 2008
JCX-85-08

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INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a technical explanation of H.R. 7327, the "Worker, Retiree, and Employer Recovery Act of 2008," as passed by the House of Representatives on December 10, 2008. The bill makes technical corrections to the Pension Protection Act of 2006 (the "Act"),[2] and provides for additional amendments to the Act, the Internal Revenue Code (the "Code"), the Employee Retirement Income Security Act of 1974 ("ERISA"), and the Age Discrimination in Employment Act of 1967 ("ADEA").

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[1] This document may be cited as follows: Joint Committee on Taxation, *"Technical Explanation of H.R. 7327, the "Worker, Retiree, and Employer Recovery Act of 2008," as passed by the House on December 10, 2008"* (JCX-85-08), December 11, 2008. This document can also be found on our website at www.jct.gov.

[2] Pub. L. No. 109-280.

TITLE I − TECHNICAL CORRECTIONS RELATED TO THE PENSION PROTECTION ACT OF 2006

A. Technical Corrections to the Act (secs. 101 through 112 of the bill)

1. Amendments relating to Title I of the Act: Reform of the Funding Rules for Single-Employer Defined Benefit Pension Plans

Minimum Funding Standards (Act secs. 101 and 111)

Prohibition on increases in benefits while a waiver is in effect (ERISA sec. 302(c)(7)(A) and Code sec. 412(c)(7)(A))

The Act restates the prior-law provision prohibiting plan amendments that increase benefits while a waiver or amortization extension is in effect or if a retroactive amendment was previously made within a certain period. As under prior law, an exception applies for a plan amendment increasing benefits that only repeals a previously made retroactive amendment. The provision provides that the references to retroactive amendments are limited to those that reduced accrued benefits.

Minimum funding standards (ERISA sec. 302(d)(1) and Code sec. 412(d)(1))

Under the Act, the Secretary of the Treasury must approve a change in a plan's funding method, valuation date, or a plan year. The provision deletes the reference to valuation date because a change in such date is a change in the plan's funding method.

Funding Rules for Single-Employer Defined Benefit Plans (Act secs. 102 and 112)

Determination of target normal cost (ERISA sec. 303(b), (i) and Code sec. 430(b), (i))

The Act defines the term "target normal cost" for a plan year as the present value of all benefits which are expected to accrue or be earned under the plan during the plan year. The provision clarifies that a plan's target normal cost is increased by the amount of plan-related expenses expected to be paid from plan assets during the plan year, and is decreased by the amount of mandatory employee contributions expected to be made to the plan during the plan year. This clarification is effective for plan years beginning after December 31, 2008, and is elective for the preceding plan year.

Determination of at-risk status (ERISA sec. 303(i)(4)(B) and Code sec. 430(i)(4)(B))

Under the Act, the 80-percent and 70-percent prongs of the at-risk status definition are based on funded status for the preceding plan year. The Act provides that determination of the 70-percent prong for 2008 may be determined using methods of estimation provided by the Secretary of Treasury. The provision applies this rule also for purposes of the 80-percent prong (as phased in under the Act).

Quarterly contributions (ERISA sec. 303(j)(3)) and Code sec. 430(j)(3))

Under the Act, quarterly contributions are required if a plan has a funding shortfall for the preceding year. The provision includes a transition rule for the 2008 plan year; under this rule, in the case of plan years beginning in 2008, the funding shortfall for the preceding plan year may be determined using such methods of estimation as the Secretary of the Treasury may provide.

The quarterly installment rules require a higher rate of interest to be charged on required contributions. Small plans are permitted to use a valuation date other than the first day of the plan year. The provision provides that the Secretary of the Treasury is to prescribe rules relating to interest charges and credits in the case of a plan with a valuation date other than the first day of the plan year.

Benefit Limitations under Single-Employer Plans (Act secs. 103 and 113)

Definition of prohibited payment (ERISA sec. 206(g)(3)(E) and Code sec. 436(d)(5))

The Act provides that certain underfunded plans may not make prohibited payments, which include accelerated forms of distribution such as lump sums. Present law provides that if the present value of a participant's vested benefit exceeds $5,000,[3] the benefit may not be distributed without the participant's consent. If the vested benefit is less than or equal to this amount, the consent requirement does not apply. The provision provides that the payment of benefits that may be immediately distributed without the consent of the participant is not a prohibited payment.

Small plans (ERISA sec. 206(g)(10) and Code sec. 436(k))

The benefit restriction provisions are based upon a plan's adjusted funding target attainment percentage as of the first day of the plan year. This presents issues for small plans, which are allowed to designate any day of the plan year as their valuation date, because a plan's adjusted funding target attainment percentage cannot be determined until the valuation date. The provision provides that the Secretary of the Treasury may prescribe rules for the application of the benefit restrictions which are necessary to reflect the alternate valuation date.

Notice requirement (Act sec. 103(b) and ERISA sec. 101(j))

The provision provides that the Secretary of the Treasury, in consultation with the Secretary of Labor, has the authority to prescribe rules applicable to the notice of funding-based limitations on distributions required under section 101(j) of ERISA as added by the Act.

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[3] The portion of a participant's benefit that is attributable to amounts rolled over from another plan may be disregarded in determining the present value of the participant's vested benefit.

Definition of single employer plan (Code sec. 436(l))

The Act provides rules under ERISA and the Code that limit the benefits and benefit accruals that can be provided under a single employer plan, depending on the funding level of the plan. The provision adds a definition of the term "single employer plan" for purposes of the limitations in the Code.

Technical and Conforming Amendments
(Act secs. 107 and 114)

The Act provides for technical and conforming amendments to reflect the new funding rules. The provision provides that the effective date for the amendments to the excise tax on a failure to satisfy the funding rules is taxable years beginning after 2007 and, for the other technical and conforming amendments, plan years beginning after 2007.

Restrictions on Funding of Nonqualified Deferred Compensation Plans by Employers Maintaining Underfunded or Terminated Single-Employer Plans
(Act sec. 116 and Code sec. 409A(b)(3)(A)(ii))

The Act provides that if, during any restricted period in which a defined benefit pension plan of an employer is in at-risk status, assets are set aside (directly or indirectly) in a trust (or other arrangement as determined by the Secretary of the Treasury), or transferred to such a trust or other arrangement, for purposes of paying deferred compensation of an applicable covered employee, such assets are treated as property transferred in connection with the performance of services (whether or not such assets are available to satisfy the claims of general creditors) under Code section 83.

The Act further provides that if a nonqualified deferred compensation plan of an employer provides that assets will be restricted to the provision of benefits under the plan in connection with a restricted period (or other similar financial measure as determined by the Secretary of the Treasury) of any defined benefit pension plan of the employer, or assets are so restricted, such assets are treated as property transferred in connection with the performance of services (whether or not such assets are available to satisfy the claims of general creditors) under Code section 83. The provision provides that this rule applies with respect to assets that are restricted under the plan with respect to a covered employee.

2. Amendments relating to Title II of the Act: Funding Rules for Multiemployer Defined Benefit Plans

Funding Rules for Multiemployer Defined Benefit Plans
(Act secs. 201 and 211)

Shortfall funding method (Act sec. 201(b))

The Act provides that a multiemployer plan meeting certain criteria may adopt, use or cease using the shortfall funding method and such adoption, use, or cessation of use is deemed to be approved by the Secretary of the Treasury. One of the criteria is that "the plan has not used the shortfall funding method during the 5-year period ending on the day before the date the plan

is to use the method" under the Act. The provision changes this so that the criterion is that "the plan has not adopted or ceased using the shortfall funding method during the 5-year period ending on the day before the date the plan is to use the method" under the Act.

Funding Rules for Multiemployer Plans in Endangered or Critical Status (Act secs. 202 and 212)

Notice requirements (ERISA secs. 305(b)(3)(D), 305(e)(8)(C), and Code secs. 432(b)(3)(D), 432(e)(8)(C))

The Act requires the plan sponsor of a multiemployer plan to distribute a notice if the plan is in endangered or critical status and if the plan is required to make reductions to adjustable benefits. The provision clarifies that the Secretary of the Treasury, in consultation with the Secretary of Labor, shall provide guidance with respect to the plan sponsor's notice obligations.

Implementation and enforcement of default schedule (ERISA secs. 305(c)(7), 305(e)(3)(C), and Code secs. 432(c)(7), 432(e)(3)(C))

Under the Act, a default schedule applies if a funding improvement plan or rehabilitation plan is not timely adopted. The provision removes the rule that provides that the default schedule is implemented upon the date on which the Department of Labor certifies that the parties are at impasse. Thus, under the provisions, the plan trustees are required to implement the default schedule within 180 days of the expiration date of the collective bargaining agreement. In addition, the provision clarifies that any failure to make a default schedule contribution is enforceable under sec. 515 of ERISA.

Restriction on payment of lump sums while plan is in critical status (ERISA sec. 305(f)(2)(A) and Code sec. 432(F)(2)(A))

Under the Act, the payment of accelerated forms of payment, including lump sums, while a plan is in critical status is restricted. Under the provision, the restriction on payment of accelerated forms of payment applies only to participants whose benefit commencement date is after notice of the plan's critical status is provided. This change conforms the rule for multiemployer plans to the rule applicable to single-employer plans.

Definition of plan sponsor (Code sec. 432(i)(9))

The funding rules for multiemployer plans and the excise tax rules that apply in the event of a failure to comply with the funding rules refer to the term "plan sponsor." This term is not defined in the Code. The provision adds a definition to the Code that conforms with the applicable ERISA definition.

Excise tax on trustees for failure to adopt a timely rehabilitation plan (Code sec. 4971(g)(4))

The Act imposes an excise tax on the sponsor of a multiemployer plan in the event of a failure to timely adopt a rehabilitation plan. Under the Act, the plan sponsor has a 240 day period in which it must adopt a plan. The excise tax for failure to timely adopt is based on the beginning of this 240 day period, rather than the end of the period. The provision revises the

calculation of the excise tax so that it applies to the period beginning on the due date for adoption of the rehabilitation plan.

Effective date of excise tax provisions (Act sec. 212(e))

The Act provides that the excise tax provisions relating to a failure to satisfy the multiemployer plan funding rules are effective with respect to plan years beginning after 2007. The provision clarifies that the excise tax provisions are effective with respect to taxable years beginning after 2007.

3. Amendments relating to Title III of the Act: Interest Rate Provisions

Extension of Replacement of 30-Year Treasury Rates (Act sec. 301)

The Pension Funding Equity Act of 2004 provided for a temporary interest rate. The Pension Funding Equity Act of 2004 also provided that, if certain requirements were satisfied, plan amendments to reflect such interest rate did not need to be made before the last day of the first plan year beginning on or after January 1, 2006. The Act extended the temporary interest rate through 2007 and also extended the required amendment date by changing "January 1, 2006" to "January 1, 2008." The provision further extends the required amendment date to conform generally to the amendment period permitted under the Act.

Interest Rate Assumption for Determination of Lump Sum Distributions (Act sec. 302 and Code sec. 415(b)(2)(E))

The Act amended the interest and mortality table used in calculating the minimum value of certain optional forms of benefit, such as lump sums. The provision clarifies that the mortality table required to be used in calculating the minimum value of optional forms of benefit is also used in adjusting benefits and limits for purposes of applying the Code section 415 limitation on benefits that may be provided under a defined benefit plan. This clarification of the required mortality table is effective for years beginning after December 31, 2008. However, a plan may elect to use the new mortality table for years beginning after December 31, 2007, and before January 1, 2009, or for any portion of such a year.

4. Amendments relating to Title IV of the Act: PBGC Guarantee and Related Provisions

Missing Participants (Act sec. 410)

Plans covered by missing participant program (ERISA sec. 4050(d))

The Act extended the prior-law missing participant program to terminating multiemployer plans and to certain plans not subject to the termination insurance program of the Pension Benefit Guaranty Corporation ("PBGC"). Under the provision, the missing participant program applies to plans that have at no time provided for employer contributions. In addition, the provision limits the program to qualified plans.

5. Amendments relating to Title V of the Act: Disclosure

Defined Benefit Plan Funding Notice and Disclosure of Withdrawal Liability (Act sec. 501 and ERISA sec. 101(f))

Under the Act, the administrator of a single employer or a multiemployer defined benefit plan must provide an annual plan funding notice (section 101(f) of ERISA). The provision conforms the measurement dates of several of the items that must be included in the notice and also conforms the information that must be provided by the administrator of a multiemployer plan with respect to the assets and liabilities of the plan to the information that must be provided by the administrator of a single employer plan.

Access to Multiemployer Pension Plan Information (Act sec. 502 and ERISA secs. 101(k), 101(l), and 4221(e))

Under the Act, the administrator of a multiemployer plan is required to provide participants and employers copies of certain financial reports prepared by an investment manager, advisor or other fiduciary, upon request (section 101(k) of ERISA). However, the administrator is prohibited from disclosing "any individually identifiable information regarding any plan participant, beneficiary, employee, fiduciary, or contributing employer." The provision clarifies that this prohibition does not prevent the plan from disclosing the identities of the investment managers or advisors, or any other person preparing a financial report (other than an employee of the plan), whose performance is being reported on or evaluated.

Under the Act, the plan sponsor or administrator of a multiemployer plan must provide upon an employer's request certain information regarding the employer's withdrawal liability with respect to the plan (section 101(l) of ERISA). The provision repeals section 4221(e) of ERISA, which also requires the disclosure upon an employer's request information relating to the employer's withdrawal liability.

Disclosure of Termination Information to Plan Participants (Act sec. 506 and ERISA secs. 4041 and 4042)

In the case of an involuntary termination of a plan, the Act requires the plan sponsor (or administrator) and the PBGC to disclose certain information to affected parties, and special rules apply with respect to the disclosure of confidential information by the plan sponsor (or administrator). Under the provision, these special rules relating to the disclosure of confidential information also apply to the PBGC.

Under the Act, the plan administrator must provide affected parties with certain information that it has provided to the PBGC. The provision clarifies that this information includes information that the plan administrator is required to disclose to the PBGC at the time the written notice of intent to terminate is given as well as information the plan administrator is required to disclose to the PBGC after the notice of intent to terminate is given.

Periodic Pension Benefit Statements
(Act sec. 508 and ERISA sec. 209(a))

The Act revises the rules that apply under ERISA with respect to a plan administrator's obligation to provide periodic information relating to a participant's accrued benefits under a plan (section 105 of ERISA). The provision makes conforming changes to section 209 of ERISA, which also imposes recordkeeping and reporting obligations with respect to participant benefits.

Notice to Participants or Beneficiaries of Blackout Periods
(Act sec. 509 and ERISA sec. 101(i)(8)(B))

The Sarbanes-Oxley Act of 2002 amended ERISA to require that participants and beneficiaries of an individual account plan be provided advance notice of a blackout period during which certain plan operations, such as the ability to make investment changes, will be restricted. The notice requirement does not apply to one-participant plans. The Act amended the definition of one-participant plan to conform to Department of Labor regulations. The Act, however, did not provide complete conformity with those regulations. The provision amends the Act so that the definition of one-participant plan for purposes of the notice is in conformity with Department of Labor regulations. Under the provision, a one-participant plan means a retirement plan that on the first day of the plan year: (1) covered only one individual (or the individual and the individual's spouse) and the individual (or the individual and the individual's spouse) owned 100 percent of the plan sponsor (whether or not incorporated), or (2) covered only one or more partners (or partners and their spouses) in the plan sponsor. Thus, under the provision, plans that are not subject to title I of ERISA are not subject to the blackout notice provisions.[4]

6. Amendments relating to Title VI of the Act: Investment Advice, Prohibited Transactions, and Fiduciary Rules

Prohibited Transaction Rules Relating to Financial Investments
(Act sec. 611, ERISA sec. 408(b)(18)(C), and Code sec. 4975(d)(21)(C))

Under the Act, an exemption from the prohibited transaction rules of the Code and ERISA applies in the case of foreign exchange transactions between a plan and a bank or broker-dealer if certain requirements are met. Included in the Act is a requirement that the exchange rate used by the bank or broker-dealer for a particular transaction cannot deviate by more or less than three percent from the interbank bid and asked rates for transactions of comparable size and maturity. Under the provision, the exchange rate cannot deviate by more than three percent.

[4] This provision is effective as if included in the Sarbanes-Oxley Act.

7. Amendments relating to Title VII of the Act: Benefit Accrual Standards

Benefit Accrual Standards
(Act sec. 701)

Preservation of capital (ERISA sec. 204(b)(5)(B)(i)(II) and Code sec. 411(b)(5)(B)(i)(II))

The Act prohibits an applicable defined benefit plan account balance from being reduced below the aggregate amount of contributions. Under the provision, failure to comply with this rule is treated as a violation of the age discrimination rules under ERISA or the Code, as applicable.

Application of present-value rules (ERISA sec. 203(f)(1)(B) and Code sec. 411(a)(13)(A)(ii))

The Act permits an applicable defined benefit plan to distribute a participant's accrued benefit under the plan in an amount equal to the participant's hypothetical account balance under the plan without violating the present-value rules of ERISA section 205(g) and Code section 417(e). ERISA section 203(e) and Code section 411(a)(11), which allow automatic cash-outs of amounts not exceeding $5,000, apply the section 205(g) and section 417(e) present-value rules by cross-reference. The provision adds cross-references to apply the new ERISA and Code provisions for purposes of ERISA section 203(e) and Code section 411(a)(11).

Effective date (Act sec. 701(e))

The general effective date under Act section 701(e)(1) is periods beginning on or after June 29, 2005, and special effective dates are provided for certain provisions. The provision provides that the vesting provisions under Act section 701 are effective on the basis of plan years and that the vesting provisions apply with respect to participants with an hour of service after the applicable effective date for a plan.

The Act established interest credit requirements for applicable defined benefit plans, which, under the general effective date, would apply to periods beginning on or after June 29, 2005. Act section 701(e)(3) provides that, in the case of a plan in existence on June 29, 2005, the new interest credit rules apply to years beginning after December 31, 2007, unless the employer elects to apply them for any period beginning after June 29, 2005, and before the rules would otherwise apply. The provision changes this rule so that it refers to any period beginning "on or after" June 29, 2005.

The Act established rules with respect to a conversion of a plan into an applicable defined benefit plan. Act section 701(e)(5) provides that these rules are applicable to plan amendments adopted after, and taking effect after, June 29, 2005. Similarly, ERISA section 204(b)(5)(B)(ii) and Code section 411(b)(5)(B)(ii) apply the conversion rules to conversion amendments adopted after June 29, 2005. The provision clarifies that the effective date for the conversion rules is on or after June 29, 2005.

The Act establishes a special effective date for the vesting and interest crediting requirements for applicable defined benefit plans in the case of a collectively bargained plan. The provision clarifies that these rules do not apply to plan years beginning before the earlier of:

(1) the later of the termination of the collective bargaining agreement or January 1, 2008, or (2) January 1, 2010.

8. Amendments relating to Title VIII of the Act: Pension Related Revenue Provisions

Deduction Limitations
(Act secs. 801 and 803)

Increase in deduction limit for single-employer plans (Act sec. 801 and Code sec. 404)

If an employer sponsors one or more defined benefit plans and one or more defined contribution plans that cover at least one of the same employees, an overall deduction limitation applies to the total contributions to all plans for a plan year. The overall deduction limit is generally the greater of (1) 25 percent of compensation or (2) the amount necessary to meet the minimum funding requirement of the defined benefit plan for the plan year. Under the Act, in the case of a single-employer plan not covered by the PBGC, the combined plan limit is not less than the plan's funding shortfall as determined under the funding rules. Under the provision, in the case of a single-employer plan not covered by the PBGC, the combined plan limit is not less than the excess (if any) of the plan's funding target over the value of the plan's assets.

Updating deduction rules for combination of plans (Act sec. 803 and Code sec. 404(a)(7))

If an employer sponsors one or more defined benefit plans and one or more defined contribution plans that cover at least one of the same employees, an overall deduction limitation applies to the total contributions to all plans for a plan year. The overall deduction limit is generally the greater of (1) 25 percent of compensation or (2) the amount necessary to meet the minimum funding requirement of the defined benefit plan for the plan year. The Act provides that the overall deduction limit applies to contributions to one or more defined contribution plans only to the extent that such contributions exceed six percent of compensation. IRS guidance (Notice 2007-28, 2007-14 I.R.B. 880) takes the position that if defined contribution plan contributions are less than six percent of compensation, contributions to the defined benefit plan are still subject to limitation of the greater of 25 percent of compensation or the minimum required contribution. The provision provides that if defined contributions are less than six percent of compensation, the defined benefit plan is not subject to the overall deduction limit. If defined contributions exceed six percent of compensation, only defined contributions in excess of six percent are counted toward the overall deduction limit.

Improvements in Portability, Distributions, and Contribution Rules
(Act secs. 824 and 829)

Allow direct rollovers from retirement plans to Roth IRAs (Act sec. 824 and Code sec. 408A(c)(3)(B), (d)(3)(B))

The Act permits distributions from tax-qualified retirement plans, tax-sheltered annuities, and governmental 457 plans to be rolled over directly from such plan into a Roth IRA, subject to certain conditions. Such conditions include recognition of the distribution in gross income (except to the extent it represents a return of after-tax contributions) and phase-out of the ability to perform such a rollover pursuant to the distributee's adjusted gross income. The provision

provides that a rollover from a Roth designated account in a tax-qualified retirement plan or tax-sheltered annuity (described in section 402A of the Code) to a Roth IRA is not subject to the gross income inclusion and adjusted gross income conditions.

Allow rollovers by nonspouse beneficiaries of certain retirement plan distributions (Act sec. 829 and Code sec. 402(c)(11), (f)(2)(A))

The Act permits rollovers of benefits of nonspouse beneficiaries from qualified plans and similar arrangements. The provision clarifies that the current law treatment with respect to a trustee-to-trustee transfer from an inherited IRA to another inherited IRA continues to apply. Under the provision, effective for plan years beginning after December 31, 2009, rollovers by nonspouse beneficiaries are generally subject to the same rules as other eligible rollovers.

Health and Medical Benefits (Act secs. 841 and 845)

Use of excess pension assets for future retiree health benefits and collectively bargained retiree health benefits (Act sec. 841 and Code sec. 420)

In the case of a section 420 transfer, present law requires the funded status of the defined benefit plan to be maintained by employer contributions or asset transfers from the health accounts. Under the provision, asset transfers from the health accounts to maintain the plan's funded status are not subject to the excise tax on reversions.

The provision also allows assets transferred to a health benefits account in a qualified section 420 transfer to be used to pay health liabilities in excess of current-year retiree health liabilities. In the case of a qualified future transfer, assets may be used to pay qualified current retiree health liabilities which the plan reasonably estimates will be incurred. In the case of a collectively bargained transfer, assets may be used to pay collectively bargained retiree health liabilities.

Distributions from governmental retirement plans for health and long-term care insurance for public safety officers (Act sec. 845 and Code sec. 402(l))

The Act provides an exclusion from gross income for up to $3,000 annually for certain pension distributions used to pay for qualified health insurance premiums. Under IRS Notice 2007-7,[5] Q&A 23, the exclusion applies only to insurance issued by an insurance company regulated by a State (including a managed care organization that is treated as issuing insurance) and thus does not apply to self-insured plans. Under the provision, the exclusion applies to coverage under an accident or health plan (rather than accident or health insurance). That is, the exclusion applies to self-insured plans as well as to insurance issued by an insurance company.

Under the provision, when determining the portion of a distribution that would otherwise be includible in income, the otherwise includible amount is determined as if all amounts to the

[5] 2007-5 I.R.B. 395.

credit of the eligible public safety officer in all eligible retirement plans were distributed during the taxable year. The provision also clarifies that the income exclusion only applies with respect to distributions from the plan (or plans) maintained by the employer from which the individual retired as a public safety officer.

United States Tax Court Modernization (Act secs. 854 and 856)

Annuities to surviving spouses and dependent children of special trial judges (Act sec. 854, Code sec. 3121(b)(5)(E), and Social Security Act sec. 210(a)(5)(E))

Under the Act, participation in the survivor annuity program for survivors of judges of the United States Tax Court is extended to special trial judges of the United States Tax Court, and conforming changes are made to various provisions of the Code. One of the conforming changes is to specify that employment for purposes of the Federal Insurance Contributions Act ("FICA") includes service performed as a special trial judge of the United States Tax Court. Under the provision, this conforming amendment is repealed. Thus, the provision provides that employment as a special trial judge of the United States Tax Court is covered employment for purposes of FICA under the rules that otherwise apply to Federal employees.

Provisions for recall (Act sec. 856 and Code Sec. 7443B)

The Act provides for rules regarding the temporary recall to judicial duties of retired special trial judges of the United States Tax Court and the compensation of such judges during the period of recall. The provision repeals these rules.

9. Amendments relating to Title IX of the Act: Increase in Pension Plan Diversification and Participation and Other Pension Provisions

Defined Contribution Plans Required to Provide Employees with Freedom to Invest Their Plan Assets (Act sec. 901 and Code sec. 401(a)(35)(E))

Under the Act, the diversification requirements do not apply with respect to a one-participant retirement plan. The provision conforms the Code's definition of the term "one-participant retirement plan" to the definition of the term under ERISA.

Increasing Participation through Automatic Contribution Arrangements (Act sec. 902 and Code sec. 414(w))

The Act provides rules permitting an employee to withdraw certain amounts (referred to as "permissible withdrawals") in the case of an eligible automatic contribution arrangement under an applicable employer plan. The provision repeals the requirement that an eligible automatic contribution arrangement satisfy, in the absence of a participant investment election, the requirements of ERISA section 404(c)(5) (which generally authorizes the Secretary of Labor to issue regulations under which a participant is treated as exercising control over the assets in the participant's account under a plan with respect to default investments). The provision also extends the permissible withdrawal rules to SIMPLE IRAs (Code sec. 408(p)) and SARSEPs (Code sec. 408(k)(6)). The provision also provides that a permissive withdrawal is disregarded

for purposes of applying the annual limitation on elective deferrals that applies to a taxpayer under Code section 402(g)(1).

The Act also provides that, in the case of a distribution of an excess contribution and income allocable to such contribution in order to satisfy the rules relating to a qualified cash or deferral arrangement under Code section 401(k) (or the similar distribution rules under Code section 401(m) in the case of excess aggregate contributions relating to matching contributions or employee contributions), the income that must be distributed is the income allocable to the excess contribution (or excess aggregate contribution) through the end of the year for which the distribution is made. The provision applies this limit on the amount of income that must be distributed to the rules that apply to the distribution of excess deferrals and allocable income under Code section 402(g).

Treatment of Eligible Combined Defined Benefit Plans and Qualified Cash or Deferred Arrangements (Act sec. 903, Code sec. 414(x)(1), and ERISA sec. 210(e))

Under the Act, a qualified employer may establish a combined plan that consists of a defined benefit plan and a qualified cash or deferral arrangement described in Code section 401(k), provided that certain requirements are satisfied. The Act also provides that the rules of ERISA are applied to the defined benefit component and the individual account component of a combined plan in the same manner as if each component were not part of the combined plan. Thus, for example, the defined benefit component of the combined plan may be subject to the insurance program in Title IV of ERISA, while the individual account component is not. The provision provides that in the case of a termination of a combined plan, the individual account and defined benefit components must be terminated separately.

10. Amendments relating to Title X of the Act: Spousal Pension Protection Provisions

Extension of Tier II Railroad Retirement Benefits to Surviving Former Spouses (Act sec. 1003)

The Act provides rules relating to the survivor benefits payable under the Railroad Retirement Act. The provision clarifies that a former spouse has an independent entitlement to immediate commencement of benefits if three conditions are satisfied. First, the employee must have completed 10 years of service in the railroad industry (or five years of service after December 31, 1995); second, the spouse or former spouse must have attained age 62; and third, the employee must have attained age 62. In addition, the provision provides that a former spouse's Tier II benefits under the Railroad Retirement Act continue after the death of the employee. The provision is effective for payments due for months after August, 2007.

11. Amendments relating to Title XI of the Act: Administrative Provisions

No Reduction in Unemployment Compensation as a Result of Pension Rollovers (Act sec. 1105)

Under present law, unemployment compensation payable by a State to an individual generally is reduced by the amount of retirement benefits received by the individual. Under the

Act, rollover contributions are not included in retirement payments for which States are required to reduce unemployment compensation under Federal law, however, States are not prohibited from reducing unemployment compensation by such rollover contributions. Under the provision, unemployment compensation payable by a State to an individual may not be reduced by the amount of a rollover contribution.

B. Other Provisions

1. Amendments Related to Sections 102 and 112 of the Pension Protection Act of 2006 (sec. 121 of the bill and sec. 430(g)(3)(B) of the Code)

Present Law

In the case of a single-employer defined benefit pension plan, the Act provides new rules for determining minimum required contributions that must be made to fund the plan.[6] In general, the minimum required contribution to a single-employer defined benefit pension plan for a plan year depends on a comparison of the value of the plan's assets as of the beginning of the plan year with the plan's funding target and the plan's target normal cost.[7] The plan's funding target for a plan year is the present value of all benefits accrued or earned as of the beginning of the plan year. A plan's target normal cost for a plan year is the present value of benefits expected to accrue or be earned during the plan year. In general, a plan has a funding shortfall for a plan year if the plan's funding target for the year exceeds the value of the plan's assets. In such a case, the minimum required contribution for the plan year generally is equal to the sum of the plan's target normal cost for the year and a portion of the funding shortfall for that year and prior plan years.[8]

Under the Act's minimum funding rules, the value of plan assets generally is the fair market value of the assets. However, the value of plan assets may be determined on the basis of the averaging of fair market values, but only if such method: (1) is permitted under regulations; (2) does not provide for averaging of fair market values over more than the period beginning on the last day of the 25th month preceding the month in which the plan's valuation date occurs and ending on the valuation date; and (3) does not result in a determination of the value of plan assets that at any time is less than 90 percent or more than 110 percent of the fair market value of the assets at that time. The Act's rules also provide that any averaging must be adjusted for contributions to the plan and distributions to participants as provided by the Secretary of the Treasury.

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[6] The Code and ERISA contain parallel minimum funding rules.

[7] A plan with 100 or fewer participants is permitted to designate any day during the plan year as its valuation date for purposes of the minimum funding rules.

[8] A shortfall amortization base is generally established for each year for which a plan has a funding shortfall, and each base is amortized over a seven-year period. The base is generally comprised of the funding shortfall for that year, less the present value of shortfall amortization installments that apply to the current year and succeeding years on account of prior-year shortfall amortization bases. The aggregate of the shortfall amortization installments for the current plan year is referred to as the shortfall amortization charge, and this charge is added to the plan's target normal cost in determining the minimum required contribution.

Proposed regulations have been issued that permit the value of plan assets to be determined on the basis of averaging.[9] Under the proposed regulations, the average value of plan assets generally is increased for contributions that are included in the last valuation date during the averaging period but that were not included in the prior valuation dates during the averaging period. Similarly, the average value generally is decreased for distributions included in the last valuation date during the averaging period but that were not included in the prior valuation dates during the averaging period.

Explanation of Provision

The provision provides that, in determining the value of a plan's assets under the averaging method, such averaging will be adjusted for expected earnings as specified by the Secretary of the Treasury. Such an adjustment is in addition to the present law adjustments for contributions and distributions. Expected earnings are to be determined by a plan's actuary on the basis of an assumed earnings rate for the plan that is specified by the actuary. The assumed earnings rate specified by the actuary cannot exceed the applicable third segment rate. [10]

Effective Date

The provision is effective as if included in the Act.

2. Modification of interest rate assumption required with respect to certain small employer plans (sec. 122 of the bill and sec. 415(b)(2)(E) of the Code)

Present Law

Annual benefits payable under a defined benefit pension plan generally may not exceed the lesser of (1) 100 percent of average compensation, or (2) $185,000 (for 2008).[11] The dollar limit generally applies to a benefit payable in the form of a straight life annuity. If the benefit is not in the form of a straight life annuity (e.g., a lump sum), the benefit generally is adjusted to an equivalent straight life annuity. For purposes of adjusting a benefit in a form that is subject to the minimum value rules, such as a lump-sum benefit, the interest rate used generally must be not less than the greater of: (1) 5.5 percent; (2) the rate that provides a benefit of not more than

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[9] 72 F.R. 74215 (December 31, 2007).

[10] The minimum funding rules specify the interest rates that must be used in determining a plan's target normal cost and funding target. Under the rules, present value generally is determined using three interest rates, each of which applies to benefit payments expected to be made from the plan during a certain period. The third segment rate applies to benefits reasonably determined to be payable after the end of the 20-year period that applies to the first and second segment rates. Each segment rate is a single interest rate determined by the Secretary of the Treasury on the basis of a corporate bond yield curve, taking into account only the portion of the yield curve based on corporate bonds maturing during the particular segment rate period. The yield curve used by the Secretary is based on yields on investment grade corporate bonds that are in the top three quality levels available.

[11] Sec. 415(b)(1).

105 percent of the benefit that would be provided if the rate (or rates) applicable in determining minimum lump sums were used; or (3) the interest rate specified in the plan.

Explanation of Provision

Under the provision, in the case of a plan maintained by an eligible employer, the interest rate used in adjusting a benefit in a form that is subject to the minimum value rules generally must be not less than the greater of: (1) 5.5 percent; or (2) the interest rate specified in the plan. The term eligible employer is defined in the same manner as under section 408(p) (describing an employer which is eligible to sponsor a SIMPLE plan).[12] Thus, for any year, the term means an employer which had no more than 100 employees who received at least $5,000 of compensation from the employer for the preceding year. An eligible employer who maintains a defined benefit pension plan for one or more years and who fails to be an eligible employer in a subsequent year is treated as an eligible employer for the two years following the last year the employer was an eligible employer (provided that the reason for failure to qualify is not due to an acquisition, disposition, or similar transaction involving the eligible employer).

Effective Date

The provision is effective for years beginning after December 31, 2008.

3. Determination of market rate of return for governmental plans (sec. 123 of the bill and sec. 4(i) of ADEA)

Present Law

The Act amended the Code, ERISA, and ADEA, to provide for parallel age discrimination rules in the case of an applicable defined benefit plan. Included among the rules is a requirement relating to interest credits provided under such a plan. Under the Act, an applicable defined benefit plan is a defined benefit pension plan under which the accrued benefit (or any portion thereof) is calculated as the balance of a hypothetical account maintained for the participant or as an accumulated percentage of the participant's final average compensation. The Act also provides that the Secretary of the Treasury is to provide rules which include in the definition of an applicable defined benefit plan any defined benefit plan (or portion of such a plan) which has an effect similar to an applicable defined benefit plan.

Under the parallel Code, ERISA, and ADEA rules, an applicable defined benefit plan satisfies the interest credit requirement if the terms of the plan provide that any interest credit (or equivalent amount) for any plan year is at a rate that is not greater than a market rate of return. The Act also provides that an interest rate (or equivalent amount) of less than zero shall in no event result in a hypothetical account balance or similar amount being less than the aggregate amount of hypothetical contributions credited to the account. The Act provides that the Secretary of the Treasury may provide rules governing the calculation of a market rate of return and for permissible methods of crediting interest to the account (including fixed or variable interest

[12] Sec. 408(p)(1)(D).

rates) resulting in effective rates of return that meet the requirements of the provision. The Code and ERISA rules do not apply in the case of an applicable defined benefit plan that is a governmental plan. A governmental plan is generally defined for this purpose as a plan that is established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing.[13]

In the case of a plan in existence on June 29, 2005, the interest credit requirements for an applicable defined benefit plan generally apply to years beginning after December 31, 2007. In the case of a plan maintained pursuant to one or more collective bargaining agreements, a delayed effective date applies.

Explanation of Provision

Under the provision, ADEA is amended to provide that, in the case of a governmental plan, a rate of return or method of crediting interest that is established pursuant to any provision of Federal, State, or local law (including any administrative rule or policy adopted in accordance with any such law) is generally treated as a market rate of return and as a permissible method of crediting interest for purposes of the Act's interest credit requirement.[14] This special treatment does not apply, however, if the rate of return or method of crediting interest violates another requirement of ADEA (other than the interest credit requirement).

Effective Date

The provision is effective as if included in the Act.

4. Treatment of certain reimbursements from governmental plans for medical care (sec. 124 of the bill and sec. 105 of the Code)

Present Law

The gross income of an employee generally does not include employer-provided coverage under an accident or health plan. With respect to amounts received under such a plan, section 105(a) provides that such amounts are includible in gross income to the extent (1) such amounts are attributable to contributions by the employer which were not includible in the gross

[13] Sec. 414(d). The definition of governmental plan in section 414(d) has three provisions. The first provision includes any plan that is established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing. The second provision relates to certain Railroad Retirement Act plans and plans of international organizations. The third provision relates to any plan maintained by an Indian tribal government or political subdivision thereof, or by an agency or instrumentality of any of an Indian tribal government.

[14] The definition of governmental plan for purposes of this provision only includes a plan that is established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing.

income of the employee, or (2) are paid by the employer. Notwithstanding this general inclusion rule, section 105(b) provides that gross income does not include amounts received if such amounts are paid, directly or indirectly, to the taxpayer to reimburse the taxpayer for medical care expenses of the taxpayer, the taxpayer's spouse, or the taxpayer's dependents.[15]

In Revenue Ruling 2006-36,[16] the Internal Revenue Service held that amounts paid to an employee under a medical expense reimbursement plan are not excludible from an employee's gross income if the plan permits amounts to be paid as medical benefits to a designated beneficiary, other than the employee's spouse or dependents. Thus, under the ruling, none of the amounts paid by such a plan to any person, including reimbursements of medical expenses of the employee, the employee's spouse, or the employee's dependents, are excludible.

Explanation of Provision

The provision provides that, for purposes of section 105(b), amounts paid (directly or indirectly) to a taxpayer from a specified health plan shall not fail to be excluded from gross income solely because the plan provides for reimbursements of health care expenses of a deceased plan participant's beneficiary. In order for the provision to apply, the plan must have provided for reimbursement of a deceased participant's beneficiary on or before January 1, 2008. A specified plan is an accident or health plan that is funded by a medical trust that is established in connection with a public retirement system if such trust (1) has been authorized by a State legislature; or (2) has received a favorable ruling from the Internal Revenue Service that the trust's income is not includible in gross income under section 115 (providing an exclusion from gross income for States and their political subdivisions).

Effective Date

The provision is effective with respect to payments made before, on, or after enactment.

5. Rollover of amounts received in airline carrier bankruptcy to Roth IRAs (sec. 125 of the bill)

Present Law

The Code provides for two types of individual retirement arrangements ("IRAs"): traditional IRAs and Roth IRAs.[17] In general, contributions (other than a rollover contribution) to a traditional IRA may be deductible, and distributions from a traditional IRA are includible in gross income to the extent not attributable to a return of nondeductible contributions. In contrast,

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[15] As defined in section 152, but determined without regard to sections (b)(1), (b)(2), and (d)(1)(B).

[16] 2006-2 C.B. 353. The ruling is effective for plan years beginning after December 31, 2008, in the case of plans including certain reimbursement provisions on or before August 14, 2006.

[17] Traditional IRAs are described in section 408, and Roth IRAs are described in section 408A.

contributions to a Roth IRA are not deductible, and qualified distributions from a Roth IRA are excludable from gross income. Distributions from a Roth IRA that are not qualified distributions are includible in gross income to the extent attributable to earnings. In general, a qualified distribution is a distribution that is made on or after the individual attains age 59-½, death, or disability or which is a qualified special purpose distribution.

The total amount that an individual may contribute to one or more IRAs for a year is generally limited to the lesser of: (1) a dollar amount ($5,000 for 2008); or (2) the amount of the individual's compensation that is includible in gross income for the year. As under the rules relating to traditional IRAs, a contribution of up to the dollar limit for each spouse may be made to a Roth IRA provided the combined compensation of the spouses is at least equal to the contributed amount. The maximum annual contribution that can be made to a Roth IRA is phased out for taxpayers with adjusted gross income for the taxable year over certain indexed levels. The adjusted gross income phase-out ranges for 2008 are: (1) for single taxpayers, $101,000 to $116,000; (2) for married taxpayers filing joint returns, $159,000 to $169,000; and (3) for married taxpayers filing separate returns, $0 to $10,000.

The foregoing contribution limitations for IRAs do not apply in the case of a rollover contribution to an IRA. If certain requirements are satisfied, a participant in an employer-sponsored qualified plan (which includes a tax-qualified retirement plan described in section 401(a), an employee retirement annuity described in section 403(a), a tax-sheltered annuity described in section 403(b), and a governmental section 457(b) plan) or a traditional IRA may roll over distributions from the plan, annuity or IRA into another plan, annuity or IRA. For distributions after December 31, 2007, certain taxpayers also are permitted to make rollover contributions into a Roth IRA (subject to inclusion in gross income of any amount that would be includible were it not part of the rollover contribution).

Explanation of Provision

Under the provision, a qualified airline employee may contribute any portion of an airline payment amount to a Roth IRA within 180 days of receipt of such amount (or, if later, within 180 days of enactment of the provision). Such a contribution is treated as a qualified rollover contribution to the Roth IRA. Thus, the portion of the airline payment amount contributed to the Roth IRA is includible in gross income to the extent that such payment would be includible were it not part of the rollover contribution.

Under the provision, an airline payment amount is defined as any payment of any money or other property payable by a commercial passenger airline to a qualified airline employee: (1) under the approval of an order of a Federal bankruptcy court in a case filed after September 11, 2001, and before January 1, 2007; and (2) in respect of the qualified airline employee's interest in a bankruptcy claim against the airline carrier, any note of the carrier (or amount paid in lieu of a note being issued), or any other fixed obligation of the carrier to pay a lump sum amount. An airline payment amount shall not include any amount payable on the basis of the carrier's future earnings or profits. In determining the amount that may be contributed to a Roth IRA under the provision, any reduction in the airline payment amount on account of employment tax withholding is disregarded. A qualified airline employee is an employee or former employee of a commercial passenger airline carrier who was a participant in a defined benefit plan maintained

by the carrier which (1) is qualified under section 401(a) and (2) was terminated or became subject to the benefit accrual and other restrictions applicable to plans maintained by commercial passenger airlines pursuant to paragraphs 402(b)(2) and (3) of the Act.

The provision also requires certain information reporting to the Secretary of Treasury and qualified airline employees with respect to airline payment amounts within 90 days of such payment (or if later, within 90 days of enactment of this provision)

Effective Date

The proposal is effective with respect to contributions to a Roth IRA made after enactment with respect to airline payment amounts paid before, on, or after such date.

6. Determination of asset value for special airline funding rules (sec. 126 of the bill and sec. 402 of the Act)

Present Law

The Act provides for special minimum funding rules for certain eligible plans. For purposes of the rules, an eligible plan is a single-employer defined benefit pension plan sponsored by an employer that is a commercial passenger airline or the principal business of which is providing catering services to a commercial passenger airline.

The plan sponsor of an eligible plan may make one of two alternative elections. In the case of a plan that meets certain benefit accrual and benefit increase restrictions, an election allowing a 17-year amortization of the plan's unfunded liability is available, with the minimum required contribution being determined under a special method. A plan that does not meet such requirements may elect to use a 10-year amortization period in amortizing the plan's shortfall amortization base for the first taxable year beginning in 2008.

The employer may select either a plan year beginning in 2006 or 2007 as the first plan year to which the 17-year amortization period election applies. Under the special method applicable to a plan that elects the 17-year amortization period, the minimum required contribution for any applicable plan year during the amortization period is the amount required to amortize the plan's unfunded liability, determined as of the first day of the plan year, in equal annual installments over the remaining amortization period. For this purpose, the amortization period is the 17-plan-year period beginning with the first applicable plan year. Thus, the annual amortization amount is redetermined each year, based on the plan's unfunded liability at that time and the remainder of the amortization period. For any plan years beginning after the end of the amortization period, the plan is subject to the generally applicable minimum funding rules (as provided under the Act, including the benefit limitations applicable to underfunded plans).

For purposes of the 17-year amortization period election, a plan's unfunded liability is the unfunded accrued liability under the plan, determined under the unit credit funding method and a rate of interest of 8.85 percent is used in determining the plan's accrued liability. In addition, the value of plan assets used must be the fair market value.

Explanation of Provision

Under the provision, the value of plan assets for purposes of determining the minimum required contribution of an eligible employer under the 17-year amortization period election may be determined under a valuation method that is permissible under the minimum funding rules applicable to a single-employer defined benefit pension plan that is not sponsored by an eligible employer. Thus, the value of plan assets may be determined as fair market value or on the basis of the averaging method specified in section 430(g)(3) of the Code and section 303(g)(3) of ERISA.

Effective Date

The provision is effective for plan years beginning after December 31, 2007.

7. Modification of penalty for failure to file partnership returns (sec. 127 of the bill and sec. 6698 of the Code)

Present Law

A partnership generally is treated as a pass-through entity. Income earned by a partnership, whether distributed or not, is taxed to the partners. Distributions from the partnership generally are tax-free. The items of income, gain, loss, deduction or credit of a partnership generally are taken into account by a partner as allocated under the terms of the partnership agreement. If the agreement does not provide for an allocation, or the agreed allocation does not have substantial economic effect, then the items are to be allocated in accordance with the partners' interests in the partnership. To prevent double taxation of these items, a partner's basis in its interest is increased by its share of partnership income (including tax-exempt income), and is decreased by its share of any losses (including nondeductible losses).

Under present law, a partnership is required to file a tax return for each taxable year. The partnership's tax return is required to include the names and addresses of the individuals who would be entitled to share in the taxable income if distributed and the amount of the distributive share of each individual. In addition to applicable criminal penalties, present law imposes an assessable civil penalty for the failure to timely file a partnership return. The penalty generally is $85 per partner for each month (or fraction of a month) that the failure continues, up to a maximum of 12 months for returns required to be filed after December 20, 2007.

Explanation of Provision

Under the provision, the penalty for failure to file partnership returns is increased by $4 per partner.

Effective Date

The provision applies to returns required to be filed after December 31, 2008.

8. Modification of penalty for failure to file S corporation returns (sec. 128 of the bill and sec. 6699 of the Code)

Present Law

In general, an S corporation is not subject to corporate-level income tax on its items of income and loss. Instead, an S corporation passes through its items of income and loss to its shareholders. The shareholders take into account separately their shares of these items on their individual income tax returns.

Under present law, S corporations are required to file a tax return for each taxable year. The S corporation's tax return is required to include the following: the names and addresses of all persons owning stock in the corporation at any time during the taxable year; the number of shares of stock owned by each shareholder at all times during the taxable year; the amount of money and other property distributed by the corporation during the taxable year to each shareholder and the date of such distribution; each shareholder's pro rata share of each item of the corporation for the taxable year; and such other information as the Secretary may require.

Present law imposes an assessable monthly penalty for any failure to timely file an S corporation return or any failure to provide the information required to be shown on such a return. The penalty is $85 times the number of shareholders in the S corporation during any part of the taxable year for which the return was required, for each month (or a fraction of a month) during which the failure continues, up to a maximum of 12 months.

Explanation of Provision

Under the provision, the penalty for failure to file S corporation returns is increased by $4 per shareholder.

Effective Date

The provision applies to returns required to be filed after December 31, 2008.

TITLE II − PENSION PROVISIONS RELATING TO ECONOMIC CRISIS

A. Temporary Waiver of Required Minimum Distribution Rules for Certain Retirement Plans and Accounts (sec. 201 of the bill and sec. 401(a)(9) of the Code)

Present law

Required minimum distributions

Employer-provided qualified retirement plans and individual retirement accounts and annuities (IRAs) are subject to required minimum distribution rules. A qualified retirement plan for this purpose means a tax-qualified plan described in section 401(a) (such as a defined benefit pension plan or a section 401(k) plan), employee retirement annuities described in section 403(a), tax-sheltered annuities described in section 403(b), and a plan described in section 457(b) that is maintained by a governmental employer.[18] An employer-provided qualified retirement plan that is a defined contribution plan is a plan which provides (1) an individual account for each participant and (2) for benefits based on the amount contributed to the participant's account, and any income, expenses, gains, losses, and forfeitures of accounts of other participants which may be allocated to such participant's account.[19]

Required minimum distributions generally must begin by April 1 of the calendar year following the later of the calendar year in which the individual (employee or IRA owner) reaches age 70 ½. However, in the case of an employer-provided qualified retirement plan, the required minimum distribution date for an individual who is not a 5-percent owner of the employer maintaining the plan is delayed to April 1 of the year following the year in which the individual retires.

For IRAs and defined contributions plans, the required minimum distribution for each year generally is determined by dividing the account balance as of the end of the prior year by a distribution period,[20] generally a number in the uniform lifetime table.[21] This table is based on joint life expectancies of the individual and a hypothetical beneficiary 10 years younger than the individual. For an individual with a spouse as designated beneficiary who is more than 10 years younger (and thus the number of years in the couple's joint life expectancy is greater than the uniform life time table), the joint life expectancy of the couple is used. There are special rules in the case of annuity payments from an insurance contract.

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[18] The required minimum distribution rules also apply to section 457(b) plans maintained by tax-exempt employers other than governmental employers.

[19] Sec. 414(i).

[20] Treas. Reg. sec. 1.401(a)(9)-5.

[21] Treas. Reg. sec. 1.401(a)(9)-9.

If an individual dies on or after the individual's required beginning date, the required minimum distribution is also determined by dividing the account balance as of the end of the prior year by a distribution period. The distribution period is equal to the remaining years of the beneficiary's life expectancy or, if there is no designated beneficiary, a distribution period equal to the remaining years of the deceased individual's single life expectancy, using the age of the deceased individual in the year of death.[22]

In the case of an individual who dies before the individual's required beginning date, there are two methods for satisfying the after death required minimum distribution rules, the life expectancy rule or the five year rule. Under the life expectancy rule, annual required minimum distributions must begin no later than December 31 of the calendar year immediately following the calendar year in which the individual died. This rule is only available if the designated beneficiary is an individual (e.g., not the individual's estate or a charity). If the designated beneficiary is the individual's spouse, commencement of distributions can be delayed until December 31 of the calendar year in which the deceased individual would have attained age 70 ½. The required minimum distribution for each year is also determined by dividing the account balance as of the end of the prior year by a distribution period, which is determined by reference to the beneficiary's life expectancy.[23] Under the five-year rule, the individual's entire account must be distributed no later than December 31 of the calendar year containing the fifth anniversary of the individual's death.[24]

A special after-death rule applies for an IRA if the beneficiary of the IRA is the surviving spouse. The surviving spouse is permitted to choose to calculate required minimum distributions while the spouse is alive, and after the spouse's death, as though the spouse is the IRA owner, rather than a beneficiary.

Roth IRAs are not subject to the minimum distribution rules during the IRA owner's lifetime. However, Roth IRAs are subject to the post-death minimum distribution rules that apply to traditional IRAs. For Roth IRAs, the IRA owner is treated as having died before the individual's required beginning date. Thus only the life expectancy rule and the five year rule apply.

Failure to make a required minimum distribution triggers a 50-percent excise tax, payable by the individual or the individual's beneficiary. The tax is imposed during the taxable year that begins with or within the calendar year during which the distribution was required.[25]

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[22] Treas. Reg. sec. 1.401(a)(9)-5, A-5(a).

[23] Treas. Reg. sec. 1.401(a)(9)-5, A-5(b).

[24] Treas. Reg. sec. 1.401(a)(9)-3, Q&As 1, 2.

[25] Sec. 4974(a).

The tax may be waived if the distribution did not occur because of reasonable error and reasonable steps are taken to remedy the violation.[26]

Eligible rollover distributions

With certain exceptions, distributions from an employer-provided qualified retirement plan are eligible to be rolled over tax free into another employer-provided qualified retirement plan or an IRA. This can be achieved by contributing the amount of the distribution to the other plan or IRA within 60 days of the distribution, or by a direct payment by the plan to the other plan or IRA (referred to as a "direct rollover"). Distributions that are not eligible for rollover include (i) any distribution that is one of a series of periodic payments generally for a period of 10 years or more (or, if a shorter period, certain life expectancies) and (ii) any distribution to the extent that the distribution is a required minimum distribution.[27]

For any distribution that is eligible for rollover, an employer-provided tax-qualified retirement plan must offer the distributee the right to have the distribution made in a direct rollover[28] and, before making the distribution, the plan administrator must provide the distributee with a written explanation of the direct rollover right and related tax consequences.[29] If a distributee does not choose to have the distribution made in a direct rollover, the distribution is generally subject to mandatory 20-percent income tax withholding.[30]

Explanation of Provision

Under the provision, no minimum distribution is required for calendar year 2009 from individual retirement plans and employer-provided qualified retirement plans that are defined contribution plans (within the meaning of section 414(i)). Thus any annual minimum distribution for 2009 from these plans required under current law, otherwise determined by dividing the account balance by a distribution period, is not required to be made. The next required minimum distribution would be for calendar year 2010. This relief applies to life-time distributions to employees and IRA owners and after-death distributions to beneficiaries.

In the case of an individual whose required beginning date is April 1, 2010 (e.g., the individual attained age 70 1/2 in 2009), the first year for which a minimum distribution is required under current law is 2009. Under the provision, no distribution is required for 2009

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[26] Sec. 4974(d).

[27] Sec. 402(c)(4). Distributions that are not eligible rollover distributions also include distributions made upon hardship of the employee and any qualified disaster relief distribution (within the meaning of section 72(t)(2)(G)).

[28] Sec. 401(a)(31).

[29] Sec. 402(f).

[30] Sec. 3405(c). This mandatory withholding does not apply to a distributee that is a beneficiary other than a surviving spouse of an employee.

and, thus, no distribution will be required to be made by April 1, 2010. However, the provision does not change the individual's required beginning date for purposes of determining the required minimum distribution for calendar years after 2009. Thus, for an individual whose required beginning date is April 1, 2010, the required minimum distribution for 2010 will be required to be made no later than the last day of calendar year 2010. If the individual dies on or after April 1, 2010, the required minimum distribution for the individual's beneficiary will be determined using the rule for death on or after the individual's required beginning date.

If the five year rule applies to an account with respect to any decedent, under the provision, the five year period is determined without regard to calendar year 2009. Thus, for example, for an account with respect to an individual who died in 2007, under the provision, the five year period ends in 2013 instead of 2012.

If all or a portion of a distribution during 2009 is an eligible rollover distribution because it is no longer a required minimum distribution under this provision, the distribution shall not be treated as an eligible rollover distribution for purposes of the direct rollover requirement and notice and written explanation of the direct rollover requirement, as well as the mandatory 20-percent income tax withholding for eligible rollover distributions, to the extent the distribution would have been a required minimum distribution for 2009 absent this provision. Thus, for example, if an employer-provided qualified retirement plan distributes an amount to an individual during 2009 that is an eligible rollover distribution but would have been a required minimum distribution for 2009, the plan is permitted but not required to offer the employee a direct rollover of that amount and provide the employee with a written explanation of the requirement. If the employee receives the distribution, the distribution is not subject to mandatory 20-percent income tax withholding, and the employee can roll over the distribution by contributing it to an eligible retirement plan within 60 days of the distribution.

Effective Date

The provision is effective for calendar years beginning after December 31, 2008. However, the provision does not apply to any required minimum distribution for 2008 that is permitted to be made in 2009 by reason of an individual's required beginning date being April 1, 2009.

B. Transition Rule Clarification
(sec. 202 of the bill and sec. 430 of the Code)

Present Law

The Act modified the minimum funding rules for single-employer defined benefit pension plans, generally for plan years beginning after December 31, 2007. Under the Act, the minimum required contribution to a single-employer defined benefit pension plan for a plan year generally depends on a comparison of the value of the plan's assets with the plan's funding target and target normal cost. A plan's funding target is the present value of all benefits accrued or earned as of the beginning of the plan year and a plan's target normal cost for a plan year is the present value of benefits expected to accrue or be earned during the plan year. In general, a plan has a funding shortfall if the plan's funding target for the year exceeds the value of the plan's assets, and a shortfall amortization base is generally required to be established for a plan year if the plan has a funding shortfall for a plan year.

Under a special rule, a shortfall amortization base does not have to be established for a plan year if the value of a plan's assets[31] is at least equal to the plan's funding target for the plan year. For purposes of the special rule, a transition rule applies for plan years beginning after 2007 and before 2011. The transition rule does not apply to a plan that (1) is not in effect for 2007, or (2) was subject to certain deficit reduction contribution rules for 2007 (i.e., a plan covering more than 100 participants and with a funded current liability below a specified threshold).

Under the transition rule, a shortfall amortization base does not have to be established for a plan year during the transition period if the value of plan assets[32] for the plan year is at least equal to the applicable percentage of the plan's funding target for the year. The applicable percentage is 92 percent for 2008, 94 percent for 2009, and 96 percent for 2010. However, the transition rule does not apply to a plan for any plan year after 2008 unless, for each preceding plan year after 2007, the plan's shortfall amortization base was zero (i.e., the plan was eligible for the special rule each preceding year).

Explanation of Provision

The provision extends the transition rule to plan year beginning after 2008 even if, for each preceding plan year after 2007, the plan's shortfall amortization base was not zero.

The provision provides that in determining a plan's funding shortfall for the year only the applicable percentage of the funding target is taken into account, rather than the entire funding target. The applicable percentage is 92 percent for 2008, 94 percent for 2009, and 96 percent for

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[31] Plan assets are reduced by any prefunding balance, but only if the employer elects to use any portion of the prefunding balance to reduce required contributions for the year.

[32] Plan assets are reduced by any prefunding balance, but only if the employer elects to use the prefunding balance to reduce required contributions for the year.

2010.[33] Thus, for example, if a plan was funded at 91 percent for 2008, the funding shortfall for 2008 would be 1 percent and the plan would be able to continue to use the transition rule in 2009. The plan would then need to fund to 94 percent, rather than 100 percent, in 2009.

Effective Date

The provision is effective as if included in the Act.

[33] Sec. 430(c)(5)(B).

C. Temporary Modification of Application of Limitation on Benefit Accruals (sec. 203 of the bill)

Present Law

A single-employer defined benefit pension plan is required to comply with certain funding-based limits described in section 436 on benefits and benefit accruals.[34] These limits were added by the Act and are generally applicable to plan years beginning after December 31, 2007. Among the limitations is the requirement that if the plan's adjusted funding target attainment percentage is less than 60 percent for a plan year, all future benefit accruals under the plan must cease as of the valuation date for the plan year ("future benefit accrual limitation"). This future benefit accrual limitation applies only for purposes of the accrual of benefits; service during the freeze period is counted for other purposes. For example, if accruals are frozen pursuant to the limitation, service performed during the freeze period still counts for vesting purposes. Written notice must be provided to plan participants and beneficiaries if a section 436 limitation provision applies to a plan.

The term "funding target attainment percentage" is defined in the same way as under the minimum funding rules applicable to single-employer defined benefit pension plans, and is the ratio, expressed as a percentage, that the value of the plan's assets (generally reduced by any funding standard carryover balance and prefunding balance) bears to the plan's funding target for the year (determined without regard to a whether a plan is in at-risk status under the minimum funding rules). A plan's adjusted funding target attainment percentage is determined in the same way, except that the value of the plan's assets and the plan's funding target are both increased by the aggregate amount of purchases of annuities for employees other than highly compensated employees made by the plan during the two preceding plan years. Special rules apply for determining a plan's adjusted funding target attainment percentage in the case of a fully funded plan and for plan years beginning in 2007 and before 2011.

The future benefit accrual limitation ceases to apply with respect to any plan year, effective as of the first day of the plan year, if the plan sponsor makes a contribution (in addition to any minimum required contribution for the plan year) equal to the amount sufficient to result in an adjusted funding target attainment percentage of 60 percent. The future benefit accrual limitation also does not apply for the first five years a plan (or a predecessor plan) is in effect.

If a limitation on future benefit accruals ceases to apply to a plan, all such benefit accruals resume, effective as of the day following the close of the period for which the limitation applies. In addition, section 436 provides that nothing in the rules is to be construed as affecting a plan's treatment of benefits which would have been paid or accrued but for the limitation.

Explanation of Provision

Under the provision, in the case of the first plan year beginning during the period of October 1, 2008, through September 30, 2009, the future benefit accrual limitation of section 436

[34] Secs. 401(a)(29) and 436. Parallel rules apply under ERISA.

is applied by substituting the plan's adjusted funding target attainment percentage for the preceding plan year for the percentage for such first plan year in the period. Thus, the future benefit accrual limitation of section 436 is avoided if the plan's adjusted funding target attainment percentage for the preceding plan year is 60 percent or greater. The provision is not intended to place a plan in a worse position with respect to the future benefit accrual limitation of section 436 than would apply absent the provision. Thus, the provision does not apply if the adjusted funding target attainment percentage for the current plan year is greater than the preceding year.

Effective Date

The provision is effective for the first plan year beginning during the period beginning on October 1, 2008, and ending on September 30, 2009.

D. Temporary Delay of Designation of Multiemployer Plans as in Endangered or Critical Status (sec. 204 of the bill)

Present Law

In General

Under section 432,[35] additional funding rules apply to a multiemployer defined benefit pension plan that is in endangered or critical status. These rules require the adoption of and compliance with (1) a funding improvement plan in the case of a multiemployer plan in endangered status, and (2) a rehabilitation plan in the case of a multiemployer plan in critical status. In the case of a plan in critical status, additional required contributions and benefit reductions apply and employers are relieved of liability for minimum required contributions under the otherwise applicable funding rules, provided that a rehabilitation plan is adopted and followed.

Section 432 is effective for plan years beginning after 2007. The additional funding rules for plans in endangered or critical status do not apply to plan years beginning after December 31, 2014. If a plan is operating under a funding improvement or rehabilitation plan for its last year beginning before January 1, 2015, the plan shall continue to operate under such funding improvement or rehabilitation plan during any period after December 31, 2014, that such funding improvement or rehabilitation plan is in effect.

Annual certification of status; notice; annual reports

Not later than the 90th day of each plan year, the plan actuary must certify to the Secretary of the Treasury and to the plan sponsor whether or not the plan is in endangered or critical status for the plan year. In the case of a plan that is in a funding improvement or rehabilitation period, the actuary must certify whether or not the plan is making scheduled progress in meeting the requirements of its funding improvement or rehabilitation plan.

Failure of the plan's actuary to certify the status of the plan is treated as a failure to file the annual report (thus, an ERISA penalty of up to $1,100 per day applies).

If a plan is certified to be in endangered or critical status, notification of the endangered or critical status must be provided within 30 days after the date of certification to the participants and beneficiaries, the bargaining parties, the PBGC and the Secretary of Labor.

[35] Parallel rules apply under ERISA.

Endangered status

Definition of endangered status

A multiemployer plan is in endangered status if the plan is not in critical status and, as of the beginning of the plan year, (1) the plan's funded percentage for the plan year is less than 80 percent, or (2) the plan has an accumulated funding deficiency for the plan year or is projected to have an accumulated funding deficiency in any of the six succeeding plan years (taking into account amortization extensions). A plan's funded percentage is the percentage of plan assets over accrued liability of the plan. A plan that meets the requirements of both (1) and (2) is treated as in seriously endangered status.

Information to be provided to bargaining parties

Within 30 days of the adoption of a funding improvement plan, the plan sponsor must provide to the bargaining parties schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to meet the applicable benchmarks in accordance with the funding improvement plan. The applicable benchmarks are the requirements of the funding improvement plan (discussed below).

Funding improvement plan and funding improvement period

In the case of a multiemployer plan in endangered status, a funding improvement plan must be adopted within 240 days following the deadline for certifying a plan's status.[36] A funding improvement plan is a plan which consists of the actions, including options or a range of options, to be proposed to the bargaining parties, formulated to provide, based on reasonably anticipated experience and reasonable actuarial assumptions, for the attainment by the plan of certain requirements.

The funding improvement plan must provide that during the funding improvement period, the plan will have a certain required increase in the funded percentage and no accumulated funding deficiency for any plan year during the funding improvement period, taking into account amortization extensions (the "applicable benchmarks"). In the case of a plan that is not in seriously endangered status, under the applicable benchmarks, the plan's funded percentage must increase such that the funded percentage as of the close of the funding improvement period equals or exceeds a percentage equal to the sum of (1) the funded percentage at the beginning of the period, plus (2) 33 percent of the difference between 100 percent and the percentage in (1). Thus, the difference between 100 percent and the plan's funded percentage at the beginning of the period must be reduced by at least one-third during the funding improvement period.

[36] This requirement applies for the initial determination year (i.e., the first plan year that the plan is in endangered status).

The funding improvement period is the 10-year period beginning on the first day of the first plan year beginning after the earlier of (1) the second anniversary of the date of adoption of the funding improvement plan, or (2) the expiration of collective bargaining agreements that were in effect on the due date for the actuarial certification of endangered status for the initial determination year and covering, as of such date, at least 75 percent of the plan's active participants. The period ends if the plan is no longer in endangered status or if the plan enters critical status.

In the case of a plan in seriously endangered status that is funded 70 percent or less, under the applicable benchmarks, the difference between 100 percent and the plan's funded percentage at the beginning of the period must be reduced by at least one-fifth during the funding improvement period. In the case of such plans, a 15-year funding improvement period is used. Special rules apply in the case of a seriously endangered plan that is more than 70 percent funded as of the beginning of the initial determination year.

Certain restrictions apply during the period beginning on the date of certification for the initial determination year and ending on the day before the first day of the funding improvement period and during the funding improvement period (e.g., upon the adoption of a funding improvement plan, the plan may not be amended to be inconsistent with the funding improvement plan).

Excise taxes

If the funding improvement plan requires an employer to make contributions to the plan, an excise tax applies upon the failure of the employer to make such required contributions within the time required under the plan. The amount of tax is equal to the amount of the required contribution the employer failed to make in a timely manner.

In the case of a plan in endangered status, which is not in seriously endangered status, a civil penalty of $1,100 a day applies for the failure of the plan to meet the applicable benchmarks by the end of the funding improvement period.

In the case of a plan in seriously endangered status, an excise tax applies for the failure to meet the benchmarks by the end of the funding improvement period. In such case, an excise tax applies based on the greater of (1) the amount of the contributions necessary to meet such benchmarks or (2) the plan's accumulated funding deficiency. The excise tax applies for each succeeding plan year until the benchmarks are met.

In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive all or part of the excise tax on employers failing to make required contributions and the excise tax for failure to achieve the applicable benchmarks. The party against whom the tax is imposed has the burden of establishing that the failure was due to reasonable cause and not willful neglect.

Critical status

Definition of critical status

A multiemployer plan is in critical status for a plan year if as of the beginning of the plan year:

1. The funded percentage of the plan is less than 65 percent and the sum of (A) the market value of plan assets, plus (B) the present value of reasonably anticipated employer and employee contributions for the current plan year and each of the six succeeding plan years (assuming that the terms of the collective bargaining agreements continue in effect) is less than the present value of all benefits projected to be payable under the plan during the current plan year and each of the six succeeding plan years (plus administrative expenses),

2. (A) The plan has an accumulated funding deficiency for the current plan year, not taking into account any amortization extension, or (B) the plan is projected to have an accumulated funding deficiency for any of the three succeeding plan years (four succeeding plan years if the funded percentage of the plan is 65 percent or less), not taking into account any amortization extension,

3. (A) The plan's normal cost for the current plan year, plus interest for the current plan year on the amount of unfunded benefit liabilities under the plan as of the last day of the preceding year, exceeds the present value of the reasonably anticipated employer contributions for the current plan year, (B) the present value of nonforfeitable benefits of inactive participants is greater than the present value of nonforfeitable benefits of active participants, and (C) the plan has an accumulated funding deficiency for the current plan year, or is projected to have an accumulated funding deficiency for any of the four succeeding plan years (not taking into account amortization period extensions), or

4. The sum of (A) the market value of plan assets, plus (B) the present value of the reasonably anticipated employer contributions for the current plan year and each of the four succeeding plan years (assuming that the terms of the collective bargaining agreements continue in effect) is less than the present value of all benefits projected to be payable under the plan during the current plan year and each of the four succeeding plan years (plus administrative expenses).

Additional contributions during critical status

In the case of a plan in critical status, the provision imposes an additional required contribution ("surcharge") on employers otherwise obligated to make a contribution in the initial critical year, i.e., the first plan year for which the plan is in critical status. The amount of the surcharge is five percent of the contribution otherwise required to be made under the applicable collective bargaining agreement. The surcharge is 10 percent of contributions otherwise required in the case of succeeding plan years in which the plan is in critical status. The surcharge applies 30 days after the employer is notified by the plan sponsor that the plan is in critical status and the surcharge is in effect. The surcharges are due and payable on the same schedule as the

contributions on which the surcharges are based. Failure to make the surcharge payment is treated as a delinquent contribution. The surcharge is not required with respect to employees covered by a collective bargaining agreement (or other agreement pursuant to which the employer contributes), beginning on the effective date of a collective bargaining agreement (or other agreement) that includes terms consistent with a schedule presented by the plan sponsor. The amount of the surcharge may not be the basis for any benefit accrual under the plan.

Reductions to previously earned benefits

Notwithstanding the anti-cutback rules that otherwise apply under the Code and ERISA, the plan sponsor may generally make any reductions to adjustable benefits[37] which the plan sponsor deems appropriate, based upon the outcome of collective bargaining over the schedules required to be provided by the plan sponsor (as discussed below).

The plan sponsor must include in the schedules provided to the bargaining parties an allowance for funding the benefits of participants with respect to whom contributions are not currently required to be made, and shall reduce their benefits to the extent permitted under the Code and ERISA and considered appropriate by the plan sponsor based on the plan's then current overall funding status.

Notice of any reduction of adjustable benefits must be provided at least 30 days before the general effective date of the reduction for all participants and beneficiaries. Benefits may not be reduced until the notice requirement is satisfied. Notice must be provided to (1) plan participants and beneficiaries; (2) each employer who has an obligation to contribute under the plans; and (3) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such employer.

Notice to bargaining parties

Within 30 days after adoption of the rehabilitation plan, the plan sponsor must provide to the bargaining parties schedules showing revised benefit structures, revised contribution structures, or both which, if adopted, may reasonably be expected to enable the multiemployer plan to emerge from critical status in accordance with the rehabilitation plan.[38] The schedules must reflect reductions in future benefit accruals and adjustable benefits and increases in contributions that the plan sponsor determined are reasonably necessary to emerge from critical

[37] Adjustable benefits means (1) benefits, rights, and features under the plan, including post-retirement death benefits, 60-month guarantees, disability benefits not yet in pay status, and similar benefits; (2) any early retirement benefit or retirement-type subsidy and any benefit payment option (other than the qualified joint-and-survivor annuity); and (3) benefit increase that would not be eligible for PBGC guarantee on the first day of the initial critical year because the increases were adopted (or, if later, took effect) less than 60 months before such first day.

[38] A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement must remain in effect for the duration of the collective bargaining agreement.

status. One schedule must be designated as the default schedule and must assume no increases in contributions other than increases necessary to emerge from critical status after future benefit accruals and other benefits (other than benefits the reduction or elimination of which are not permitted under the anti-cutback rules) have been reduced. The plan sponsor may also provide additional information as appropriate.

Rehabilitation plan

If a plan is in critical status for a plan year, the plan sponsor must adopt a rehabilitation plan within 240 days following the required date for the actuarial certification of critical status.[39]

A rehabilitation plan is a plan which consists of actions, including options or a range of options to be proposed to the bargaining parties, formulated, based on reasonable anticipated experience and reasonable actuarial assumptions, to enable the plan to cease to be in critical status by the end of the rehabilitation period and may include reductions in plan expenditures (including plan mergers and consolidations), reductions in future benefits accruals or increases in contributions, if agreed to by the bargaining parties, or any combination of such actions.

A rehabilitation plan must provide annual standards for meeting the requirements of the rehabilitation. The plan must also include the schedules required to be provided to the bargaining parties.

If the plan sponsor determines that, based on reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan cannot reasonably be expected to emerge from critical status by the end of the rehabilitation period, the plan must include reasonable measures to emerge from critical status at a later time or to forestall possible insolvency. In such case, the plan must set forth alternatives considered, explain why the plan is not reasonably expected to emerge from critical status by the end of the rehabilitation period, and specify when, if ever, the plan is expected to emerge from critical status in accordance with the rehabilitation plan.

Rehabilitation period

The rehabilitation period is the 10-year period beginning on the first day of the first plan year following the earlier of (1) the second anniversary of the date of adoption of the rehabilitation plan or (2) the expiration of collective bargaining agreements that were in effect on the due date for the actuarial certification of critical status for the initial critical year and covering at least 75 percent of the active participants in the plan. The rehabilitation period ends if the plan emerges from critical status.

Restrictions apply during the period beginning on the date of certification and ending on the day before the first day of the rehabilitation period and during the rehabilitation period. For example, beginning on the date that notice of certification of the plan's critical status is sent, lump sum and other similar benefits may not be paid. The restriction does not apply if the present value of the participant's accrued benefit does not exceed $5,000. The restriction also

[39] The requirement applies with respect to the initial critical year.

does not apply to any makeup payment in the case of a retroactive annuity starting date or any similar payment of benefits owed with respect to a prior period.

Rules for reductions in future benefit accrual rates

Any schedule including reductions in future benefit accruals forming part of a rehabilitation plan must not reduce the rate of benefit accruals below (1) a monthly benefit (payable as a single life annuity commencing at the participant's normal retirement age) equal to one percent of the contributions required to be made with respect to a participant or the equivalent standard accrual rate for a participant or group of participants under the collective bargaining agreements in effect as of the first day of the initial critical year, or (2) if lower, the accrual rate under the plan on such first day.

The equivalent standard accrual rate is determined by the plan sponsor based on the standard or average contribution base units which the plan sponsor determines to be representative for active participants and such other factors that the plan sponsor determines to be relevant. The provision does not limit the ability of the plan sponsor to prepare and provide the bargaining parties with alternative schedules to the default schedule that establish lower or higher accrual and contribution rates than the rates described above.

Excise taxes

If the rehabilitation plan requires an employer to make contributions to the plan, an excise tax applies upon the failure of the employer to make such required contributions within the time required under the plan. The amount of tax is equal to the amount of the required contribution the employer failed to make in a timely manner.

In the case of a plan in critical status, if a rehabilitation plan is adopted and complied with, employers are not liable for contributions otherwise required under the general funding rules. In addition, the present-law excise tax on failures to make such contributions does not apply.

If a plan fails to leave critical status at the end of the rehabilitation period or fails to make scheduled progress in meeting its requirements under the rehabilitation plan for three consecutive years, the present law excise tax applies based on the greater of (1) the amount of the contributions necessary to leave critical status or make scheduled progress or (2) the plan's accumulated funding deficiency. The excise tax applies for each succeeding plan year until the requirements are met.

In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive all or part of the excise tax on employers failing to make required contributions and the excise tax for failure to meet the rehabilitation plan requirements or make scheduled progress.

Explanation of Provision

Under the provision, the sponsor of a multiemployer defined benefit pension plan may elect for an applicable plan year to treat the plan's status for purposes of section 432 the same as

the plan's status for the preceding plan year. The applicable plan year is the first plan year beginning during the period from October 1, 2008, through September 30, 2009. Thus, for example, a calendar year plan that is not in critical or endangered status for 2008 may elect to retain its non-critical and non-endangered status for 2009, and a plan that was in either critical or endangered status for 2008 may elect to retain such status for 2009. If section 432 did not apply to a plan for the year preceding the applicable plan year, the plan's sponsor may elect to treat the plan's status for the applicable plan year as the status that would have applied to the plan had section 432 applied for the preceding plan year.

An election under the provision may only be revoked with the consent of the Secretary of the Treasury and special notice provisions apply with respect to the election and the notification of participants, the bargaining parties, the PBGC, and the Secretary of Labor.

In the case of a plan that elects to retain its endangered or critical status, the plan is not required to update its funding improvement or rehabilitation plan and schedules until the plan year that follows the applicable plan year. If an election is made by a plan under the provision and, without regard to the election, the plan is certified by the plan's actuary for the applicable plan year to be in critical status, the plan is treated as a plan in critical status for purposes of the special rules that relieve contributing employers from liability for minimum required contributions (that would apply under the otherwise applicable minimum funding rules) and the excise tax that applies in the case of a failure to make such contributions.

Effective Date

The provision is effective for the first plan year beginning during the period from October 1, 2008, through September 30, 2009.

E. Temporary Extension of the Funding Improvement and Rehabilitation Periods for Multiemployer Pension Plans in Critical and Endangered Status for 2008 or 2009 (sec. 205 of the bill)

Present Law

Under section 432, additional funding rules apply to a multiemployer defined benefit pension plan that is in endangered or critical status. These rules require the adoption of and compliance with (1) a funding improvement plan in the case of a multiemployer plan in endangered status, and (2) a rehabilitation plan in the case of a multiemployer plan in critical status. Section 432 is effective for plan years beginning after 2007.

The funding improvement period is the 10-year period beginning on the first day of the first plan year beginning after the earlier of (1) the second anniversary of the date of adoption of the funding improvement plan, or (2) the expiration of collective bargaining agreements that were in effect on the due date for the actuarial certification of endangered status for the initial determination year and covering, as of such date, at least 75 percent of the plan's active participants. The period ends if the plan is no longer in endangered status or if the plan enters critical status.

The rehabilitation period is the 10-year period beginning on the first day of the first plan year following the earlier of (1) the second anniversary of the date of adoption of the rehabilitation plan or (2) the expiration of collective bargaining agreements that were in effect on the due date for the actuarial certification of critical status for the initial critical year and covering at least 75 percent of the active participants in the plan. The rehabilitation period ends if the plan emerges from critical status.

Explanation of Provision

Under the provision, a plan sponsor of a multiemployer defined benefit pension plan may elect for a plan year beginning in 2008 or 2009 to extend the plan's otherwise applicable funding improvement or rehabilitation period by three years.

Effective Date

The provision is effective for plan years beginning after December 31, 2007.

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Memorandum

TO: PERS Board

FROM: Deb Knudsen

DATE: January 14, 2009

SUBJECT: Public Pension Coordinating Council Award

As in past years, staff completed and submitted an application to the Public Pension Coordinating Council.

The Public Pension Coordinating Council (PPCC) is a coalition of three associations that represent public pension funds who cover the vast majority of public employees in the US. The associations are:

National Association of State Retirement Administrators (NASRA)
National Council on Teacher Retirement (NCTR)
National Conference on Public Employee Retirement Systems (NCPERS)

The Public Pension Standards are intended to reflect minimum expectations for public retirement system management and administration, as well as serve as a benchmark by which all defined benefit public plans should be measured. The retirement systems and the state and local governments that sponsor them are encouraged to meet these standards.

CHANGES TO STANDARDS

Three changes have been made to this year's Standards:

- The Standards have been separated into the Administrative Standards and the Funding Standard. A system may qualify for and receive a Recognition Certificate for either the Administrative or Funding Standard, or both. A system that qualifies for both certificates will be awarded the Public Pension Coordinating Council Standards Award.

- The requirement for award of a COLA in the past three years has been removed. The requirement that the plan statutes provide for authority to award a COLA is still present.

- The Actuarial Valuation Standard has been expanded to include a requirement for an actuarial review at least once within the last 10 years.

Although we did not qualify for the full award due to our funding status, we did qualify for the PPCC Recognition Award for Administration. A copy of the award is attached for your information.

Public Pension Coordinating Council

Recognition Award for Administration
2008

Presented to

North Dakota Public Employees Retirement System

In recognition of meeting professional standards for
plan administration as
set forth in the Public Pension Standards.

Presented by the Public Pension Coordinating Council, a confederation of

National Association of State Retirement Administrators (NASRA)
National Conference on Public Employee Retirement Systems (NCPERS)
National Council on Teacher Retirement (NCTR)

Alan H. Winkle
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Memorandum

TO: PERS Board

FROM: Deb Knudsen

DATE: January 14, 2009

SUBJECT: Update on Retirement Plan IRS Determination

Melanie Walker of the Segal Company has been working with staff on this effort and informed us that Segal has everything needed for the IRS filing and Voluntary Compliance Program (VCP) submission for both the Hybrid Plan and the Highway Patrol Plan. She has completed the IRS filing materials with no problems and is currently working through the VCP submission materials. She indicated that at the latest, she will have all materials to NDPERS by the end of next week, so there is about a week to look over everything, get signatures and cut checks.

Also, the IRS has acknowledged that January 31st is on a Saturday and indicated that they will accept Cycle C submissions until Monday, February 2nd. Please let me know if you have any additional questions or concerns.

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(701) 328-3900
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FAX: (701) 328-3920 ● EMAIL: NDPERS-info@nd.gov ● www.nd.gov/ndpers

Memorandum

TO: PERS Board

FROM: Sparb

DATE: January 14, 2008

SUBJECT: BCBS Annual Report

Representatives from BCBS will be at the January Board meeting to review the attached Health Care Utilization Study. Also attached is the NDPERS Annual Management Information System (MIS) Study that recaps the information.

NDPERS Annual Management Information System (MIS) Study

Blue Cross Blue Shield of ND

A Presentation to the NDPERS Board

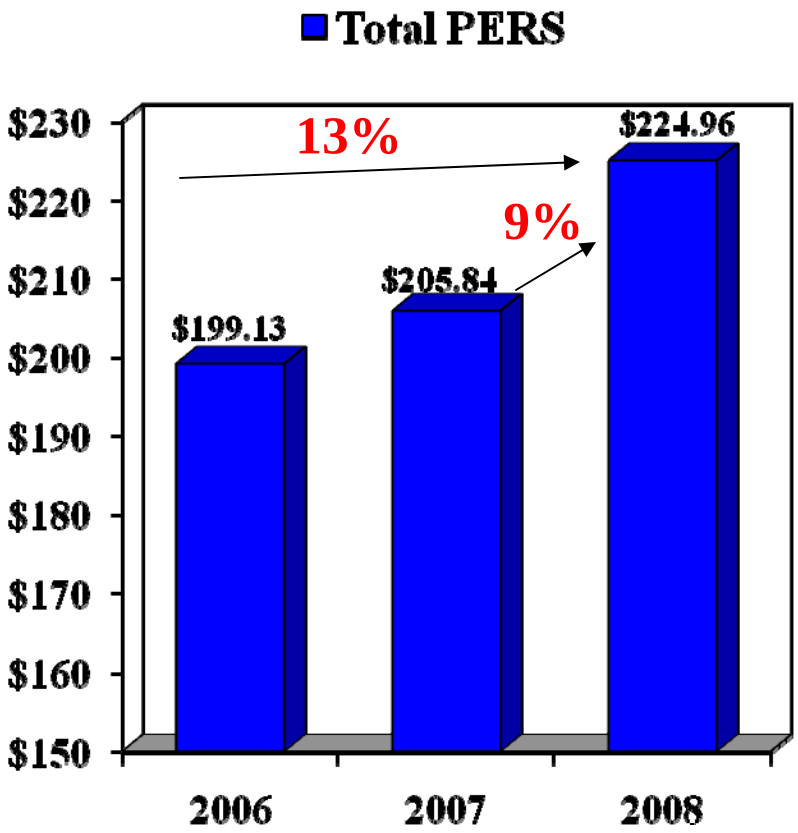
January, 2009

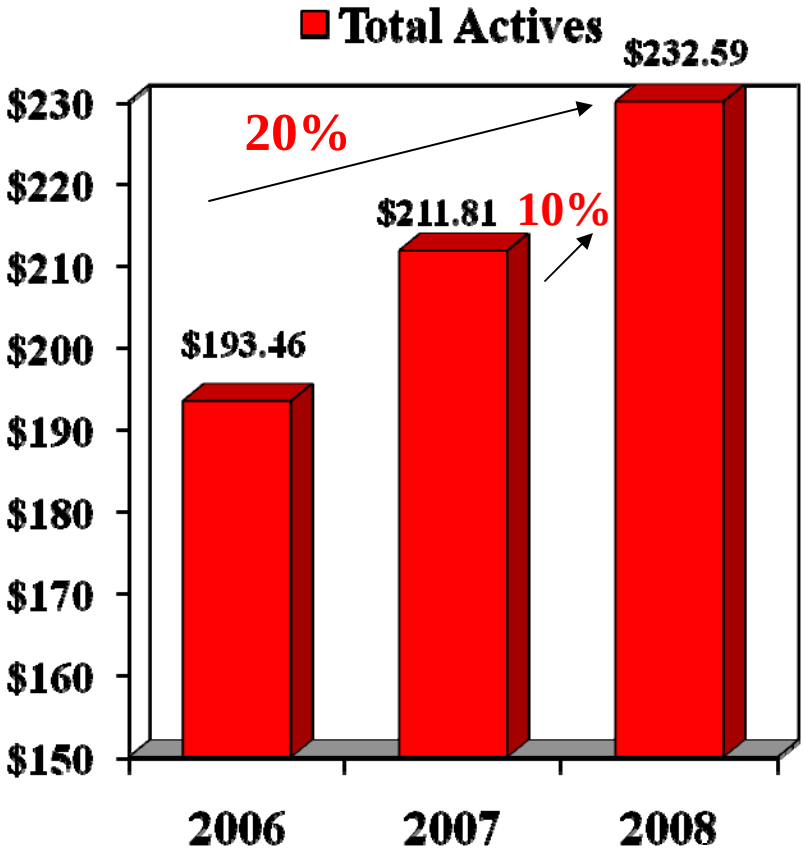
Summary - Total

Claims Incurred 07/01/07 - 06/30/08
Run-out through 09/30/08

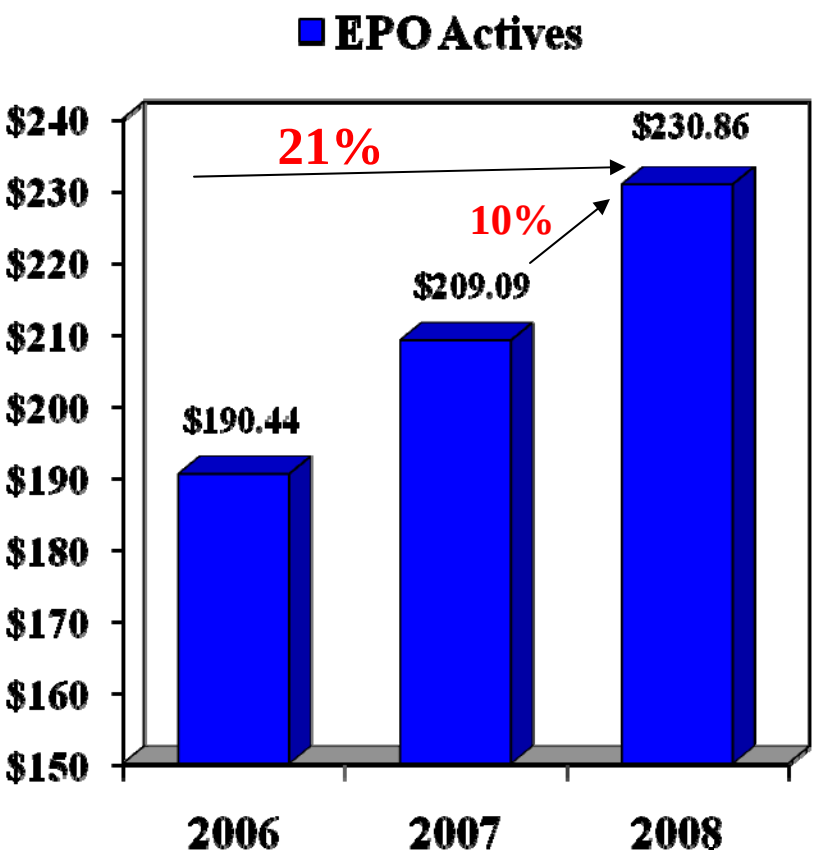
	Total NDPERS
Total Members	55,846
Total Payments	$150,754,115
Paid PMPM	$224.96

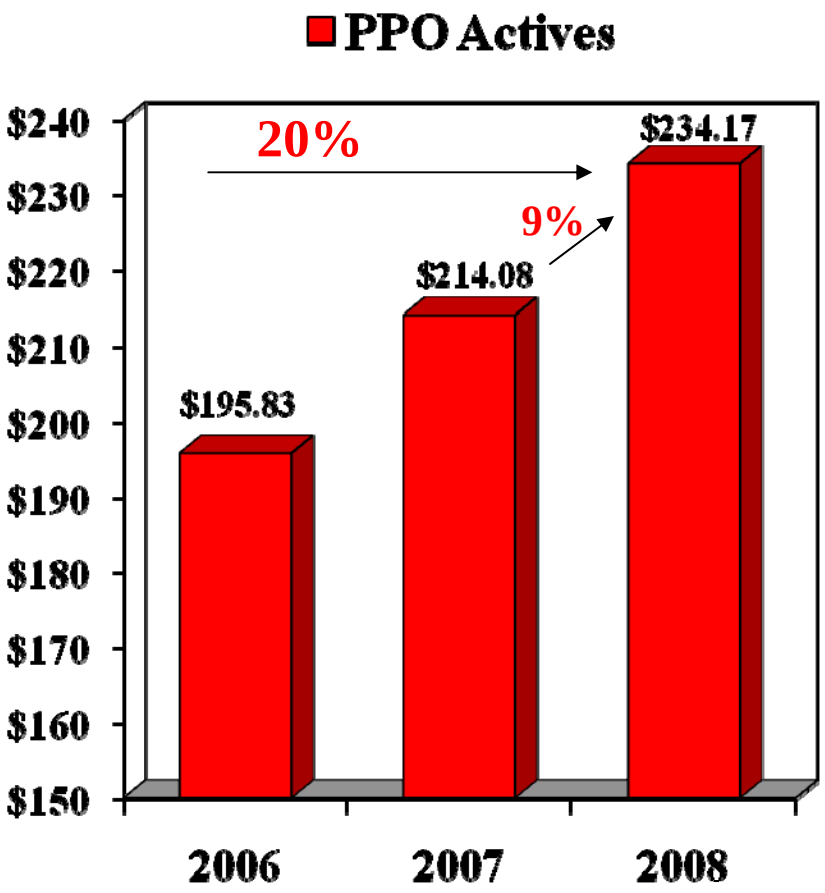
Annual Comparisons



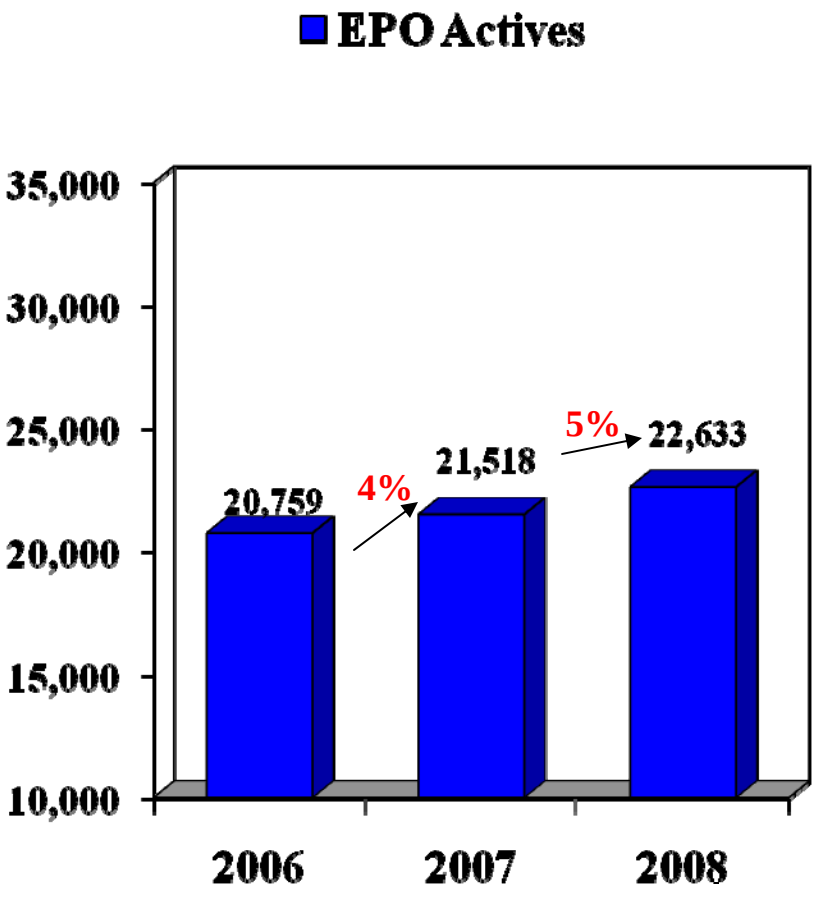


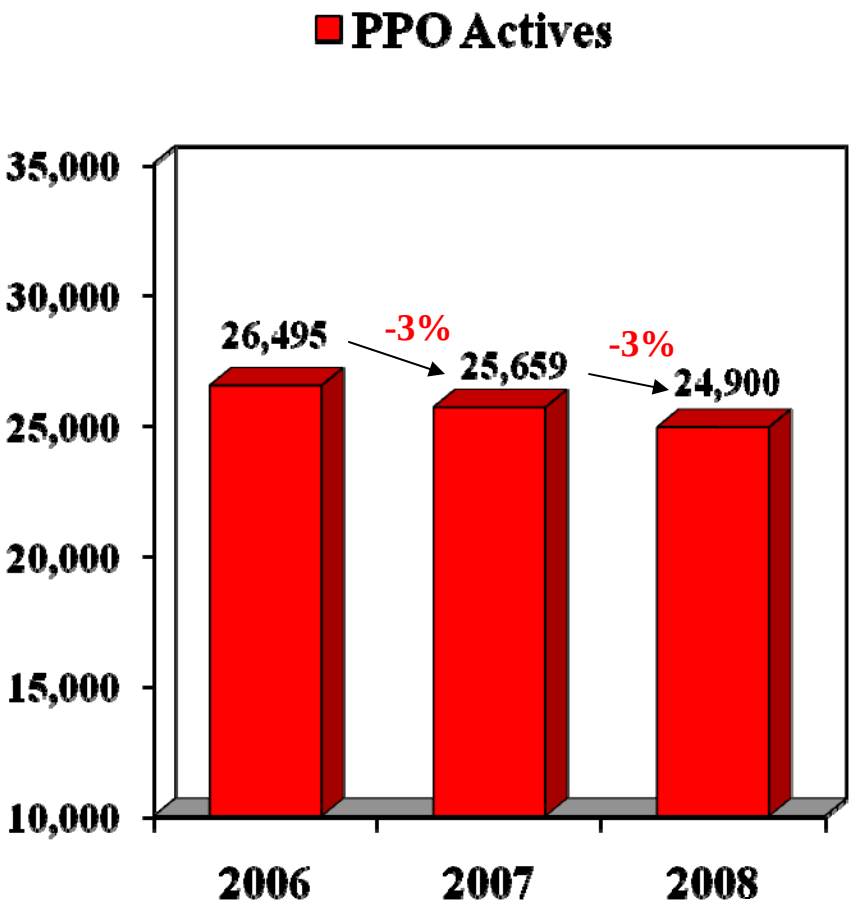
Annual Comparisons



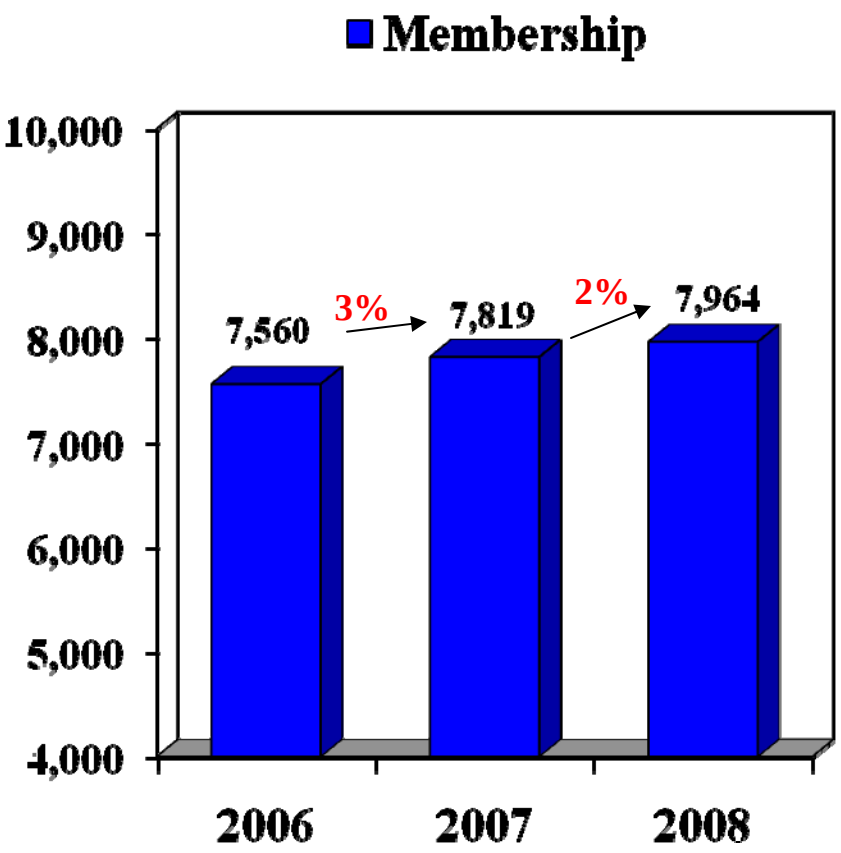


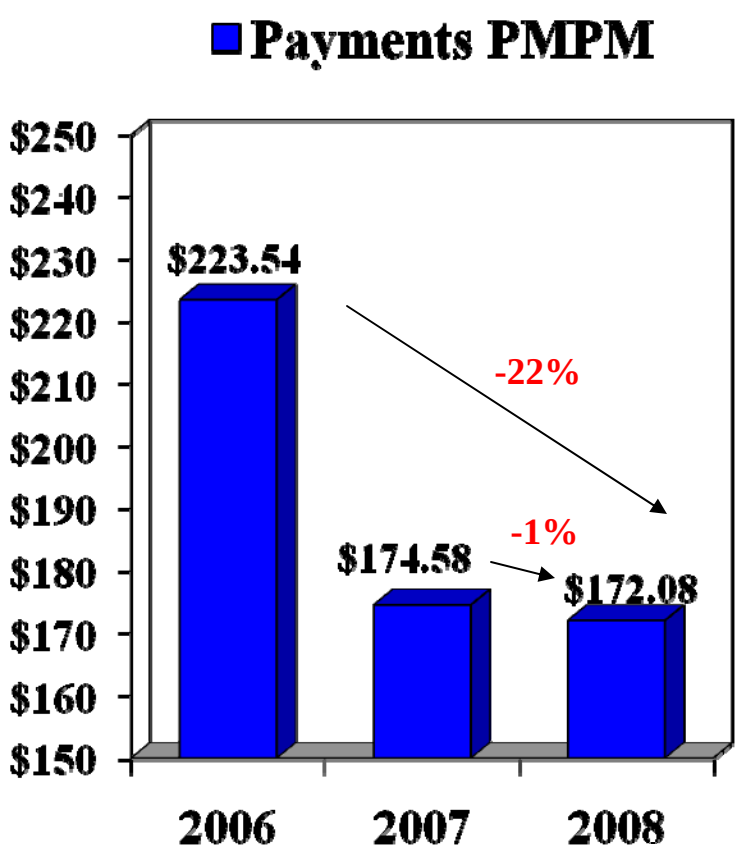
Membership Comparisons



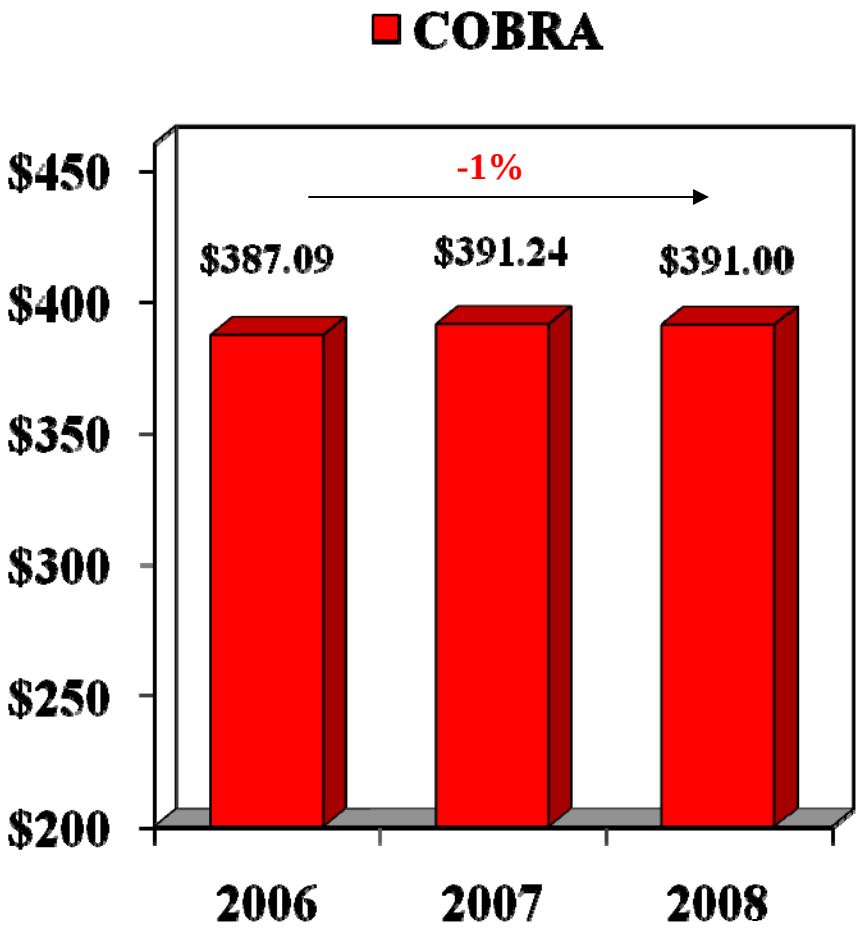


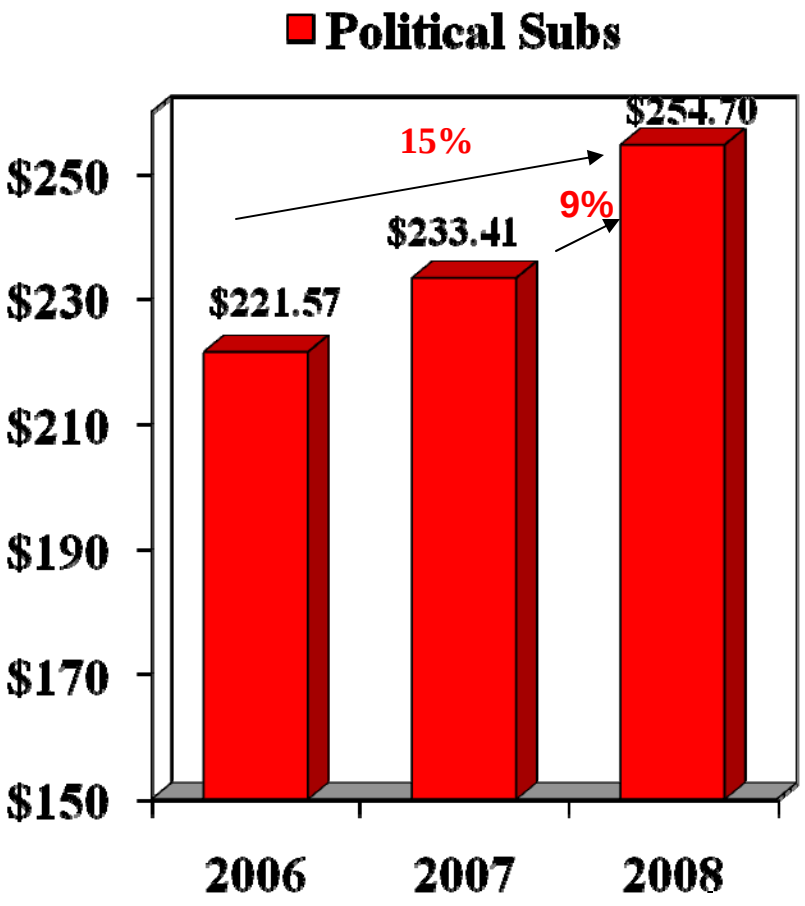
Retiree Comparisons





Annual Comparisons





Discounts Comparisons

Active Members

- Total Discounts = $82,238,580 (or 31% of Charges)
  - BlueCard Discounts = $9,371,980 (28% of BlueCard Charges)

Retiree Members

- Total Discounts = $7,192,031 (or 6% of Charges)
  - BlueCard Discounts = $1,211,499 (21% of BlueCard Charges)

Demographics

Paid PMPM	2004	2005	2006	2007	2008
Age 44 and younger	$98.59	$110.51	$124.69	$130.16	$154.65
Age 45 and older	$244.56	$285.70	$305.95	$340.75	$353.12

**Does not include retirees.*

- 39% of the Active Membership were Age 45+
  - **Plan Average = 33.5%**
- 73% of the Active High Dollar Members were Age 45+

High Dollar Claims - Actives

$50,000 Payment Threshold

- 328 Members
  - 138 EPO (26% of EPO Total Paid claims)
  - 189 PPO (29% of PPO Total Paid claims)
- 238 age 45+ (73% of High $ Paid)
- 28 had Payments > $200,000
- 33 Members no longer enrolled

Total High $ Paid: $36,308,712

- 27.4% of Total Paid

High Dollar Claims - Actives

	High dollar members	Increase	High dollar payments**	Increase
Claims incurred 07/01/2006-06/30/**2007***	285	----	$ 26,754,158	----
Claims incurred 07/01/2007-06/30/**2008***	328	15%	$ 36,308,712	36%

*3 month runout
**Paid claims of $50,000 or more

- Not only are the number of claims increasing but also the intensity of those claims.

	2007*	2008*	Increase
$50-100K	216	220	2%
$100-200	50	80	60%
$200-300	13	14	8%
$300+	6	14	133%
	285	**328**	**15%**

High Dollar Claims - Retirees

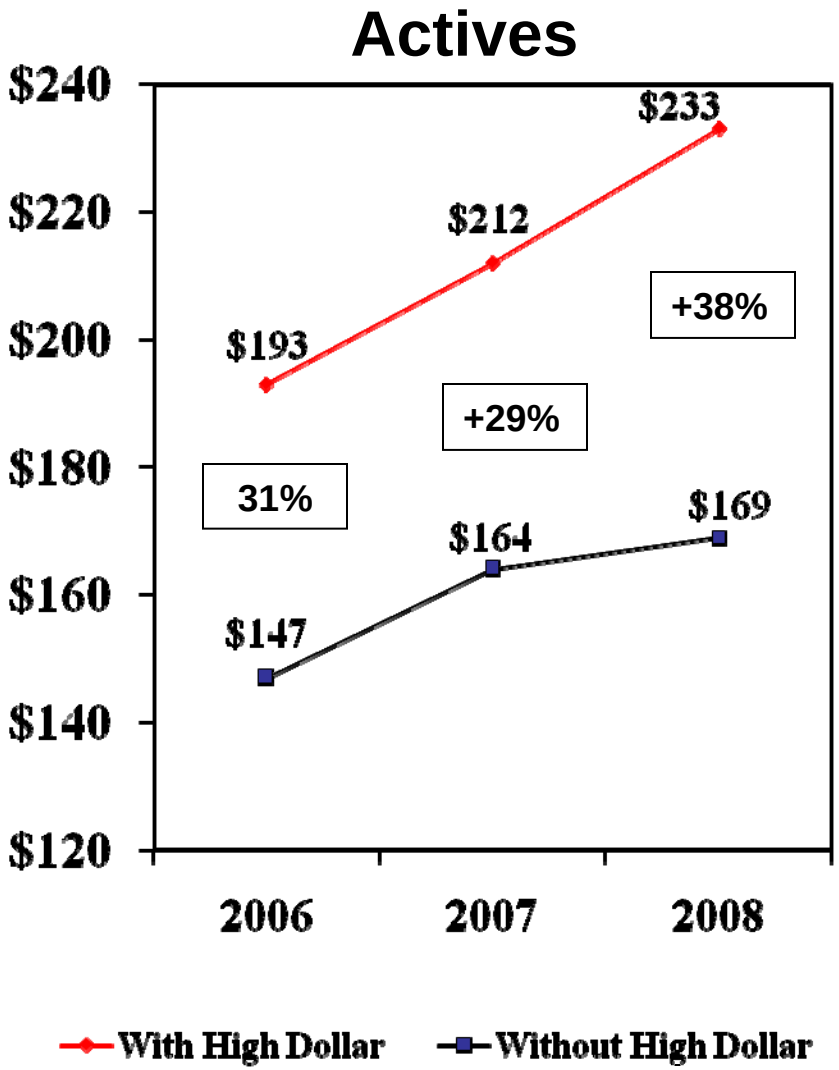
$50,000 Payment Threshold

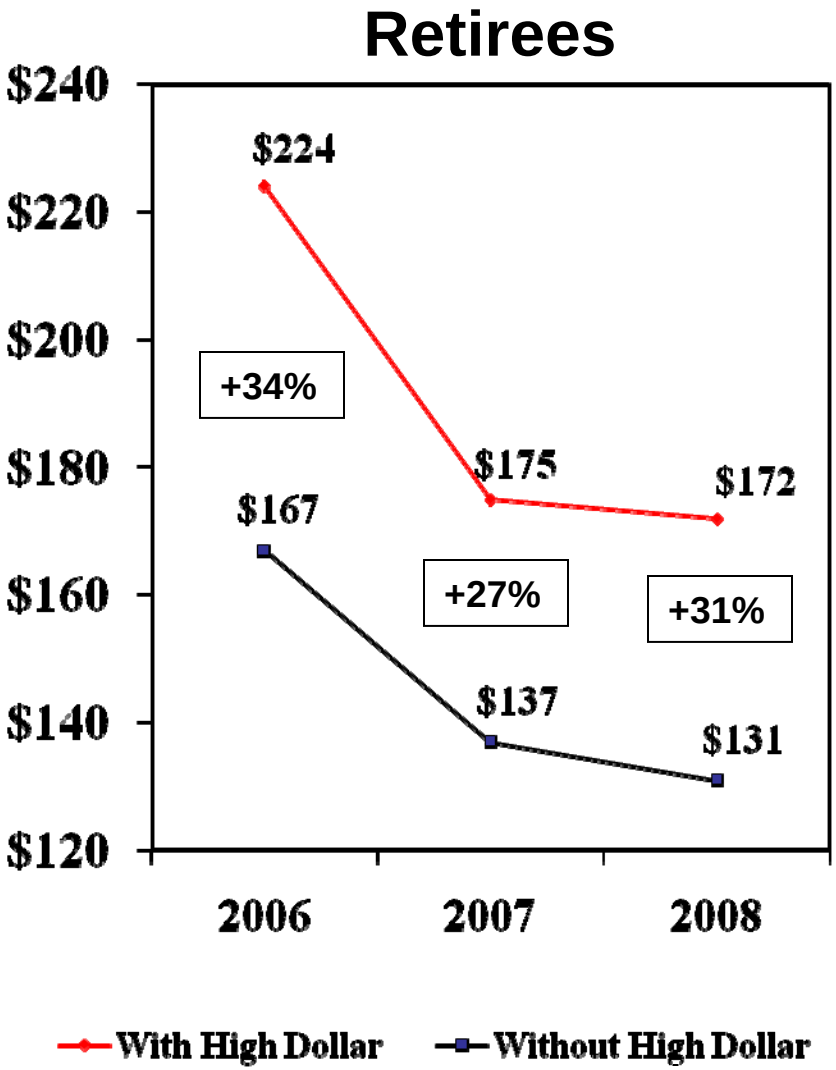
- 43 Members
- 14 had Payments > $100,000

Total High $ Paid: $3,959,123

- 24.1% of Total Paid

Paid PMPM Comparison with High Dollar* Influence





* Members with total payments of $50,000 or more.

Prescription Drugs

Active Members

- Generic Utilization Rate 63% (59% in 2007)
  - Statewide was 63%
- Average Paid per Brand = $96.80 Generic = $17.16
- 7% Increase in Payments PMPM to $33.75

Retiree Members

- Medicare Retiree's Enrolled in Part D on 1/1/2006
  - Part D Data Not Included in study after 1/1/2006
- Generic Utilization Rate 62% (55% in 2007)
- Average Paid per Brand = $107.12 Generic = $18.37
- 6% Increase in Payments PMPM to $20.16

Prescription Drugs

Top 5 Drugs by Total Payments

	Average Paid/Rx
Lipitor	$ 95.60
Effexor	$ 110.33
Advair Diskus	$ 141.84
Enbrel	$1015.44
Singulair	$ 85.31

Mail Order Prescriptions

- 2006 - 131 Scripts, $16,360 paid
- 2007 - 373 Scripts, $80,138 paid
- 2008 - 504 Scripts, $68,041 paid

Member Education

On-going effort by PERS and BCBSND

- Includes a benefit overview
- From January 2008 through October 2008:
  - 53 groups/agencies visited (125 Meetings)
  - 2,283 employees seen
- July 2009 – Two new wellness programs

  Health Club Credit & **MyHealthCenter**
  - Will link in employer based wellness activity
  - Train the trainer

Wellness Programs Update

Wellness Benefit Program

- Several programs funded
  - Health Fairs, Flu Shots, 5-a-Day Nutrition, Wellness Education, Walking Programs

2005 – 2007 Biennium

- Funded by $.09/Contract/Month
- $44,408 spent on 97 Programs

2007 – 2009 Biennium

- Funded by $.11/Contract/Month
- As of 1/07/09, $39,871 spent on 66 Programs

Wellness Programs Update

Employer-Based Wellness Pilot Program

- 3 year program
- Employers and employees from four worksites
- Comparison of two with a comprehensive worksite health promotion program and two with a minimal health promotion program

- Funded previously by $.41/Contract/Month until 6/30/07
- Starting 7/1/07 funded by $.25/Contract/Month
- Paid $323,556.50 to UND Wellness Center as of 1/8/09

Wellness Programs Update

UND Wellness Center Employee Pilot

- Partnership between Wellness Center, NDPERS and BCBSND
- Studying workers progress of Adopting or Maintaining Healthy Behaviors and how it can impact Employers to managing rising Health-Care costs and increase productivity (ex saving money, reduce absenteeism)
- Pilot Program ended 12/31/08
  - Reporting will be available 2nd quarter to allow for a three month runout

Smoking Cessation

- Program is in it’s third Biennium
- Promotional plan is in place to increase participation in the program
  - Mailings, posters
- Dollar spend for this biennium is close to past year’s biennium spend
  - Will provide numbers update at a future meeting

Health Dialog

- Launched in October 2005
- Promotional Campaign Continues
- Created 1 & 2 Point Wellness Benefit Programs centered around HRA
- Health Dialog annual reporting - coming soon

Pharmacy Disease Management Program

Effective 7-1-2008

BCBSND Provides Administrative Support

1. Provide eligibility files
2. Promotional materials
   - Postcards
3. Copayment Reporting
4. Process Reimbursement Requests
   - Provider Reimbursement - as of 1/6/2009: $130,160
   - Copay Incentive Reimbursements – as of 1/6/2009: $3,875

Questions

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: **NDPERS Board**

FROM: **Kathy**

DATE: **January 13, 2009**

SUBJECT: **Heart of America Health Plan**

Attached is a request from Heart of America in Rugby to continue to offer its health plan membership to state employees in its Rugby service area. The term of this renewal is from July 1, 2009 through June 30, 2010. The new rates are included in the materials provided by Heart of America. The premiums for all levels of coverage and plans increased by approximately 3.8% over the previous year.

A copy of the current Provider Agreement is included for your information. Last year the Board approved the plan for the Rugby service area. All other required information is attached and appears to be in order. The State Insurance Department has indicated that it has not received any inquiries or appeals on Heart of America over the past year. The following outlines the current enrollment in the plan:

<u>Rolette County Contracts</u>
3 Single

<u>Pierce County Contracts</u>
1 SPD
1 Family
1 Single

<u>NDSU Contracts</u>
1 Family

<u>Game & Fish</u>
1 SPD

BOARD ACTION REQUESTED

Accept or reject the Heart of America request to continue to offer its health plan to PERS membership in the Rugby service area.

HEART OF AMERICA
Health Plan

810 S. Main, Rugby, ND 58368
(701) 776-5848 or 800-525-5661

RECEIVED
JAN 07 2009
ND PERS

December 31, 2008

Sparb Collins
North Dakota Public Employees Retirement System
Box 1657
Bismarck, ND 58502

RE: Request to offer Heart of America Health Plan membership
To qualified North Dakota Public Employees

Dear Mr. Collins,

The Heart of America Health Plan is requesting its continued participation in the North Dakota Public Employees Retirement System. We are asking for the continued participation for eligible employees living in the Rugby service area. We are also enclosing the following information in compliance with Article 71-03-02 of the NDCC 54-52-1.

1. Copy of Certificate of Authority issued by the ND Commissioner of Insurance
2. Copy from the Secretary of Health and Human Services that Heart of America Health Plan is a federally qualified HMO.
3. Rate sheets for 2008.
4. The Heart of America Health Plan agrees to hold open enrollment coinciding with the dates the board holds open enrollment for the program.
5. Enclosed are financial statements for Heart of America Health Plan.
6. Benefit grids for Rugby service area plans (High, Low & Share Option).
7. Provider directory for the Rugby service area.

As in the past, we are submitting this information to assure our continued participation with NDPERS as a health carrier for our Rugby service area. Please consider this at you next meeting and let us know if any further information is needed. Thank you for your consideration of our request.

Sincerely,

Scott Todahl
Marketing Representative

Enc.
Cc: Kathy Allen

RECEIVED
JAN 07 2009
ND PERS

HAHP Income Statement

As of 10-31-08

REVENUE	Current Month	Current YTD	Previous YTD
Rugby Non-Medicare Premium	$286,551	$2,781,665	$2,837,161
Minot Non-Medicare Premium	$13,189	$128,127	$116,218
Medicare Premium	$109,329	$1,119,495	$1,172,413
Rugby Reinsurance	$0	$80,205	$55,775
Minot Reinsurance	$0	$0	$0
Interest	$7,135	$36,564	$30,885
CMS Settlement Reimbursement	$0	$33,330	$42,728
TOTAL REVENUE	$416,204	$4,179,386	$4,255,180
EXPENSES			
Rugby			
Capitation Payments	$78,991	$896,765	$939,816
In-Area Services	$59,886	$457,497	$378,297
Referral Services	$257,671	$1,992,161	$2,298,838
Out-Of-Area Services	$6,792	$78,665	$132,057
Other Medical Services	$4,839	$55,596	$70,409
Minot			
In-Area Services	$36,284	$153,519	$263,720
Out-Of-Area Services	$501	($19,183)	$1,025
Other Medical Services	$46	$1,013	$2,702
Discounts from Providers	($75,046)	($576,959)	($700,889)
Reinsurance	$26,747	$299,993	$337,242
Premium Tax	$5,910	$57,589	$58,882
Plan Administration	$27,789	$304,771	$322,651
TOTAL EXPENSES	$430,410	$3,701,427	$4,104,750
SURPLUS (DEFICIT)	**($14,206)**	**$477,959**	**$150,430**
Unrealized Gain/Loss w/ Investments	$0	$0	$0
Realized Gain/Loss w/ Investments	$0	$0	$0
NET SURPLUS / DEFICIT	**($14,206)**	**$477,959**	**$150,430**

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JAN 07 2009
ND PERS

HAHP'S BALANCE SHEET

As of 10-31-08

ASSETS	Current YTD	Previous YTD
General Checking	$518,854	$400,104
Money Market Accounts	$160,017	$98,812
Investors Real Estate Trust (IRET)	$155,119	$165,336
Bonds	$114,964	$162,016
CD's	$1,221,805	$694,383
Accrued Interest on Investments	$21,193	$14,831
Premium Income	$43,593	$86,399
A/R Reinsurance	$0	$0
A/R HCFA Settlements	$0	$0
A/R Operations	$0	$0
Prepaid Insurance	$0	$0
Furniture, Equipment & Leasehold	$4,766	$7,809
TOTAL ASSETS	**$2,240,311**	**$1,629,690**

LIABILITIES AND SURPLUS		
Unearned Premium		
Rugby Non-Medicare	$48,604	$47,079
Minot Non-Medicare	$1,092	$2,019
Rugby Medicare	$39,553	$41,641
HCFA Contribution	$49,418	$0
A/P Administrative Bills	$0	$0
A/P Premium Tax	($14,635)	$23,207
A/P Payroll Taxes	$774	$668
Accrued Vacation	$12,332	$11,694
IRA's Payable	$0	$0
Claims Adjustment Payable	$22,205	$21,675
Reported But Unpaid Claims	$191,584	$95,566
Incurred But Not Reported	$354,100	$377,502
TOTAL LIABILITIES	$705,027	$621,051
Surplus Notes	$383,000	$437,000
Accumulated Surplus Funds	$1,152,284	$571,639
TOTAL SURPLUS	**$1,535,284**	**$1,008,639**
TOTAL LIABILITIES & SURPLUS	**$2,240,311**	**$1,629,690**

STATE OF NORTH DAKOTA
Department of Insurance

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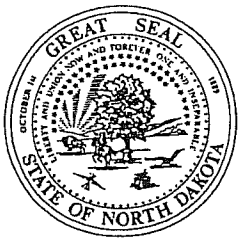
JAN 07 2009
ND PERS



Certificate of Authority

This Is To Certify that pursuant to the Insurance Code of the State of North Dakota, Heart of America Health Plan, organized under the laws of North Dakota, subject to its Articles of Incorporation or other fundamental organizational documents is hereby authorized to transact within the State of North Dakota, subject to provisions of this certificate, the following lines of insurance:

Accident & Health

as such lines are now or may hereafter be defined in Title 26.1, the insurance laws of the State of North Dakota.

This certificate is expressly conditioned upon the holder hereof now and hereafter being in full compliance with all of the applicable laws and lawful requirements made under authority of the laws of the State of North Dakota as long as such laws or requirements are in effect and applicable, and as such laws and requirements now are, or may hereafter, be changed or amended.

This certificate is at all times the property of the State of North Dakota and shall continue in force as long as the Insurer is entitled thereto under the laws of the State of North Dakota and until suspended or revoked or otherwise terminated, at which time the Insurer shall promptly deliver this Certificate to the Insurance Commissioner of the State of North Dakota.

In Witness Whereof, I have hereunto set my hand at the City of Bismarck on August 1, 2004.

JIM POOLMAN

Jim Poolman

COMMISSIONER OF INSURANCE

Bureau of Health Maintenance Organizations
and Resources Development

Health Resources and
Services Administration
Rockville MD 20857

RECEIVE
JAN 07 2009
ND PERS

July 22, 1983

RECEIVED
JUL 26 1983
HMO

Mr. Kenneth L. Ulmer
Executive Director
Heart of America Health Maintanance
Organization
Human Service Center
Rugby, North Dakota 58368

Dear Mr. Ulmer:

We are pleased to inform you that Heart of America Health Maintenance Organization meets the requirements of an operational group model qualified health maintenance organization in accordance with Title XIII of the Public Health Service Act and 42 CFR 110.603. This finding is based on a review of the qualification application, other submissions to the Department and on-site inspections. The service area shown in the enclosure has been approved.

Qualification will be effective on the date of the signature on the enclosed assurance document by which the HMO agrees to continue to abide by the requirements of the Act and applicable regulations. To assist us in verifying continued compliance with the requirements of the Act, Heart of America Health Maintenance Organization must comply with the National Data Reporting Requirements for a Type A HMO. These reporting requirements will be sent to you by the Division of Compliance upon receipt of your assurances.

Please sign, notarize, and return the assurances to the Division of Qualification, Room 9-21 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 within 30 days of the date of this letter. If the assurances are not returned by this date, we will assume that Heart of America Health Maintenance Organization is declining designation as a federally qualified health maintenance organization.

My best wishes for success in your HMO endeavors.

Sincerely

Frank Seubold

Frank H. Seubold, Ph.D.
Acting Associate Director for
Health Maintenance Organizations

Enclosures

cc: Chairman of the Board

RECEIVED
JAN 07 2009
ND PERS

HEART OF AMERICA HEALTH PLAN RATES - 2009

RUGBY PLAN

Group

CONTRACT **PLAN TYPE**

	HIGH OPTION	LOW OPTION	SHARE OPTION
SINGLE	$391.20	$358.60	$292.00
SINGLE PLUS DEPENDENT	$672.20	$618.50	$504.00
FAMILY	$918.50	$851.60	$694.30

EXCELLENT COVERAGE AND LESS CONFUSION!

~ GREAT CLINIC COVERAGE

~ EXCELLENT MATERNITY COV. (YOU PAY VIRTUALLY NOTHING - HIGH OPTION)

~ NO HOSPITAL DEDUCTIBLE (HIGH OPTION)

~ LESS OUT/POCKET COST (HIGH AND LOW OPTION)

~ COMPREHENSIVE COVERAGE, INCLUDING PREVENTIVE HEALTH SERVICES, REFERRAL SERVICES AND OUT-OF-AREA EMERGENCIES

Heart of America Health Plan "Share Option Plan"

Deductibles= SNG-$500 SPD-$750 FAM-$1000 Coinsurance Max/Yr= SNG-$1000 SPD-$1500 FAM-$2000 DESCRIPTION OF BENEFITS	COPAYMENT AMOUNT YOU PAY	BENEFIT AFTER DEDUCT.	EXCEPTIONS/LIMITATIONS
Preventive Health Services *(By Primary Care Physician)*			
Routine childhood and adult immunizations.	$0	100%	No maximum benefit allowance.
Routine physical exam including Prostate & Breast exams, Gynecological exams, and other preventive health services.	**$15**	100%	Deductible Waived
Physician Services *(By Primary Care Physician)*			
Hospital visits, including inpatient and skilled nursing facility visits.	$0	100%	Deductible Waived
Office visits and/or house calls authorized by PCP.	**$15**	100%	
Diagnostic Services			
Mammograms, Pap smears, PSA's, X-Rays, CT scans, MRI's, EKG's, Lab Tests & other medically necessary services provided at HAMC or other facility	$0	80%	Deductible Applies
Chemotherapy & Radiation Therapy			
Services provided at JCPC	$0	100%	Deductible Waived
Services provided at HAMC or contracted Referral Facility	$0	80%	Deductible Applies
Inpatient Hospital Services			
Semi-private room, Physician services, General nursing services, Surgery and facilities, Intensive care, & other medically nec. services.	$0	80%	
Outpatient Hospital Services			
at Heart of America Medical Center or Referral Facility	$0	80%	
Maternity Services			
Prenatal care *(at JCPC)*	**$15**	100%	$15 copay on first visit. Then 100% covered.
Hospital services, Birthing/delivery, & Newborn nursery.	$0	80%	Deductible applies
Well-baby care *(at JCPC)*	**$15**	100%	Until 24 months old. Deductible Waived.
Emergency Services			
Emergency room, Physician/Nursing services.	**$30**	80%	In or Out of Area Emergencies.
Ambulance Services	$0	80%	When medically necessary
Mental Health Services			
Inpatient &/or Partial hospitalization.	$0	80%	Inpatient Max: 45 days per calendar year.
Outpatient.	$0	80%	100% hours 1-5; (hours 6-30 80% after deductible)
Residential Treatment	$0	80%	Up to 120 days per member per calendar year
Alcohol and Substance Abuse Services			
Inpatient &/or Partial hospitalization.	$0	80%	Inpatient Max: 60 days per calendar year.
Outpatient.	$0	80%	100% visits 1-5;(visits 6-20; 80% after deduct.)
Referral Services			
Authorized referral to a specialty physician or facility on the HAHP preferred physician referral list.	**$25**	80%	With prior authorization by PCP and HAHP
Authorized referral to a specialty physician or facility NOT on the HAHP preferred physician referral list when services can NOT be provided by participating providers.	**$25**	80%	With prior authorization by PCP and HAHP
Authorized referral to a specialty physician or facility NOT on the HAHP preferred physician referral list when services CAN be provided by participating providers.	**$25**	60%	With prior authorization by PCP and HAHP
Chiropractic Care	**$10**	80%	With prior approval by PCP and HAHP
Physical, Speech, and Occupational Therapy			Short-term therapy: 1st two consecutive months
Outpatient	**$10**	80%	Long-term therapy: one PT/ one OT visit/month
Durable Medical Equipment			
Orthopaedic and Prosthetic Devices.	$0	80%	$2,000 Maximum Benefit per member/year.
Skilled Nursing Facility			
Medical care and treatment including room and board, when prescribed by PCP and in participating provider facility.	$0	80%	When authorized by primary care physician. (up to 60 days per calendar year)
TMJ/CMJ (Temporomandibular/Craniomandibular joint disorder)	$0	80%	Lifetime max. of $10,000 surg./$2,500 non-surg.
Home Health Nursing Care	$0	80%	when authorized by primary care physician.
Hospice Services	$0	80%	Covered in accordance with Medicare Guidelines.

This sheet describes the essential features of the HAHP plan in general terms and is not intended to be a full description.

Heart of America Health Plan "Low Option Plan"

NO Annual Deductibles!! DESCRIPTION OF BENEFITS	COPAYMENT AMOUNT YOU PAY	HAHP BENEFIT AMOUNT	EXCEPTIONS/LIMITATIONS
Preventive Health Services			No maximum benefit allowance.
Routine childhood and adult immunizations.	$0	100%	
Routine physicals including prostate & breast exams, Gynecology exams, and other preventive health services.	**$15**	100%	
(See Diagnostic Services below for Mammograms, Pap smears & PSA's)			
Physician Services			
Hospital visits, including inpatient and skilled nursing facility visits.	$0	100%	
Office visits and/or house calls authorized by PCP.	**$15**	100%	
Specialist consultation and treatment when authorized by PCP.	**$25**	100%	
Diagnostic / Therapeutic Services			
Pap smears, Mammograms, PSA's, X-Rays, CT scans, MRI's, EKG's, Lab tests, Chemotherapy, Radiation, & other medically necessary services.	$0	100%	20% Coinsurance will be applied to readings & interpretations for these services billed by an outside facility.
Inpatient Hospital Services			
Semi-private room, Physician services, General nursing services, Surgery and facilities, Intensive care, & other medically nec. services.	**$250 (1st/4th Day)**	100%	$1,000 copay maximum per contract per calendar year
Outpatient Hospital Services at Heart of America Med. Center.	$0	100%	
Maternity Services			
Prenatal care.	**$15**	100%	$15 copay on first visit. Then 100% covered.
Hospital services, Birthing/delivery, & Newborn nursery.	**$250 (1st/4th day)**	100%	$1,000 copay max per calender year
Well-baby care.	**$15**	100%	Until 24 months old.
Emergency Services			
Emergency room, Physician/Nursing services, & Ambulance services.	**$30**	100%	In or Out of Area Emergencies.
Mental Health Services			
Inpatient &/or Partial hospitalization.	**$250 (1st/4th day)**	100%	Inpatient Max: 45 days per calendar year.
Outpatient.		100%/80%	Outpatient: 100% hours 1-5; hours 6-30 80%
Residential Treatment	**$250 (1st/4th day)**	100%	Up to 120 days per member per calendar year
Alcohol and Substance Abuse Services			
Inpatient &/or Partial hospitalization.	**$250**	100%	Inpatient Max: 60 days per calendar year.
Outpatient.		100%/80%	Outpatient: 100% visits 1-5; visits 6-20 80%
Referral Services			
Authorized referral to a specialty physician or facility on the HAHP preferred physician referral list.	**$25**	80%	$500 coinsurance max. per calendar year
Authorized referral to a specialty physician or facility NOT on the HAHP preferred physician referral list when services can NOT be provided by participating providers.	**$25**	80%	$500 coinsurance max. per calendar year
Authorized referral to a specialty physician or facility NOT on the HAHP preferred physician referral list when services CAN be provided by participating providers.	**$25**	80%	With prior authorization by PCP and HAHP. $3,000 coinsurance max. per calendar year
Chiropractic Care	**$10**	80%	With prior approval by PCP and HAHP.
Physical, Speech, and Occupational Therapy	**$10**	Short-term therapy is 1st two consecutive months. Long-term therapy is one PT and one OT visit/month following short term	
Durable Medical Equipment Orthopaedic and Prosthetic Devices.	80% coverage on items exceeding $25. Coinsurance max. payable by the member is $500/contract/year. Maximum benefit is $3,500/member/year.		
Skilled Nursing Facility Medical care and treatment including room and board, when prescribed by PCP and in participating provider facility.	100% coverage when authorized by primary care physician. (Up to 60 days per calendar year)		
CMJ (Craniomandibular joint disorder) TMJ (Temporomandibular joint disorder)	Lifetime maximum of $10,000 surgical, $2,500 non-surgical/member.		
Home Health Nursing Care	100% coverage when authorized by primary care physician.		
Hospice Services	Covered in accordance with Medicare Guidelines.		

This sheet describes the essential features of the HAHP in general terms and is not intended to be a full description.

Heart of America Health Plan "High Option Plan"

NO Annual Deductibles!! DESCRIPTION OF BENEFITS	COPAYMENT AMOUNT YOU PAY	HAHP BENEFIT AMOUNT	EXCEPTIONS/LIMITATIONS
Preventive Health Services			No maximum benefit allowance.
Routine childhood and adult immunizations.	$0	100%	
Routine physicals, Gynecological exams, Prostate screenings, Mammograms, Pap smears, and other preventive health services.	$15	100%	
Physician Services			
Hospital visits, including inpatient and skilled nursing facility visits.	$0	100%	
Office visits and/or house calls authorized by PCP.	$15	100%	
Specialist consultation and treatment when authorized by PCP.	$25	100%	
Diagnostic / Therapeutic Services			
X-Rays, CT scans, MRI, Electrocardiograms, Laboratory Tests, Chemotherapy, Radiation, & other medically necessary services.	$0	100%	
Inpatient Hospital Services			
Semi-private room, Physician services, General nursing services, Surgery and facilities, Intensive care, & other medically nec. services.	$0	100%	
Outpatient Hospital Services at Heart of America Med. Center.	$0	100%	
Maternity Services			
Prenatal care.	$15	100%	$15 copay on first visit. Then 100% covered.
Hospital services, Birthing/delivery, & Newborn nursery.	$0	100%	
Well-baby care.	$15	100%	Until 24 months old.
Emergency Services			
Emergency room, Physician/Nursing services, & Ambulance services.	$30	100%	In or Out of Area Emergencies.
Mental Health Services			
Inpatient &/or Partial hospitalization.	$0	100%	Inpatient Max: 45 days per calendar year.
Outpatient		100%/80%	Outpatient: 100% hours 1-5; hours 6-30 80%
Residential Treatment	$0	100%	Up to 120 days per member per calendar year
Alcohol and Substance Abuse Services			
Inpatient &/or Partial hospitalization.	$0	100%	Inpatient Max: 60 days per calendar year.
Outpatient.		100%/80%	Outpatient: 100% visits 1-5; visits 6-20 80%
Referral Services			
Authorized referral to a specialty physician or facility on the HAHP preferred physician referral list.	$25	100%	With prior authorization by PCP and HAHP
Authorized referral to a specialty physician or facility NOT on the HAHP preferred physician referral list when services can NOT be provided by participating providers.	$25	100%	With prior authorization by PCP and HAHP
Authorized referral to a specialty physician or facility NOT on the HAHP preferred physician referral list when services CAN be provided by participating providers.	$25	80%	With prior authorization by PCP and HAHP $3,000 coinsurance maximum per contract per calendar year.
Chiropractic Care	$10	100%	With prior approval by PCP and HAHP
Physical, Speech, and Occupational Therapy	$10	Short-term therapy is 1st two consecutive months. Long-term therapy is one PT and one OT visit/month following short term.	
Durable Medical Equipment Orthopaedic and Prosthetic Devices.	80% coverage on items exceeding $25. Coinsurance max. payable by the member is $500/contract/year. Maximum benefit is $3,500 member/year.		
Skilled Nursing Facility Medical care and treatment including room and board, when prescribed by PCP and in participating provider facility.	100% coverage when authorized by primary care physician. (Up to 60 days per calendar year)		
TMJ (Temporomandibular joint disorder) CMJ (Craniomandibular joint disorder)	Lifetime maximum of $10,000 surgical, $2,500 non-surgical/member.		
Home Health Nursing Care	100% coverage when authorized by primary care physician.		
Hospice Services	Covered in accordance with Medicare Guidelines.		

This sheet describes the essential features of the HAHP plan in general terms and is not intended to be a full description.

GRAND FORKS

Altru Clinic . . . . . .Multi-Specialty Physicians

Lipp, Carlson & Associates . . . . .Mental Health Services

Valley Bone & Joint . . . . . .Orthopedics

DEVILS LAKE

The Eye Clinic . . . . . .Ophthalmology

***A referral is required from your Plan Physician and authorized by the HAHP Medical Director for covered services to these specialists.**

It is important to know that when you enroll in this Plan, services are provided through the Plan's delivery system, but the continued participation of any one doctor, hospital or other provider cannot be guaranteed.

If you have any questions regarding this provider directory, please call Heart of America Health Plan at 701-776-5848 or 1-800-525-561. Office hours are 8 a.m.-5 p.m. Monday-Friday.

6/08 - 200

810 S. Main
Rugby, North Dakota 58368
701-776-5848
or 800-525-5661

PROVIDER DIRECTORY

JOHNSON CLINIC PHYSICIANS

FAMILY PRACTICE

Hubert Seiler, M.D. · Brian Selland, M.D.
Philip Sedo, M.D. · Lyle Best, M.D.
Harriet Enubuzor, M.D.

INTERNAL MEDICINE

Babatunde Olumide, M.D.

PHYSICIAN ASSISTANTS

Available at all Johnson Clinic locations

Carol Berg · Tammie Harder
Linda Ellingson · Marilyn Kitzman
Gail Danielson · Phyllis Abrahamson

JOHNSON CLINIC LOCATIONS

Rugby - 800 3rd Ave. SW 776-5235
Towner - 301 1st St. SW 537-5431
Maddock - 301 Roosevelt Ave. . .438-2555
Dunseith - 215 Main St. S.E. . . .244-5694

SANDHILLS COMMUNITY CENTER

#2-3rd Ave. S.W. Towner, ND 58788 - 537-2007

HEART OF AMERICA MEDICAL CENTER

PHYSICIANS

SURGERY . . . . . .Susanne Levene, M.D.
EMERGENCY ROOM . .Jeffrey Vaagen, M.D.
Rodney Sigvaldson, PA-C

HAMC LOCATION & HOURS

800 South Main Ave., Rugby, ND - 701-776-5261

Emergency Services —24 hours a day

EMERGENCY SERVICES

1. Emergency Services In-Area

In-area emergencies are emergencies that occur within the Heart of America Health Plan Market Area. The procedures to follow for in-area emergencies are as follows:

- **Call 911 or go to the nearest emergency room if the emergency is life or limb threatening**
- During clinic hours call the nearest clinic location if medically feasible or if a member is questioning if emergency care is needed.
- After clinic hours call the Heart of America Medical Center at 776-5261.
- State that you have an emergency.
- Give your name and identify yourself as an HAHP Member.
- You will be directed as to what action to take.
- Ambulance service will be authorized if necessary.
- If it is medically unfeasible to call, go to the nearest medical facility.

2. Emergency Services Out of Area

Out-of-area emergencies are emergencies that occur outside the Heart of America Health Plan Market Area. Benefits are available for the usual, customary and reasonable charges for physician and hospital services rendered to a Member for care and treatment of a Medical Emergency outside the HAHP Market Area.

A Member shall give notification to the HAHP within forty-eight (48) hours, if medically feasible, for out-of-area emergency services. The procedures to follow for out-of-area emergencies are as follows:

- **Call 911 or go to the nearest physician or hospital**
- Identify yourself as an HAHP Member and present your ID card
- If out-of-area hospitalization is required for an emergency, the hospital may telephone the Heart of America Health Plan at (701) 776-5848 or 1-800-525-5661 to verify HAHP's benefits and payment of necessary services.

HEART OF AMERICA HEALTH PLAN REFERRAL PHYSICIAN LIST

MINOT

Trinity Hospital . . . . . .Hospital Services
Trinity Medical Center-Riverside . . . . . .Mental Health Services
Trinity Medical Group . . . . . .Multi-Specialty Physicians
Trinity Cancer Care Center . . . . . .Oncology
Darveaux, Eaton . . . . . .Mental Health Services
Independent Contracted Physicians:
L. Mark Bell, D.O. . . . . .Psychiatry
Paul Freiberg, M.D. . . . . .Hematology/Oncology
Alan F. Lim, M.D. . . . . .Urology

BISMARCK

Mid-Dakota Clinic . . . .Multi-Specialty Physicians
MedCenterOne Clinic .Multi-Specialty Physicians
St. Alexius Heart & Lung Clinic . . .Heart & Lung
Dakota Eye Institute . . . . . .Ophthalmology
Dakota ENT . . . . . .Ear, Nose & Throat
Eye Clinic of North Dakota . . . . .Ophthalmology

FARGO

MeritCare Medical Group . . . . . .Multi-Specialty Physicians
Orthopedic Associates . . . . . .Orthpedics
Retina Associates . . . . . .Ophthalmology

HEART OF AMERICA HEALTH PLAN
PROVIDER AGREEMENT

This is an agreement between the North Dakota Public Employees Retirement System (PERS) and Heart of America Health Plan (Heart of America), 810 S. Main Avenue, Rugby, North Dakota, 58368.

Whereas the PERS Board may contract with one or more health maintenance organizations to provide eligible employees the option of membership in a health maintenance organization pursuant to North Dakota Century Code (N.D.C.C.) 54-52.1-04.1.

Whereas Heart of America on December 29, 2006 submitted a request to offer Heart of America membership to qualified North Dakota public employees.

Whereas the PERS Board has determined that Heart of America has met the applicable qualifications.

Whereas the PERS Board on January 18, 2007 has exercised its discretion to include Heart of America's participation as a health plan within the Uniform Group Insurance Program.

TERMS AND CONDITIONS

1. **Term of Agreement.** The term of this agreement is for a period of twelve months, commencing on the first day of July 1, 2008 and terminating on the 30th day of June 2009.

2. **Premium Rate.** The following rates shall be effective for the term of this agreement:

	High Option	Low Option	Share Option
Single	$376.90	$345.50	$281.30
Single plus Dependent	$647.70	$595.90	$485.60
Family	$885.00	$820.60	$669.10

3. **Service Area.** The service area shall be those communities identified in the Group Benefit Plan for the Rugby Service Area.

4. **Termination.** This contract may be terminated by mutual consent of both parties, or by either party upon 30 days' written notice.

   PERS may terminate this contract effective upon delivery of written notice to Heart of America, or at such later date as may be stated in the notice, under any of the following conditions:

   a. If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds.

   b. If federal or state laws, rules or regulations are modified or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.

   c. If any license, permit or certificate required by law, rule or regulation, or by the terms of this contract, is for any reason denied, revoked, suspended or not renewed.

   d. If Heart of America amends or terminates its group contract filed with the Insurance Commissioner.

Any such termination of this contract shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

5. **Indemnity.** Heart of America agrees to indemnify, save and hold harmless the State of North Dakota, the North Dakota Public Employees Retirement System, including its Board of Trustees, officers and employees (for the purposes of this provision all parties are together referenced as the "State"), from any and all claims of any nature, including all costs, expenses and attorneys' fees, which are based on the direct and/or vicarious liability of Heart of America or its agent, but not against claims based on State's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. This obligation to defend, indemnify, and hold harmless does not extend to professional liability claims arising from professional errors or omissions. The legal defense provided by Heart of America to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for State is necessary. Heart of America also agrees to indemnify, save and hold the State harmless from all costs, expenses and attorneys' fees incurred in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

6. **Assignment and Delegation.** Heart of America may not assign or otherwise transfer or delegate any right or duty without the express written consent of the PERS Board.

7. **Modification.** This agreement may not be waived, altered, modified, supplemented, or amended, in any manner, except by written agreement signed by both parties.

8. **Group Contract.** Heart of America's group contract filed and approved with the Insurance Commissioner under N.D.C.C. §26.1-18.1-07 is incorporated herein by reference and Heart of America agrees to comply with all statements contained in that agreement except where such statements are modified herein.

9. **Coverage.** Heart of America's listing of benefits and services outlined in its request to offer membership to qualified PERS members is incorporated herein by reference.

10. **Payment.** PERS will pay Heart of America the following amount for each type of contract:

State Contracts	High Option	Low Option	Share Option
Single	$376.90	$345.50	$281.30
Single plus Dependent	$647.70	$595.90	$485.60
Family	$764.02	$764.02	$658.08

Political Subdivision Contracts	High Option	Low Option	Share Option
Single	$376.90	$345.50	$281.30
Single plus Dependent	$647.70	$595.90	$485.60
Family	$885.00	$820.60	$669.10

11. **Premium Differential.** The difference between the Health Plan's premium outlined in Provision 2, and the PERS payment outlined in Provision 10, must be collected from the member. Heart of America is responsible for attaining and maintaining appropriate payroll deduction authorization from the participating member and submitting it to the member's employer (i.e., payroll department) by June 1 of each year and thereafter within fifteen days of enrollment. A copy of such authorization must also be filed with PERS.

12. **Enrollment.** Heart of America must file a copy of the enrollment application with PERS by June 1 of each year and thereafter within fifteen days of enrollment. The application must include the type of contract and its effective date.

13. **Legal Compliance.** Heart of America agrees to comply at its own expense with all federal and state laws and all regulations promulgated under those laws in carrying out its responsibilities outlined in this agreement.

14. **Merger.** This agreement constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this agreement.

15. **State Audit.** The books, records, documents, and all other records in any form, and the accounting practices and procedures of Heart of America relevant to this Agreement are subject to examination by the North Dakota State Auditor or the Auditor's designee. Heart of America will maintain all such records for at least three years following completion of this contract.

16. **Severability**. If any term of this contract is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms must not be affected, and, if possible, the rights and obligations of the parties are to be construed and enforced as if the contract did not contain that term.

17. **Applicable Law And Venue**. This contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this contract must be brought in the District Court of Burleigh County, North Dakota.

18. **Confidentiality**. Heart of America agrees not to use or disclose any information it receives from PERS under this contract that PERS has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this contract or as authorized in advance by PERS. PERS agrees not to disclose any information it receives from Heart of America that Heart of America has previously identified as confidential and that PERS determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, N.D.C.C. § 44-04-18. Information or records may be confidential under state law or federal laws such as HIPAA. The duty of PERS and Heart of America to maintain confidentiality of information under this section continues beyond the term of this contract, or any extensions or renewals of it.

19. **Compliance with Public Records Law**. Heart of America understands that, except for information that is confidential or otherwise exempt from the North Dakota open records law, PERS must disclose to the public upon request any records it receives from Heart of America. Heart of America further understands that any records that are obtained or generated by Heart of America under this contract, except for records that are confidential or exempt may, under certain circumstances, be open to the public upon request under the North Dakota open records law. Heart of America agrees to contact PERS immediately upon receiving a request for information under the open records law and to comply with PERS instructions on how to respond to the request.

20. **Effectiveness Of Contract** This contract is not effective until fully executed by both parties.

_____	_____
Jon Strinden, Chair North Dakota Public Employees Retirement System Board	Chief Executive Officer Heart of America Health Plan
_____	_____
Date	Date

NDPERS

Memo

To: NDPERS Board

From: Bryan T. Reinhardt

CC: Sparb, Kathy, Deb

Date: 01/15/2009

Re: 2006 NDPERS Inpatient Comparison

Here is the 2006 comparison of NDPERS inpatient claims with the National Hospital Discharge Survey. Overall, NDPERS has about 71% of the 2006 national average inpatient hospital episodes. The percentages since 1990 were:

1990 – 67.4%	1991 – 63.3%	1992 – 62.9%	1993 – 63.5%
1994 – 63.3%	1995 – 66.4%	1996 – 63.6%	1997 – 63.9%
1998 – 63.9%	1999 – 65.9%	2000 – 71.6%	2001 – 71.4%
2002 – 67.9%	2003 – 69.2%	2004 – 65.8%	2005 – 67.8%
2006 – 70.8%			

The shaded areas are where the NDPERS rates are higher than the national figures.

Compared to the 2006 results, NDPERS was higher than the national rate in:

-Neoplasms (Malignant & Benign)

-Coronary Atherosclerosis

-Diseases of the Musculoskeletal System & Connective Tissue

  -Osteoarthrosis and Allied Disorders

  -Intervertebral Disc Disorders

-Congenital Anomalies

-Symptoms, Signs, and Ill-defined Conditions

These categories are similar to the ones where the NDPERS Health Plan was higher in previous studies.

2006 INPATIENTS DISCHARGED PER 10,000 POPULATION BY CATEGORY OF FIRST-LISTED ICD-9 DIAGNOSIS, EXCLUDES NEWBORN CARE

Category of first-listed diagnosis and ICD-9 code		UNITED STATES TOTAL	NDPERS TOTAL	UNITED STATES MALE	UNITED STATES FEMALE	NDPERS MALE	NDPERS FEMALE	UNITED STATES UNDER 15 YEARS	UNITED STATES 15-44 YEARS	UNITED STATES 45-64 YEARS	UNITED STATES 65 YEARS & OVER	NDPERS UNDER 15 YEARS	NDPERS 15-44 YEARS	NDPERS 45-64 YEARS	NDPERS 65 YEARS & OVER
All conditions		1168.7	827.5	954.9	1375.3	711.3	936.8	378.2	861.2	1161.2	3507.9	239.1	617.9	823.4	2301.0
Infectious and parasitic diseases	001-139	36.5	14.8	35.1	37.8	13.8	15.8	22.7	15.4	35.1	132.8	8.5	6.5	14.1	51.0
Septicemia	038	17.8	8.0	17.1	18.5	6.7	9.1	1.5	3.4	17.9	92.5	1.1	2.5	7.8	34.5
Neoplasms	140-239	55.0	60.0	45.4	64.4	46.6	72.6	5.5	20.5	83.9	194.0	7.4	19.0	92.6	163.4
Malignant neoplasms	140-208,230-234	40.5	41.7	39.5	41.5	42.9	40.7	3.7	8.8	58.6	170.6	6.3	6.0	59.9	146.9
Malignant neoplasm of large intestine and rectum	153-154,197.5	5.2	4.0	4.6	5.7	3.7	4.2	*	*	6.1	27.1	0.0	0.0	4.7	19.5
Malignant neoplasm of trachea, bronchus, and lung	162,176.4,197.0,197.3	5.6	3.8	5.5	5.6	6.0	1.8	*	0.4	6.8	29.3	0.0	0.5	5.7	13.5
Benign neoplasms	210-229	12.7	16.1	3.7	21.3	1.1	30.2	*	10.9	23.2	15.5	1.1	12.0	30.2	9.0
Benign neoplasm of uterus	218-219	7.1	9.4	-	13.9	0.0	18.2	*	8.2	14.2	*	0.0	8.5	18.2	0.0
Endocrine, nutritional and metabolic diseases, and immunity disorders	240-279	55.8	37.9	45.9	65.3	28.7	46.6	26.3	29.1	64.6	175.8	24.3	27.5	42.2	76.5
Diabetes mellitus	250	19.6	6.7	19.3	19.9	5.2	8.1	3.7	13.4	27.4	50.4	2.1	4.0	6.2	22.5
Volume depletion	276.5	16.1	8.9	12.6	19.4	10.4	7.4	18.4	3.7	10.8	64.5	18.0	3.0	3.6	28.5
Diseases of the blood and blood-forming organs	280-289	15.1	5.8	13.2	17.0	4.8	6.7	9.0	7.8	13.6	52.6	5.3	2.5	4.7	19.5
Anemias	280-285	10.6	2.9	8.7	12.3	2.2	3.5	3.6	6.0	8.7	40.9	2.1	1.0	1.0	15.0
Mental disorders	290-319	81.1	42.5	83.4	78.9	42.1	42.8	*	106.2	95.8	64.1	31.7	64.0	27.1	37.5
Psychoses	290-299	58.6	22.2	56.9	60.2	23.1	21.4	*	75.9	69.8	51.2	13.8	29.5	16.7	28.5
Schizophrenic disorders	295	11.2	0.9	12.7	9.7	1.1	0.7	*	14.2	18.0	5.3	0.0	2.0	0.0	1.5
Major depressive disorder	296.2-296.3	15.4	12.5	11.9	18.8	11.6	13.3	*	20.4	18.7	11.3	0.0	20.0	12.5	7.5
Diseases of the nervous system and sense organs	320-389	20.6	12.8	17.3	23.8	14.2	11.6	13.7	10.7	20.2	65.9	11.6	8.0	14.6	24.0
Diseases of the circulatory system	390-459	206.6	138.8	213.0	200.4	194.6	86.3	4.8	36.0	251.3	1020.0	5.3	10.5	162.4	644.6
Essential hypertension	401	9.8	1.3	6.9	12.7	0.7	1.8	*	3.6	16.4	33.7	0.0	0.0	1.6	6.0
Heart Disease	391-392.0,393-398,402, 404,410-416,420-429	140.9	102.5	151.1	131.1	152.1	55.8	2.7	22.1	171.7	704.2	1.1	6.0	122.8	476.7
Acute myocardial infarction	410	21.7	18.8	24.4	19.0	28.7	9.5	*	2.7	29.2	105.7	0.0	1.5	22.4	86.9
Coronary atherosclerosis	414.0	32.0	37.9	42.1	22.2	62.3	15.1	*	3.3	55.5	133.2	0.0	0.0	53.1	161.9
Other ischemic heart disease	411-413,414.1-414.9	5.4	2.3	5.6	5.2	3.4	1.4	*	1.3	9.0	20.4	0.0	0.0	1.6	15.0
Cardiac dysrhythmias	427	25.9	18.3	25.4	26.4	23.9	13.0	0.9	4.0	25.9	140.2	1.1	1.0	18.7	92.9
Congestive heart failure	428.0,428.2-428.4	36.9	13.2	35.5	38.3	18.6	8.1	*	3.9	32.9	215.5	0.0	0.0	14.1	69.0
Cerebrovascular disease	430-438	29.8	18.1	27.6	32.0	22.4	14.0	0.4	3.6	31.5	162.5	1.1	2.0	21.3	80.9
Diseases of the respiratory system	460-519	116.9	51.3	112.8	120.8	57.4	45.6	94.9	30.0	107.5	464.1	28.6	12.0	39.6	235.3
Acute bronchitis and bronchiolitis	466	7.3	1.6	7.5	7.0	1.5	1.8	25.0	0.8	2.4	9.8	3.2	1.0	0.5	4.5
Pneumonia	480-486	41.3	24.2	40.2	42.4	31.7	17.2	28.3	8.5	33.4	189.0	12.7	5.5	17.7	115.4
Chronic bronchitis	491	17.2	8.9	16.4	18.0	10.1	7.7	*	1.3	21.7	89.4	0.0	0.0	2.6	66.0
Asthma	493	14.9	3.8	12.1	17.6	2.2	5.3	23.9	7.1	16.2	23.7	7.4	1.5	2.1	10.5
Diseases of the digestive system	520-579	117.9	89.6	109.9	125.7	91.3	88.0	36.1	68.4	148.6	356.7	16.9	57.0	99.9	260.8
Appendicitis	540-543	10.7	12.6	13.0	8.5	16.0	9.5	11.7	13.0	8.4	5.6	8.5	19.0	11.5	3.0
Noninfectious enteritis and colitis	555-558	11.9	9.8	9.3	14.5	9.3	10.2	7.2	7.6	12.2	33.7	2.1	7.0	9.9	28.5
Intestinal obstruction	560	10.8	8.5	9.7	11.9	9.7	7.4	2.4	3.1	13.7	44.8	2.1	1.0	9.9	36.0
Diverticula of intestine	562	10.5	9.9	8.4	12.6	9.3	10.5	*	3.3	13.3	46.6	0.0	2.5	15.1	31.5
Cholelithiasis	574	11.2	9.4	6.9	15.4	8.6	10.2	0.4	9.4	13.3	31.1	0.0	7.0	8.3	33.0
Acute pancreatitis	577	7.8	3.8	8.0	7.6	2.2	5.3	0.5	6.5	12.3	15.1	2.1	3.0	4.2	7.5
Diseases of the genitourinary system	580-629	66.2	52.9	43.3	88.3	24.6	79.6	12.4	39.7	70.1	235.4	8.5	36.5	69.7	116.9
Calculus of kidney and ureter	592	5.6	3.6	6.0	5.2	4.8	2.5	*	4.7	9.5	9.6	0.0	4.0	4.2	6.0
Urinary tract infection	599	16.0	5.8	9.9	22.0	5.6	6.0	4.4	2.5	10.4	92.0	3.2	1.5	3.1	30.0
Complications of pregnancy, childbirth, and the puerperium	630-677	17.4	5.4	-	34.2	-	10.5	*	41.2	*	-	0.0	15.0	0.0	0.0
Diseases of the skin and subcutaneous tissue	680-709	26.2	7.2	29.1	23.3	7.5	7.0	*	18.6	29.9	59.7	3.2	1.0	7.8	30.0
Cellulitis and abscess	681-682	19.7	6.5	22.3	17.3	6.7	6.3	9.2	14.3	24.6	45.5	1.1	0.5	7.3	30.0
Diseases of the musculoskeletal system and connective tissue	710-739	66.0	85.5	56.2	75.5	73.1	97.2	6.5	23.8	96.3	244.5	8.5	21.0	122.3	281.8
Osteoarthrosis and allied disorders	715	25.3	38.7	19.8	30.5	31.3	45.6	*	1.7	37.4	121.3	0.0	2.0	58.3	146.9
Intervertebral disc disorders	722	10.9	18.6	10.5	11.2	18.6	18.6	*	8.1	19.7	19.6	0.0	11.5	33.8	22.5
Congenital anomalies	740-759	6.5	7.6	6.9	6.1	5.2	9.8	21.6	2.2	3.4	2.2	25.4	3.5	4.2	4.5
Certain conditions originating in the perinatal period	760-779	6.7	3.3	7.1	6.3	4.5	2.1	32.9	*	*	*	19.0	0.0	0.0	0.0
Symptoms, signs, and ill-defined conditions	780-799	6.3	30.2	6.0	6.6	27.2	33.0	7.0	5.0	5.9	10.7	7.4	7.5	39.0	104.9
Injury and poisoning	800-999	99.5	62.0	103.9	95.3	55.9	67.7	34.7	67.4	102.1	307.9	22.2	44.5	54.1	193.4
Fractures, all sites	800-829	36.0	23.9	32.7	39.3	21.6	26.0	10.4	19.4	27.0	151.8	6.3	18.0	11.5	101.9
Fracture of neck of femur	820	11.1	6.7	6.3	15.7	6.3	7.0	*	0.5	3.8	78.7	0.0	0.5	0.5	52.5
Poisonings	960-989	9.1	3.8	8.8	9.3	2.2	5.3	2.6	12.5	9.8	6.9	3.2	6.0	2.1	3.0
Complications of surgical and medical care	996-999	30.6	26.2	31.2	30.0	21.6	30.5	5.6	15.2	43.1	98.1	4.2	11.5	35.4	75.0
Supplementary classifications	V01-V84	168.4	119.8	26.3	305.6	19.8	213.9	11.6	339.1	32.8	121.6	5.3	282.0	29.1	57.0
Female with deliveries	V27	138.4	99.8	-	272.1	-	193.6	*	327.9	1.1	-	0.0	275.5	0.5	0.0

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Memorandum

TO: PERS Board

FROM: Bryan

DATE: January 13, 2009

SUBJECT: NDPERS Prescription Drugs Update

The NDPERS Health Plan cost sharing for prescription drugs for the 07-09 biennium is:

Prescription Formulary Generic Drug			
- Copayment	$5	$5	$5
- Co-Insurance	15%	15%	15%
Prescription Formulary Brand-Name Drug			
- Copayment	$20	$20	$20
- Co-Insurance	25%	25%	25%
Prescription Non-Formulary Drug			
- Copayment	$25	$25	$25
- Co-Insurance	50%	50%	50%

The data for the latest year (7/2007 – 6/2008) shows the average charge for a generic drug at $53.96 and the average charge for a brand name drug at $190.93 per script. This compares to $47.56 generic and $165.38 brand for 7/06-6/07. This is an increase of 13.5% generic and 15.4% brand. The average amount the NDPERS Health Plan paid was $18.75 for a generic and $107.89 for a brand name. This compares to $18.75 generic and $90.26 brand for 7/06-6/07. This is a 19.5% increase for brand and no increase for generic. There were 437,847 prescriptions during the 7/07-6/08 period. Note that the Medicare part-D claims are no longer processed through the BCBS/Prime system. The NDPERS generic utilization for this period was at 63% compared to 57% the previous year.

The new mail order pharmacy had 511 claims for this period (1/10th of 1% of the total) compared to 450 the previous year. Members that are using the mail order option are getting higher cost drugs. The average charges and paid amounts for mail order were:

	Charges	Paid
Generic:	$177.54	$53.12
Brand:	$501.00	$252.72

The top mail order drugs were:

GENNAME	Frequency	Percent	Cumulative Frequency	Cumulative Percent
METFORMIN HCL	20	4.03	20	4.03
CRESTOR	19	3.83	39	7.86
LEVOTHYROXINE SODIUM	16	3.23	55	11.09
PROTONIX	14	2.82	69	13.91
AVONEX	13	2.62	82	16.53
LIPITOR	13	2.62	95	19.15
LISINOPRIL	13	2.62	108	21.77
TOPROL XL	13	2.62	121	24.40
CITALOPRAM HYDROBROMIDE	10	2.02	131	26.41
SIMVASTATIN	10	2.02	141	28.43
TRICOR	10	2.02	151	30.44

The top drugs for the Prescription Drug Plan were:

GENNAME	Frequency	Percent	Cumulative Frequency	Cumulative Percent
AZITHROMYCIN	10953	2.54	10953	2.54
LIPITOR	8926	2.07	19879	4.61
LISINOPRIL	8583	1.99	28462	6.60
LEVOTHYROXINE SODIUM	8132	1.89	36594	8.49
AMOXICILLIN	8072	1.87	44666	10.36
HYDROCODONE/ACETAMINOPHEN	7992	1.85	52658	12.21
HYDROCHLOROTHIAZIDE	6884	1.60	59542	13.81
SERTRALINE HCL	6368	1.48	65910	15.28
SIMVASTATIN	5958	1.38	71868	16.67
METFORMIN HCL	5955	1.38	77823	18.05

Definitions:
Azithromycin – Antibiotic
Lipitor – Cholesterol lowering
Lisinopril – ACE Inhibitor for high blood pressure (hypertension)
Levothyroxine Sodium – Synthroid, thyroid hormone
Amoxicillin – Antibiotic
Hydrocodone – Pain reliever and cough suppressant
Hydrochlorothiazide – Treats fluid accumulation (edema)
Sertraline HCL – Anti depressant
Simvastatin – Generic of Zocor – Cholesterol lowering
Metformin HCL – Diabetes medication

If you have any questions or would like to see any other information, I will be available at the NDPERS Board meeting.

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M E M O R A N D U M

TO: NDPERS BOARD
SPARB COLLINS, NDPERS
KATHY ALLEN, NDPERS

FROM: BRYAN T. REINHARDT BTR

DATE: December 18, 2008

SUBJECT: GROUP MEDICAL PLAN - SURPLUS/AFFORDABILITY UPDATE

Here is the November surplus projection and affordability analysis for the NDPERS group medical plan. The plan made it through the 2005-2007 biennium and is over halfway through the 2007-2009 biennium.

Net premium sent to BCBS in July 2007 was $13,406,858. In July 2005 it was $10,853,370. There are now 24,924 contracts on the NDPERS Health Plan, covering 56,000 people. The NDPERS health plan ended up with 23,580 contracts in June, 2005. There were 22,947 contracts in June, 2003, and 21,792 in July 2001.

The 2003 - 2005 biennium settlement is on account at BCBS with a balance of over $2,051,000. The remaining $14.3 million was used to buy down premiums for the 05-07 biennium. This amount is at BCBS and receiving interest.

The first settlement for the 2005 - 2007 biennium transferred $3,672,932 to the NDPERS account. In addition refunds came in greater than IBNR claims, so this biennium has a cash balance of $301,981. The final settlement for this biennium is June 2009.

The projection for the 2007 - 2009 biennium shows total surplus at -$2.9 million. If there is a surplus, we share 50/50 in the first $3.0 million surplus with BCBS. This will make future growth in the gain for NDPERS difficult. The plan is fully insured by BCBS, so the June 30, 2009 NDPERS estimated gain is $0.

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

NDPERS - ESTIMATED SURPLUS PROJECTION: 2007-2009 BIENNIUM

November, 2008

The following exhibit summarizes the estimated surplus for the NDPERS group medical plan at the end of the 2007-2009 biennium. The estimate has been updated to include account activity through November, 2008.

1) Preliminary Underwriting Gain/Loss for the 2007-2009 Biennium		($4,335,600)
2) Wellness Program Expenses		$0
3) Estimated Underwriting Gain/Loss for the 2007-2009 Biennium		($4,335,600)
4) Projected Interest Accumulation (adjusted for usage as premiun)		$0
5) Refunds and Settlements		
11/30/07 Perform Rebate	(Included as claim rebates)	$340,034
02/29/08 Perform Rebate	(Included as claim rebates)	$385,151
05/31/08 Perform Rebate	(Included as claim rebates)	$328,973
08/31/08 Perform Rebate	(Included as claim rebates)	$354,915
11/31/08 Perform Rebate	(Included as claim rebates)	$389,077
01/31/09 Perform Rebate		$350,000
04/30/09 Perform Rebate		$350,000
06/30/09 Perform Rebate		$350,000
EPO Settlement Payments 7/07 - 6/08	(No target settlements)	$0
6) Total Estimated Surplus Held by BCBS		($2,896,523)
7) BCBS Portion of Surplus (Half upto $1,500,000)		$0
8) PERS Portion of Surplus Held by BCBS		($2,896,523)
9) Cash Reserve Account Balance		$0
Future Contributions:		$0
Future Interest:		$0
Total		$0
10) NDPERS Wellness Accounts		
My Health Connection		$216,863
Employer Based Wellness		($2,860)
Wellness Benefit Program		$18,110
SubTotal		$232,113
Total Adjusted for Usage		$0
11) Total Estimated Funds Available to PERS on June 30, 2009		$0

NDPERS - Projected Underwritten Experience for the 2007-2009 Biennium
November, 2008

MONTH	PREMIUM COLLECTED	PREMIUM ADJUSTMENT	TOTAL PREMIUM INCOME	ADMIN EXPENSE $29.90/Con	NET PREMIUM	INTEREST ON CASH	CLAIMS INCURRED & PAID TO DATE	ESTIMATED IBNR CLAIMS	TOTAL INCURRED CLAIMS(1)	ESTIMATED GAIN / LOSS
Jul-07	$13,406,857	$0	$13,406,857	$725,404	$12,681,453	$0	$11,175,566	$0	$11,175,566	$1,505,887
Aug-07	$13,465,027	$308	$13,465,336	$728,334	$12,737,002	$8,720	$12,168,942	$0	$12,168,942	$576,780
Sep-07	$13,608,834	$6,878	$13,615,713	$736,018	$12,879,695	$32,149	$10,936,681	$0	$10,936,681	$1,975,163
Oct-07	$13,577,219	$7,321	$13,584,540	$734,822	$12,849,718	$44,159	$13,046,199	$0	$13,046,199	($152,322)
Nov-07	$13,584,631	($6,547)	$13,578,084	$735,480	$12,842,604	$38,392	$13,180,708	$0	$13,180,708	($299,712)
Dec-07	$13,568,728	$5,601	$13,574,329	$734,553	$12,839,776	$40,841	$12,486,571	$0	$12,486,571	$394,046
Jan-08	$13,582,515	$3,071	$13,585,586	$735,121	$12,850,465	$39,733	$13,661,361	$0	$13,661,361	($771,163)
Feb-08	$13,622,093	$1,733	$13,623,826	$737,155	$12,886,671	$33,024	$12,213,014	$0	$12,213,014	$706,681
Mar-08	$13,620,486	($2,685)	$13,617,801	$737,125	$12,880,676	$25,258	$13,203,399	$30,000	$13,233,399	($327,465)
Apr-08	$13,626,826	$1,915	$13,628,741	$738,171	$12,890,570	$21,216	$13,203,544	$280,000	$13,483,544	($571,758)
May-08	$13,623,071	$1,798	$13,624,869	$737,992	$12,886,877	$17,341	$12,523,820	$290,000	$12,813,820	$90,398
Jun-08	$13,644,570	($2,237)	$13,642,333	$739,128	$12,903,205	$27,130	$12,670,021	$400,000	$13,070,021	($139,686)
Jul-08	$13,611,228	($4,554)	$13,606,675	$737,693	$12,868,982	$33,409	$13,485,632	$550,000	$14,035,632	($1,133,242)
Aug-08	$13,622,766	$25,091	$13,647,857	$738,052	$12,909,805	$29,181	$12,083,038	$1,000,000	$13,083,038	($144,052)
Sep-08	$13,750,651	$3,180	$13,753,831	$745,168	$13,008,663	$29,890	$11,223,053	$1,700,000	$12,923,053	$115,500
Oct-08	$13,718,593	$26,952	$13,745,546	$744,480	$13,001,065	$21,426	$10,786,249	$4,100,000	$14,886,249	($1,863,757)
Nov-08	$13,728,459	$9,639	$13,738,098	$745,497	$12,992,601	$19,221	$3,387,797	$8,650,000	$12,037,797	$974,026
Dec-08	$13,728,459	$0	$13,728,459	$745,228	$12,983,231	$13,638	$0	$0	$13,563,148	($566,279)
Jan-09	$13,728,459	$0	$13,728,459	$745,228	$12,983,231	$17,919	$0	$0	$13,626,180	($625,030)
Feb-09	$13,728,459	$0	$13,728,459	$745,228	$12,983,231	$17,403	$0	$0	$13,689,211	($688,577)
Mar-09	$13,728,459	$0	$13,728,459	$745,228	$12,983,231	$16,827	$0	$0	$13,752,242	($752,184)
Apr-09	$13,728,459	$0	$13,728,459	$745,228	$12,983,231	$16,185	$0	$0	$13,815,274	($815,857)
May-09	$13,728,459	$0	$13,728,459	$745,228	$12,983,231	$15,479	$0	$0	$13,878,305	($879,594)
Jun-09	$13,728,459	$0	$13,728,459	$745,228	$12,983,231	$14,707	$0	$0	$13,941,336	($943,397)
BIENNIAL TOTAL	$327,461,768	$77,465	$327,539,232	$17,746,785	$309,792,447	$573,248	$201,435,595	$17,000,000	$314,701,291	($4,335,596)

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

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Memorandum

TO: **NDPERS Board**

FROM: **Kathy**

DATE: **January 13, 2009**

SUBJECT: **Defined Contribution Plan – 2008 Enrollment**

The following is our annual report for the board outlining the number of contacts we made with new eligible employees and the number that actually transferred to the defined contribution plan in 2008:

	Total Contacts	Total Transfers
2008	82	6

We are available to answer any questions.

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Memorandum

TO: **NDPERS Board**

FROM: **Kathy**

DATE: **January 13, 2009**

SUBJECT: **FlexComp Annual Enrollment**

The annual open enrollment for the 2009 FlexComp plan year concluded on November 7, 2008. Included is an update of the number of participants that enrolled and the dollars deferred for the medical spending and dependent care accounts, the comparative statistics with the 2008 plan year, and the participation, total pretax and average pretax statistics since we began tracking this data in 2000.

Enrollment Highlights

Dependent Care Accounts

- Participation for 2009 decreased by 7.7% and total dollars pretaxed decreased by 3.9% from 2008; however, the average amount pretaxed per person increased by 3.7%.

Medical Spending Accounts

- Participation for 2009 increased by 2.6%. Total dollars pretaxed increased by 6.4% and the average pretaxed per person increased by 3.7%.

We are available to answer any questions.

NDPERS

Memo

To: Sparb, Kathy, Sharon

From: Bryan T. Reinhardt

Date: 1/13/2009

Re: Flexcomp 2009

Here is the Flexcomp Program enrollment for the 2009 plan year. The 2008 initial enrollment totals are included for comparison.

If you have any questions or need anymore information, please contact me at 328-3919.

2008 PLAN YEAR INITIAL DEPENDANT CARE SPENDING

N	Minimum	Maximum	Mean	Sum
406	$216.00	$5,000.00	$3,594.54	$1,459,385.24

2009 PLAN YEAR INITIAL DEPENDANT CARE SPENDING

N	Minimum	Maximum	Mean	Sum
377	$120.00	$5,000.00	$3,726.59	$1,404,924.33

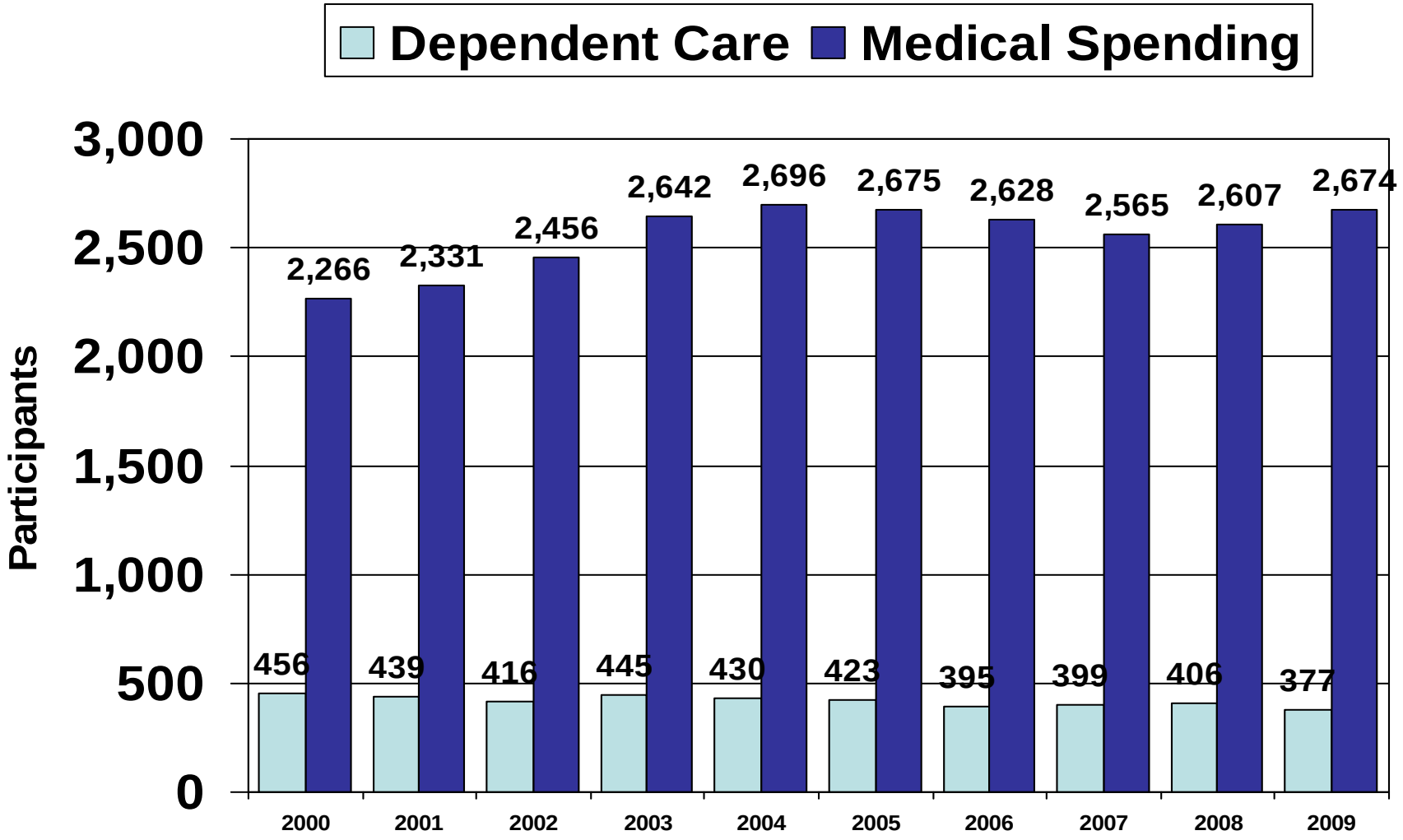
2008 PLAN YEAR INITIAL MEDICAL SPENDING

N	Minimum	Maximum	Mean	Sum
2607	$60.00	$6,000.00	$1,536.08	$4,004,555.52

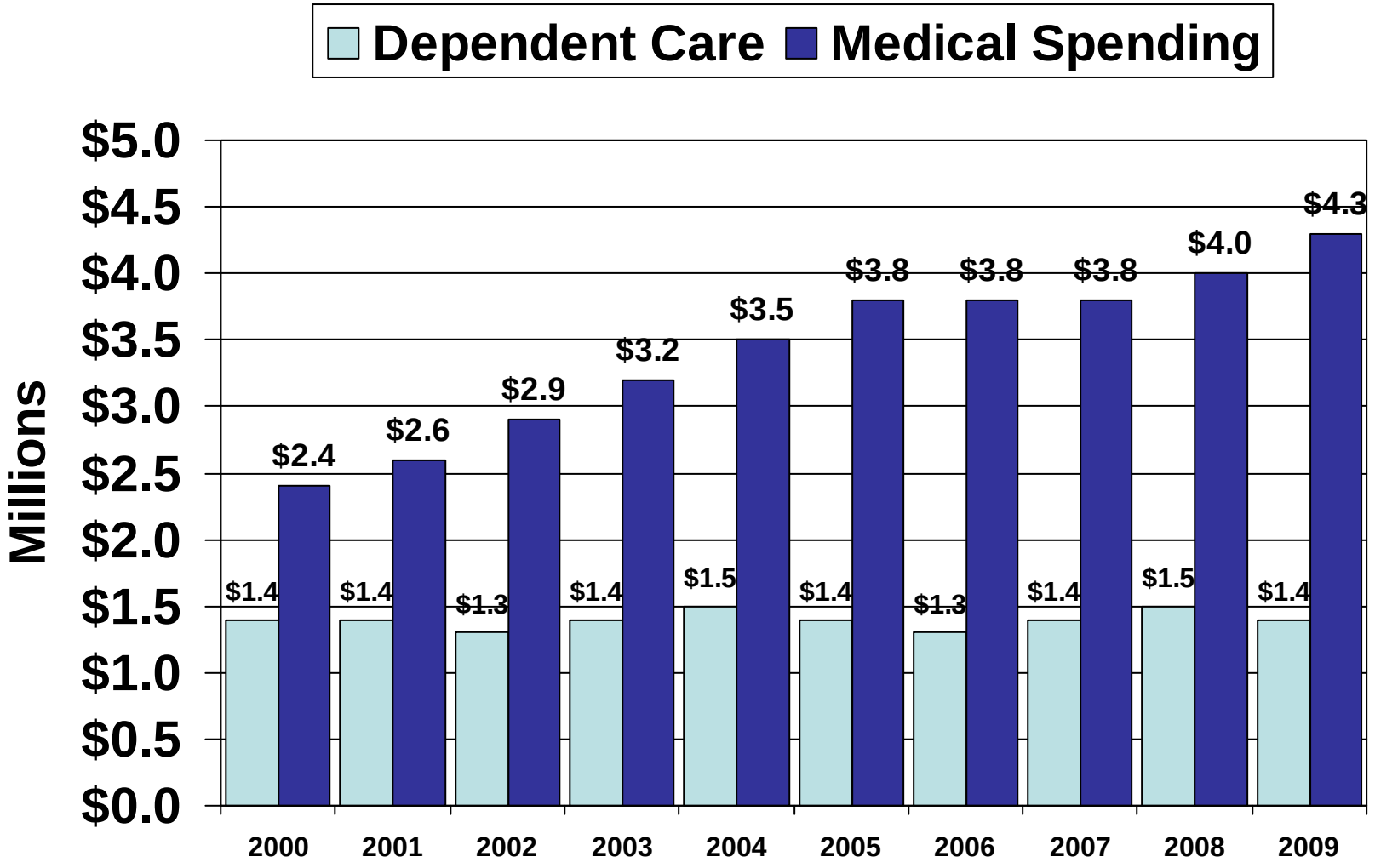
2009 PLAN YEAR INITIAL MEDICAL SPENDING

N	Minimum	Maximum	Mean	Sum
2674	$90.00	$6,000.00	$1,593.21	$4,260,243.09

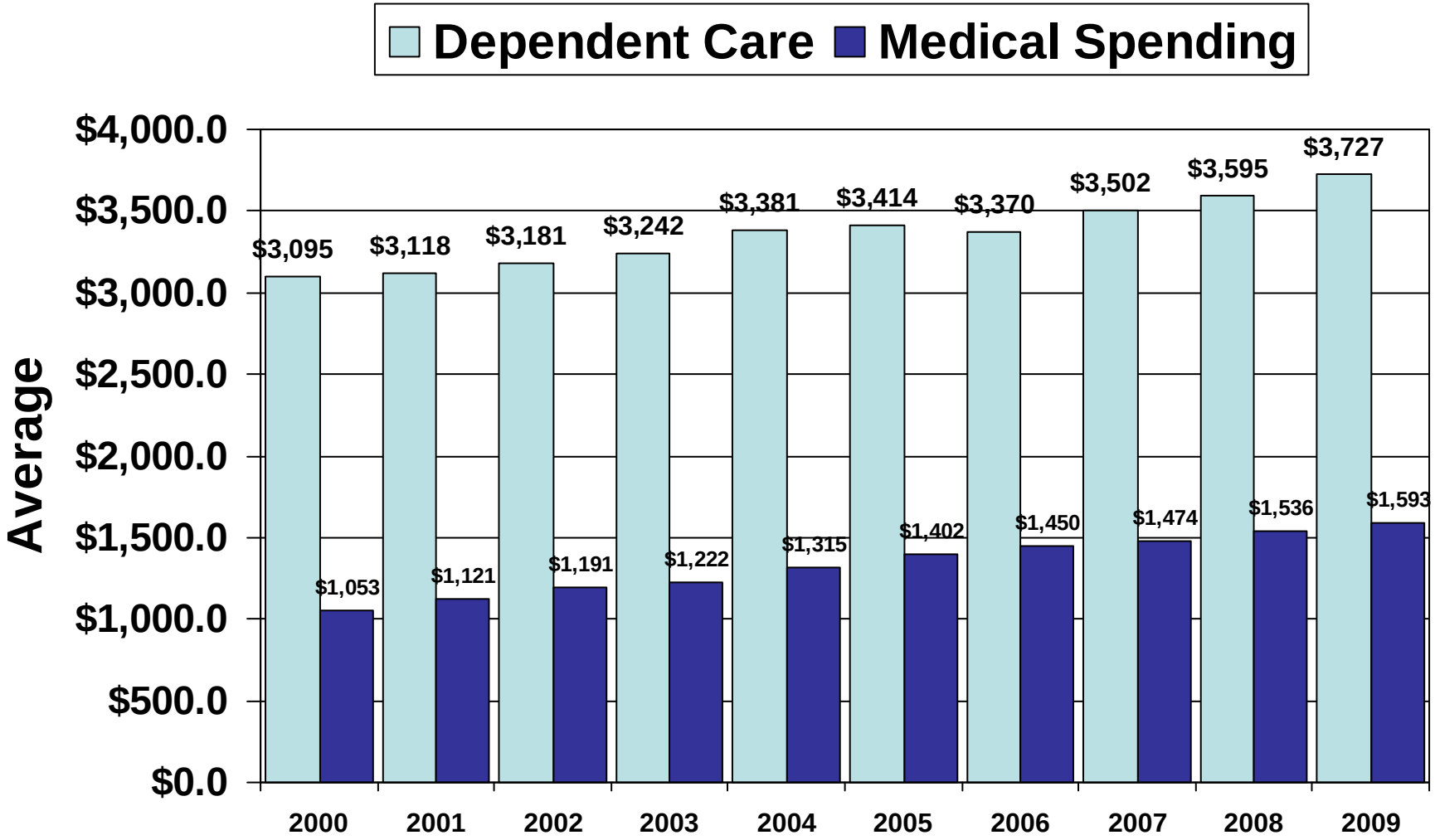
NDPERS Flexcomp Participation



NDPERS Flexcomp Participation



NDPERS Flexcomp Participation



MEMORANDUM

TO: NDPERS Board

FROM: Sharon Schiermeister

DATE: December 26, 2008

SUBJECT: **2008 Annual Report**

The 2008 comprehensive annual financial report has been included in your board materials. The report is also available on the NDPERS website under Forms and Publications.

Instead of mailing a copy of the report to each participating employer, an email notice was sent notifying them that the annual report is available on the NDPERS website. The report was submitted to the Government Finance Officers Association with an application for the GFOA Certificate of Excellence in Financial Reporting.

The report is available on the NDPERS website at http://www.nd.gov/ndpers/forms-and-publications/index.html

Please let me know if you have any questions on the report.

Enclosure

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MEMORANDUM

TO: NDPERS Board

FROM: Jim Smrcka

DATE: January 14, 2009

SUBJECT: **Consultant Fees**

Attached is a report showing the consulting, investment and administrative fees paid during the quarter ended December 31, 2008 Please let me know if you have any questions on the report.

Attachment

North Dakota Public Employees Retirement System
Consulting/Investment/Administrative Fees
For the Quarter Ended DECEMBER 31, 2008

	Program/Project	Fee Type	Oct-08	Nov-08	Dec-08	Fees Paid During The Quarter	Fees Paid Year-To-Date
Actuary/Consulting Fees:							
Gallagher Benefit Services, Inc	Insurance	Fixed Fee	3,052	-	-	3,052	3,052
Gallagher Benefit Services, Inc	Ongoing consulting	Time charges	-	57,169	-	57,169	91,119
LR Wechsler, LTD	Phase IV	Contract	-	-	-	-	-
LR Wechsler, LTD	IT Project	Fixed Fee	36,405	14,134	12,690	63,230	206,101
LR Wechsler, LTD	Travel Expenses	Actual	3,072	4,986	1,960	10,018	37,868
Sagitec Solutions LLC	PERSLINK Project		623,475	-	-	623,475	3,234,712
Sagitec Solutions LLC	Back file conversion	Actual		6,202	30,247	36,448	36,448
Gabriel Roeder Smith & Company			-	-	-	-	380
Mid Dakota Clinic	Retirement Disability	Time charges	900	800	700	2,400	8,690
The Segal Company	Retirement (DB)	Fixed Fee	17,663	-	-	17,663	56,138
The Segal Company	Ret Health Credit	Fixed Fee	3,300	-	-	3,300	10,725
The Segal Company	FlexComp	Fixed Fee	3,600	-	-	3,600	11,700
The Segal Company	Job Service	Fixed Fee	4,800	-	-	4,800	15,600
The Segal Company	QDRO/Compliance	Time charges	492	-	2,786	3,277	17,252
The Segal Company	Legislation	Time charges	4,974	-	30,828	35,802	141,340
The Segal Company	Group Ins	Time charges	-	-	7,125	7,125	7,125
The Segal Company	Deferred Comp	Time charges	-	-	911	911	2,149
The Segal Company	Travel Expenses	Actual	-	-	-	-	-
			$ 701,733	$ 83,291	$ 87,245	$ 872,270	$ 3,880,399
Audit Fees:							
Brady Martz	Annual audit	Fixed Fee	-	-	13,350	$ 13,350	46,825
Brady Martz	GSAB 43 and 45 research		-	-	2,500	$ 2,500	2,500
Legal Fees:							
ICEMILLER llp	IT Project	Time charges				$ -	-
ND Attorney General	Administrative	Time charges				$ -	70
Calhoun Law Group	Administrative	Time charges				$ -	1,265
Investment Fees:							
SIB - Investment Fees	Retirement (DB)	% Allocation	170,327	472,199	*	642,526	9,110,327
SIB - Investment Fees	Ret Health Credit	% Allocation	317	289	*	606	99,401
SIB - Investment Fees	Insurance	% Allocation	186	35	*	221	975
SIB - Administrative Fees	Retirement (DB)	% Allocation	21,726	17,804	*	39,530	184,385
						$ 682,883	$ 9,395,088
Administrative Fee:							
Blue Cross Blue Shield	Health Plan	Fixed fee	$ 745,168	$ 744,480	$ 746,497	$ 2,236,145	8,871,134

*** fees not yet available**