NDPERS BOARD MEETING
Agenda

Bismarck Location:
ND Association of Counties
1661 Capitol Way

March 14, 2014 **Time: 10:00 AM**

I. **LEGISLATIVE CONSIDERATIONS**

II. **GROUP CONSULTANTS**

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: March 10, 2014

SUBJECT: Proposed Legislation

At this meeting we will continue our discussion of proposed legislation for 2015. Attached for your reference are the Board memos from last meeting:

1. Retirement Legislation
2. Retiree health Legislation
3. DC Legislation
4. Technical Legislation

Attached is a memo from Segal concerning additional options.

Also attached is the draft bill for the technical proposed legislation. Please note two additions which are:

1) NDCC 54-52.1-03 – the change will allow NDPERS to automatically enroll an eligible employee in the Employee Assistance Program (EAP) and the basic life insurance level of coverage. Both of these benefits are employer paid for eligible employees.

2) NDCC 54-52.1-03.1 – the change clarifies that a political subdivision will only be eligible to join if they are permitted under federal law. This clarification is necessary due to the Affordable Care Act and the provision that small employer groups participate in Qualified Health Plan that is rated based on a unique rating pool, which the NDPERS plan does not meet.

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Memorandum

TO: PERS Board

FROM: Sparb

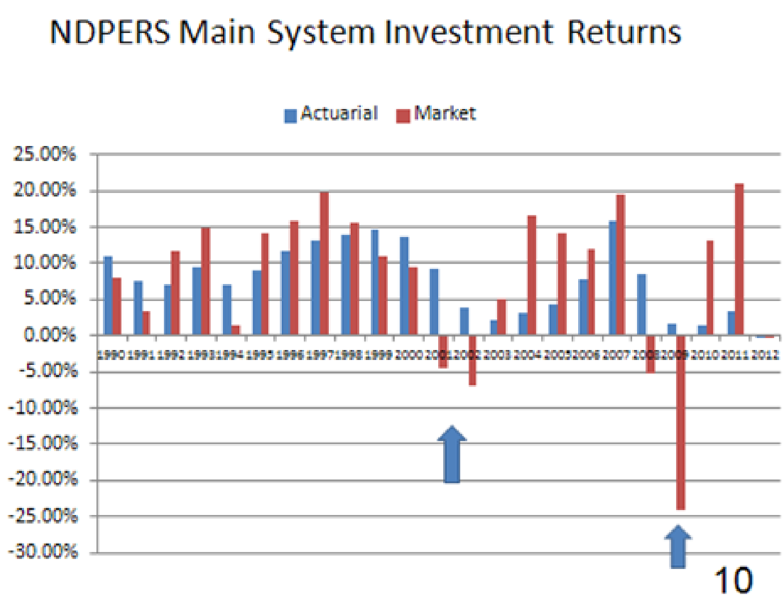
DATE: February 13, 2014

SUBJECT: Retirement Legislation

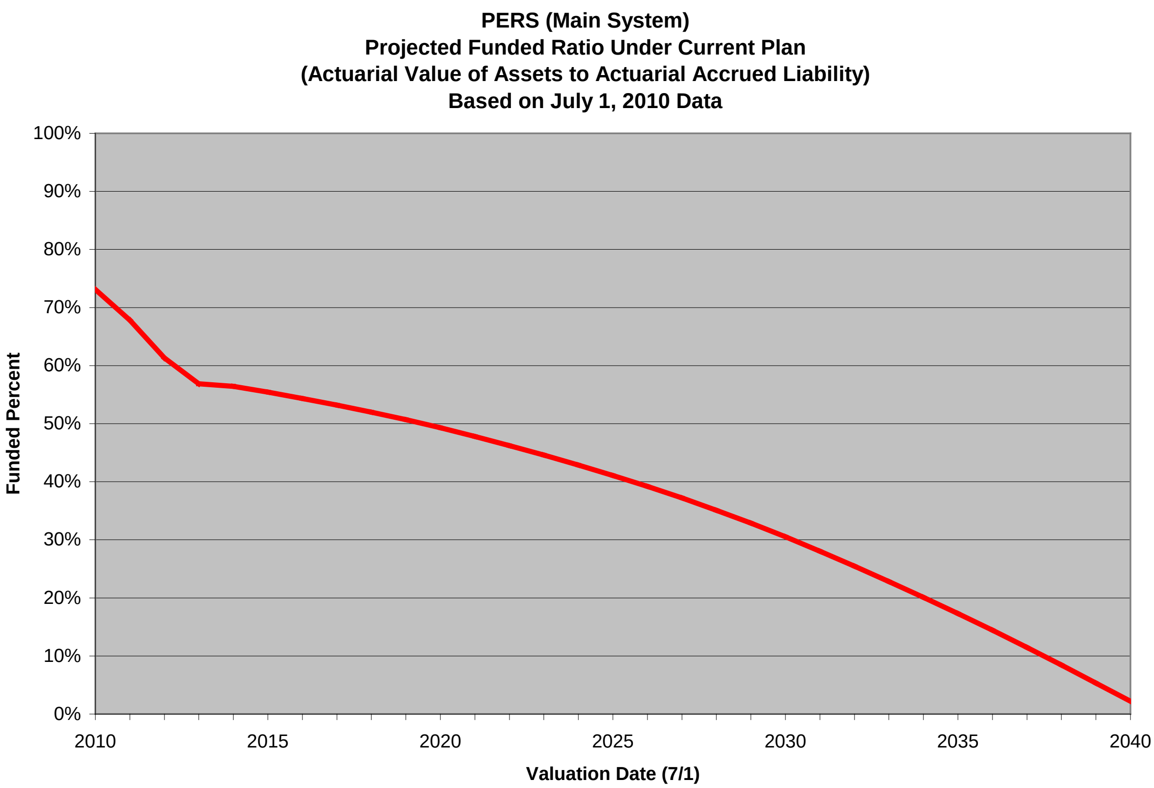
We need to finalize our proposed legislation for the 2015 session by March and submit it to the Legislative Employee Benefits Committee. This memo will provide some background on the issues faced by our retirement plans, review the status of each, provide options for going forward and a staff recommendation.

BACKGROUND

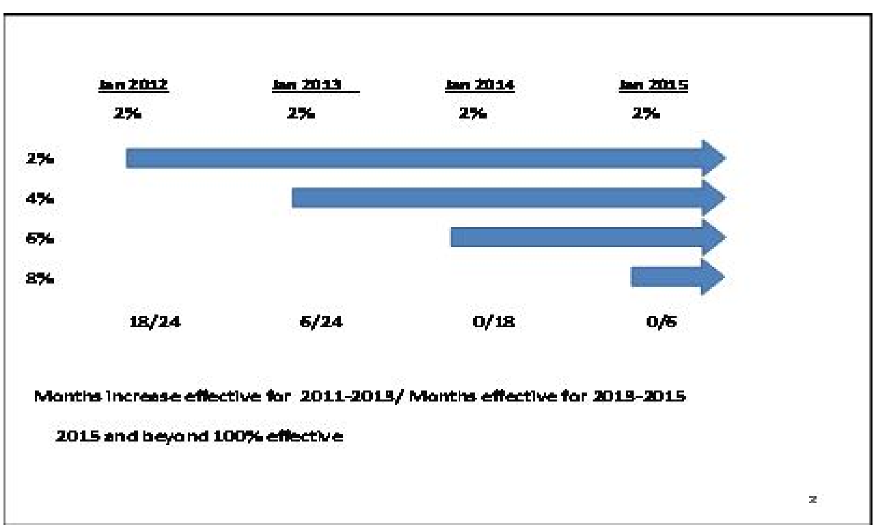
As a result of the dramatic downturn in the financial markets(see graph below) in 2001 and 2008/2009, the long term funding status of all the retirement plans under PERS was projected to deteriorate over time and in some cases go to a “0” funded status by the mid 2040’s.



The Main retirement plan was one of the plans whose funded status was projected to go to "0" which is shown on the following:



As a result of this challenge the Board developed a proposed recovery plan to return all plans back to 100%. That plan was based upon a shared recovery between both the employer and employee. The plan that emerged was to increase contributions by 8% over four years with employees paying 4% and the employers paying 4%. The following table shows the proposed timetable for the increases:



This plan was based upon three goals the Board had set for the plans:

- Stop the downward trend
- Stabilize the plans
- Put them on a track back to 100% funded

The initial recovery plan was submitted to the 2011 legislative session and the 2012 and 2013 increases were approved. Consideration of the 2014 and 2015 increase was deferred to the 2013 session.

In 2013 the Board submitted the final two years of the recovery plan. The following is the process of considerations:

- *Recommended by:*
  - *Legislative Employee Benefits Committee*
  - *In the Executive Recommendation*
- *Submitted as SB 2059*
  - *Passed the Senate (35-12)*
  - *Defeated in the House (32 -59)*
- *Provisions put in HB 1452 (defined contribution bill for state employees)*
  - *Passed the Senate*
  - *Not concurred by the House*
- *Conference Committee*
  - *Amended to provide third year of recovery but not the fourth year & add a DC option for state employees to 2017*

As the above highlights, the third year of the recovery was approved, but a DC plan option for all state employees was added until 2017 with no funding for this new option. Also, please note that the funding for SB 2059 was taken out by the House's Appropriations Committee at the very beginning of the session before the hearings on SB 2059.

The 2011 Session and the 2013 session accomplished much for the retirement plans. For all the plans the first two goals were achieved:

- The downward trend had been stopped
- The plans have been stabilized

The third goal was not quite as clear and, therefore, the need to consider our course of action for the 2015 session.

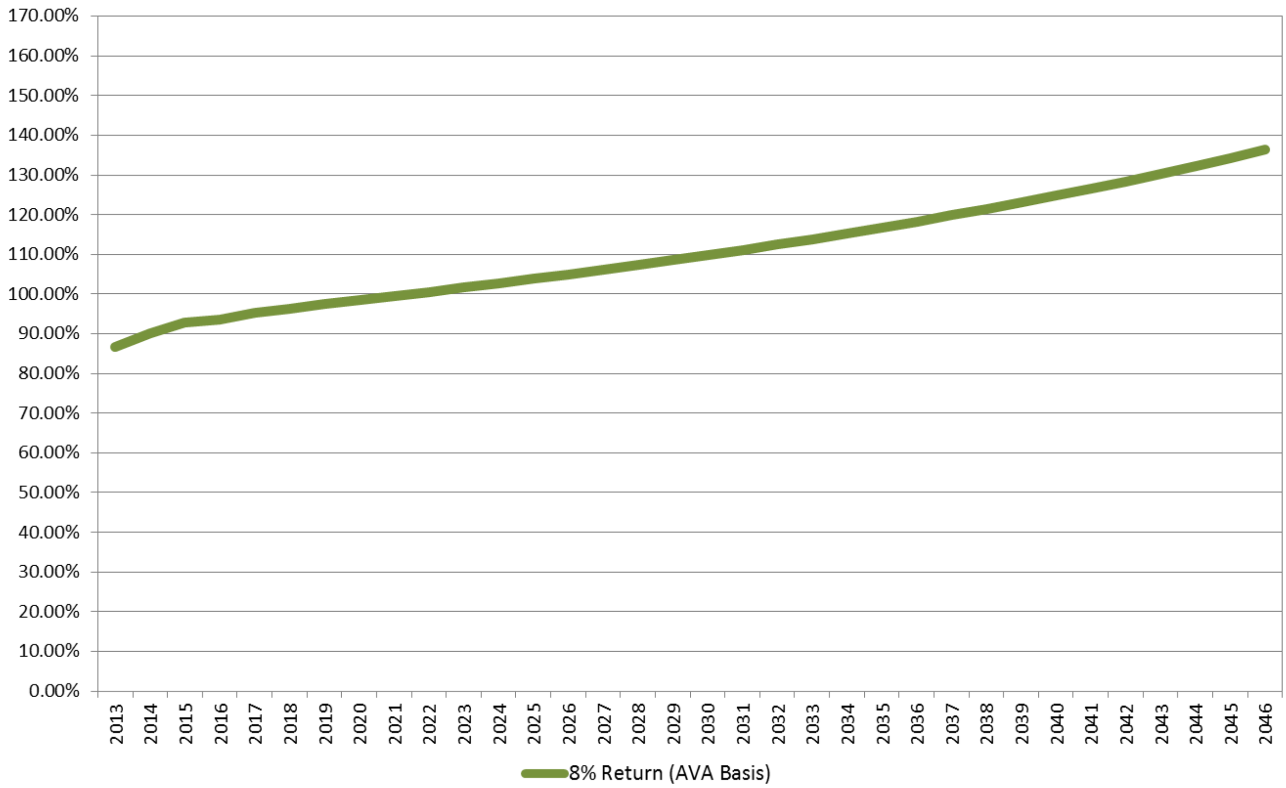
2015 RETIREMENT LEGISLATION

The question at this point is whether or not additional actions need to be taken to accomplish the third goal of our recovery “to put the plan on track to 100%”. The following will assess this in two subsections. The first subsection will look at the Judges, Law Enforcement Plans, National Guard and Highway Patrol plans. The second will examine the Main Retirement Plan.

1. ***Judges, Law Enforcement Plans, National Guard and Highway Patrol Plans***

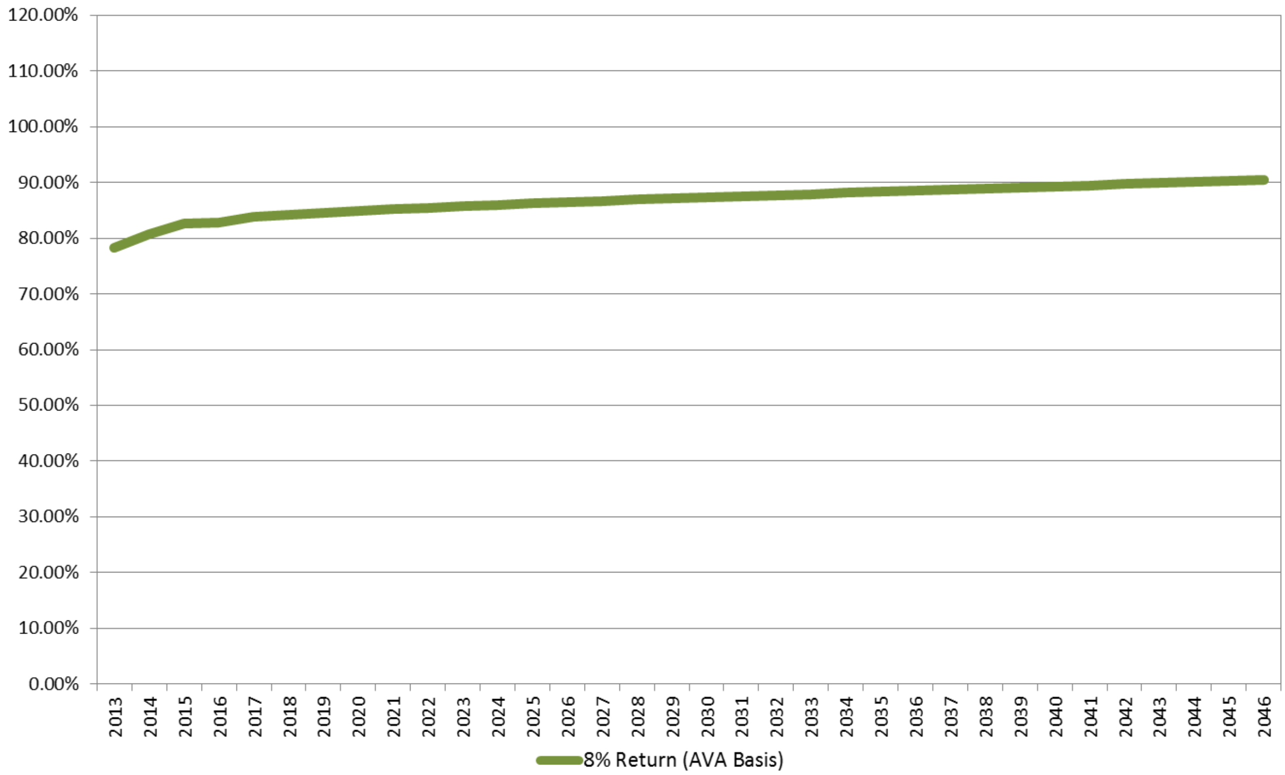
The adoption of the third year of the recovery plan and recent investment returns have resulted in the following projections for the Judges, Law Enforcement with Prior Service, Law Enforcement without Prior Service, the National Guard and the Highway Patrol Plans.

For the Judges retirement plan the following is the most recent projection based upon the increases passed to date:



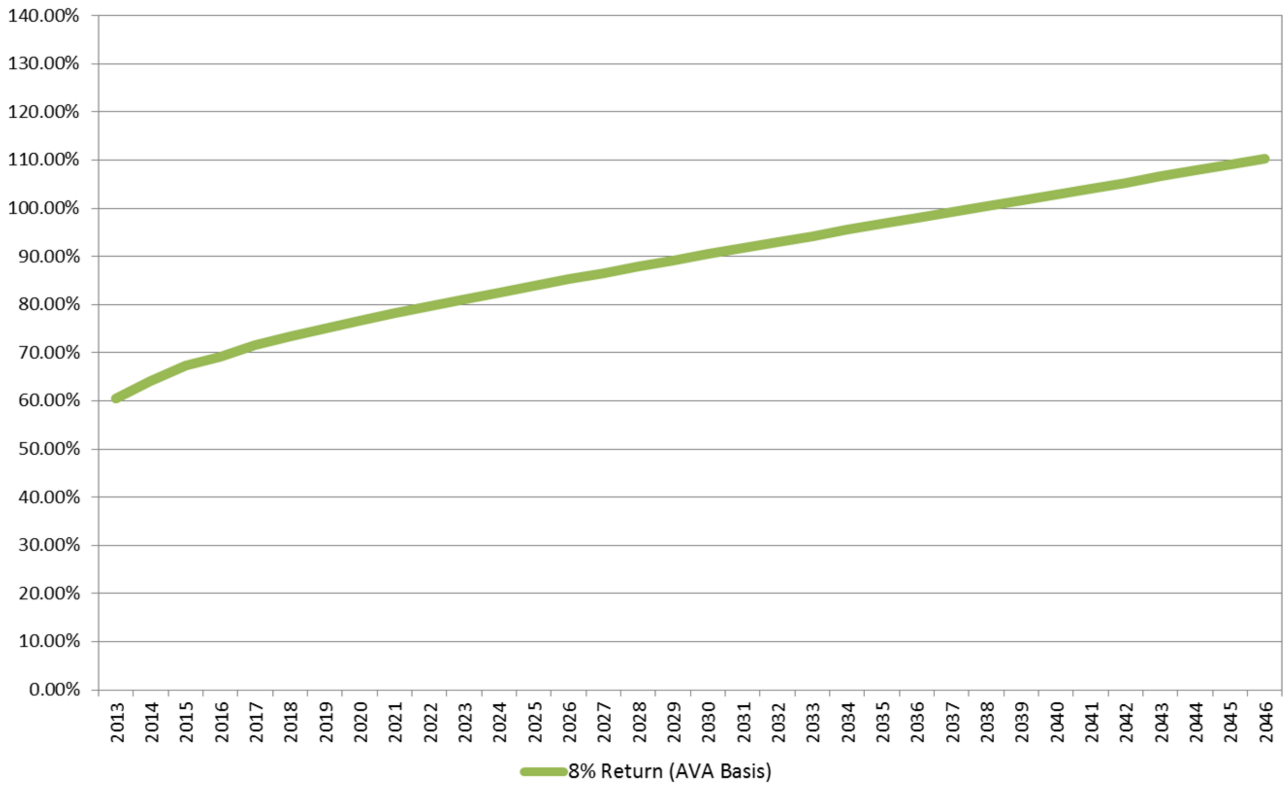
The above show shows this plan is on track to get to 100% by about 2020 with no additional increases. Clearly all three goals have been accomplished for this plan.

For the National Guard retirement plan the following is the most recent projection based upon the increases passed to date:



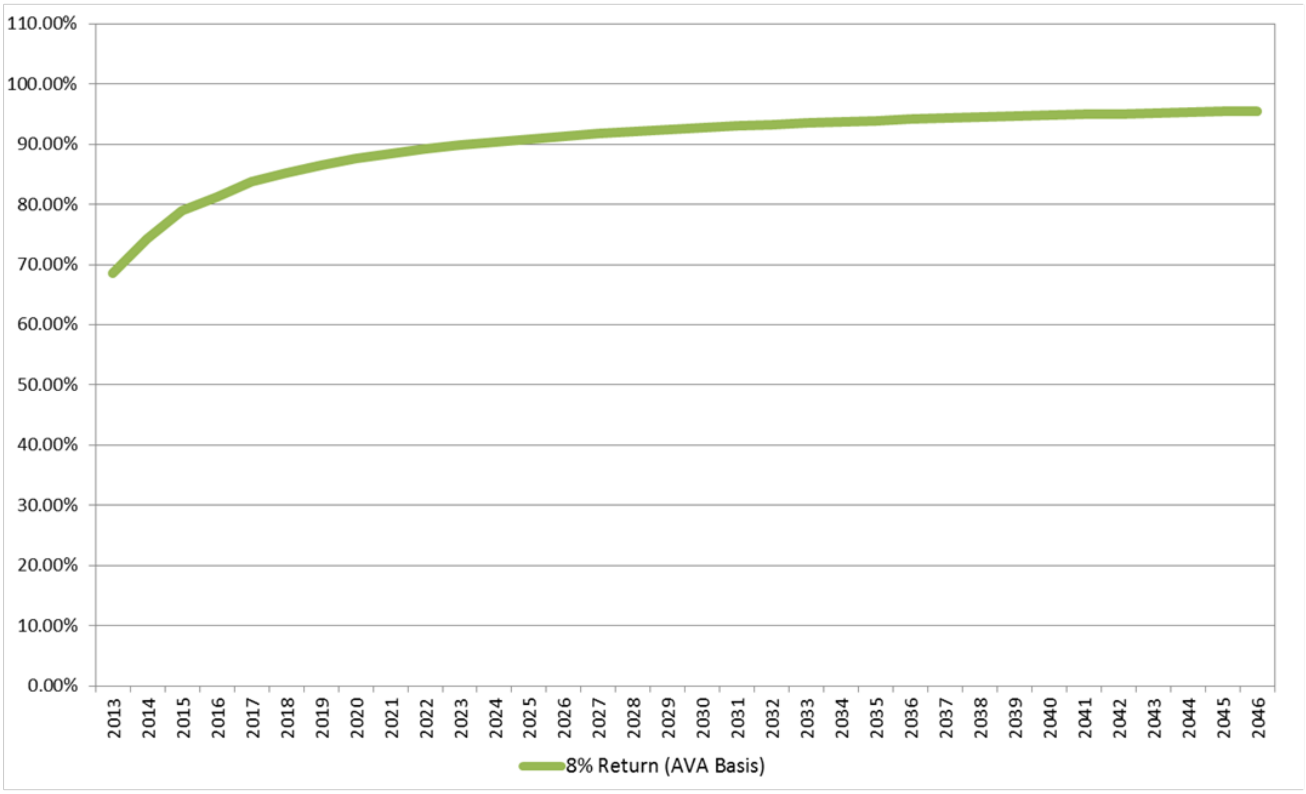
This plan is on track to get back to 90% at this point. We are working with the National Guard at this time on a plan to address this and will likely bring a proposal to the PERS Board at the March meeting. Since the PERS Board has the authority to adjust the employer contribution, no legislation should be needed.

For the Law Enforcement Plan with Prior Service the following is the most recent projection based upon the increases passed to date:



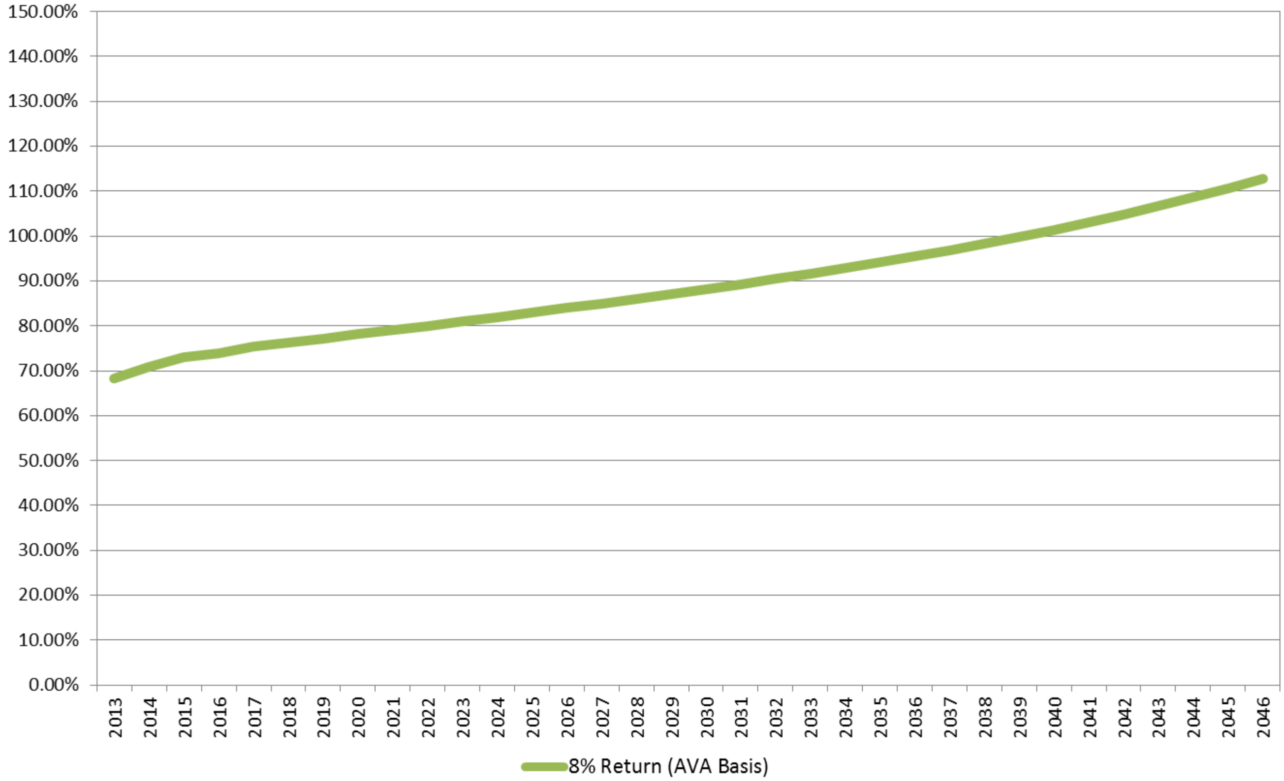
The above shows this plan is on track to 100% in about 2039 with no additional increases. Staff would recommend not additional increases for this plan. This plan has membership from political subdivisions and state BCI employees. Presently the BCI employees and employers pay ½% more than the other members. If the fourth year of the recovery had been passed, everyone would have been at the same level. Since staff's recommendation at this point is not to submit the 4th year of the recovery for this plan, staff would further recommend submitting a proposal to reduce the employee contribution for BCI employees to the same level as the other members. The Board has the authority to reduce the employer contribution.

For the Law Enforcement Plan with no Prior Service the following is the most recent projection based upon the increases passed to date:



As the above shows, this plan is on track to get back to about 98%.

For the Highway Patrol Plan the following is the most recent projection based upon the increases passed to date:



The above shows the HP plan is on track to get back to 100% in about 2019.

As the above projections show, the Judges, Law Enforcement with prior service and the Highway Patrol plans are now clearly on a track to 100% funded status. The Law Enforcement without prior service is very close and so could be considered on track. The National Guard is improving but is at 90% over the period. The following table summarizes the above.

Where are we at

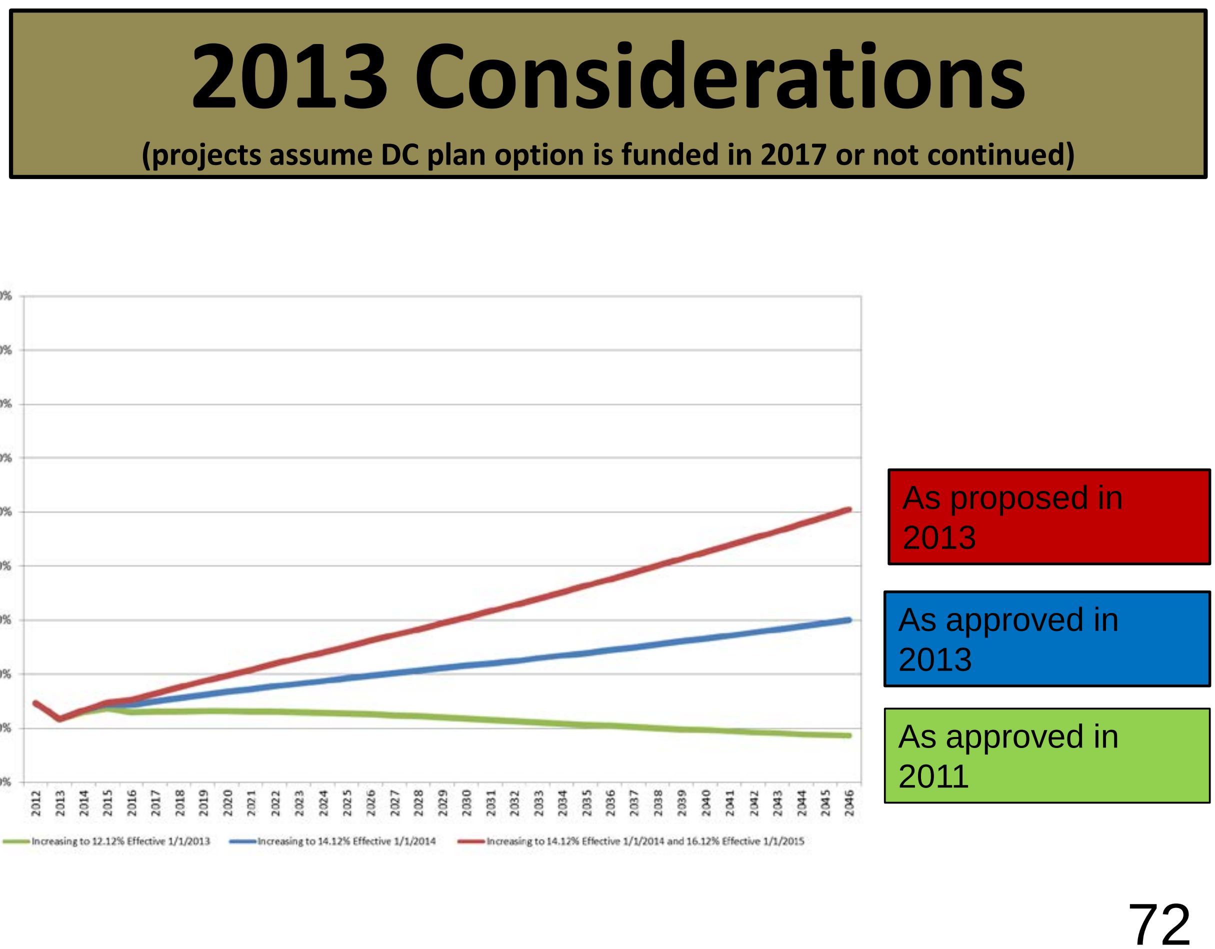
	Judges	Nat Guard	Law Enf (with)	Law Enf (without)	Highway Patrol
Stop downward trend	✔	✔	✔	✔	✔
Stabilize Plan	✔	✔	✔	✔	✔
Get on track to 100%	✔		✔	✔	✔

Staff Recommendation:

Given the above finding, it is staff's recommendation that we not submit any further legislation for the Judges, Law Enforcement Plans and the Highway Patrol Plan. Concerning the National Guard Plan, staff is working on a proposal with the National Guard that will likely be presented at the next meeting. At this time no consideration is being given to increasing member contributions which is the only contribution proposal which would require legislation. The Board has the authority to increase employer contributions. However, staff is recommending legislation that would match the employee contribution for BCI employees to the same level as the other members of the law enforcement plan.

2. Main Retirement Plan

The following projection shows the projected funded status of the Main Retirement Plan under three scenarios:



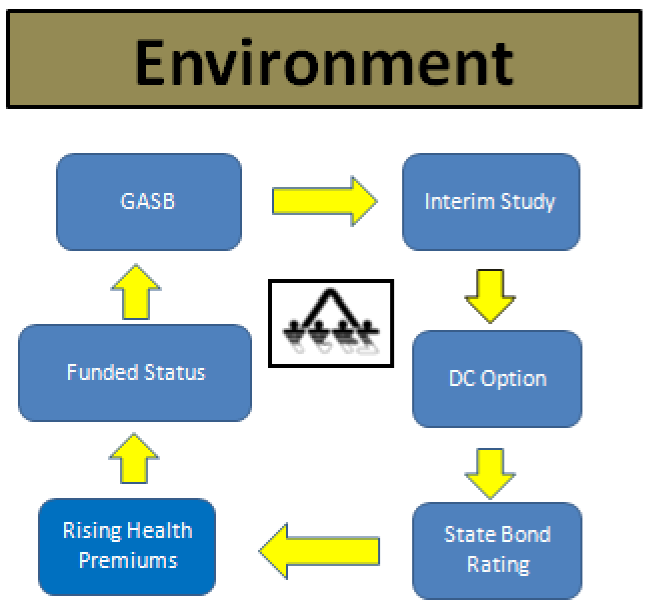
The lower line is the projected funded status (out to the year 2046) with the adoption of the first two years of the recovery plan in 2011 (improved the long term funding from "0" to 60%). The middle line is the projected funded status with the approval of the third year of the recovery plan in 2013 (improves the long term funding from 60% to 80%). The top line is the projected funding status if the fourth year of the recovery had been approved (100% funded status). We are presently on course with the middle line to about 80%.

With the action last session the question is what if anything should be done going forward to get the plan back to 100%.

Decision Environment

However, before considering what action to take for the 2015 session it is noteworthy to assess how our decision environment has changed since we first developed the recovery plan based on contribution increases shared by the employee and employer. Specifically, new variables need to be considered going forward that were not part of the consideration in 2009. Also the existing variables considered last time have changed as well.

The following graph shows some of the present environmental decision variables:



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Except for the funded status variable, all the other variables in the decision environment are new since the initial recovery plan was developed. The following discussion reviews each of these variables and their implications.

GASB

New Governmental Accounting Standards Board requirements will be implemented in 2014 and 2015. These new requirements will mean that our participating political subdivisions will now have to show a part of the retirement unfunded liability on their financial statements. This will be a significant change for them and having to absorb this as well as additional contribution increases may be a challenge to them in 2015.

Interim DC Study
This last session the legislature passed the following study resolution:

> SECTION 16. LEGISLATIVE MANAGEMENT STUDY - NORTH DAKOTA RETIREMENT PLANS.
> **During the 2013-14 interim, the legislative management shall consider studying the feasibility and desirability of existing and possible state retirement plans. The study must include an analysis of both a defined benefit plan and a defined contribution plan with considerations and possible consequences for transitioning to a state defined contribution plan. The study may not be conducted by the employee benefits programs committee. The legislative management shall report its findings and recommendations, together with any legislation needed to implement the recommendations, to the sixty-fourth legislative assembly.**

If a bill is passed out of the committee, the next legislative session could be actively considering closing the PERS Hybrid plan to new state employees. Having to consider both a contribution increase for the DB plan and closing it to new employees by having everyone go into the DC plan may overshadow considerations of the merits of a DC plan.

DC Option
The 2013 session adopted a DC option for new state employees until 2017. This was not funded this last session since the option had an expiration date. This will need to be considered in 2017 if a new bill is not passed in 2015. The question in 2017 will be to extend the option going forward, and if extended, how to fund it. Here again considerations of both issue may overshadow the merits of either on their own.

State Bond Rating
The state has been very active in working to reach an AAA rating. Having a funding plan for the retirement plan that was acceptable to the rating agency was considered very important by the Executive Branch in order to get the AAA rating. The state has now achieved an AAA rating which indicates the actions of the 2013 session were considered enough to satisfy the rating agencies (the adoption of 3 years of the recovery plan). For the state, this eliminates one of the key reasons for the additional contribution increases.

Health Plan
This last session the legislature considered benefits and salary as a single issue. As a result the House removed 1% of the employee's salary increase and the retirement increase. The explanation was that it would not affect the employees' take home pay and the state was paying an additional 1% employer contribution. This next session health insurance costs could increase about 14% or more based upon current trends. Combine this with an additional increase for retirement, if proposed, and the two are more significant than last session.

In 2011 when we developed the four year recovery plan based upon contribution increases, our health insurance increase was 7% or 3.5% per year. We noted at that time it was our third lowest increase since 1977 and that when combined with the proposed retirement increase was still less than an average health plan increase. This session the increase may be twice what it was in 2011 and the same rational cannot be put forward.

Funded Status

In 2011 the projected funded status of the plan was going to "0". At that time the only method to stop the downward trend, stabilize the plan and get it back on track to 100% was to increase contributions. No other approach accomplished all three goals.

As of 2013 the long term funded status is projected to go to 80% assuming the DC option goes away in 2017 or is funded over the same planning period. With a higher starting point now, contribution increases are now not the only option. The challenge in 2013 is significantly different than 2011.

Summary

Most of the above are new considerations that were not part of the considerations in the development of the initial recovery plan (GASB, Interim Study, DC Option, State Bond Rating, Health premiums) or if not new have significantly changed since then (Funded Status). As the above demonstrates, the decision environment is dramatically different since the initial recovery plan was developed.

Options for 2015

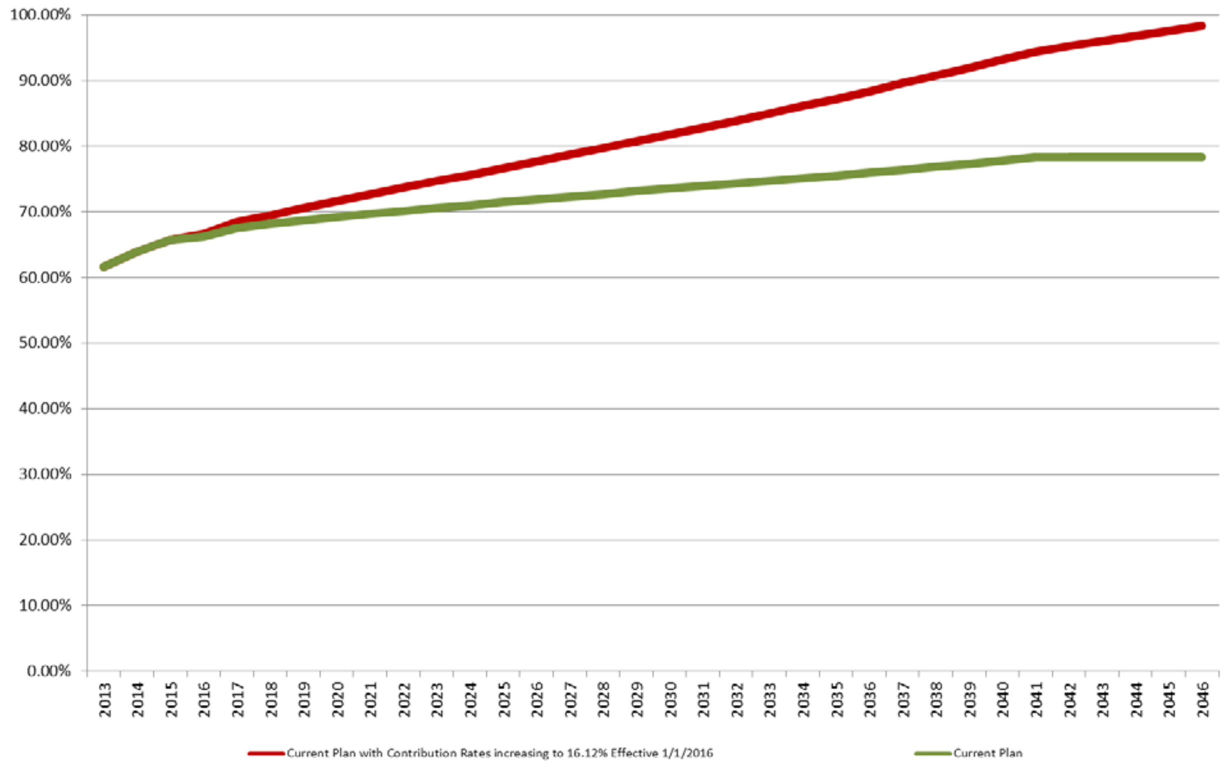
There are three options for 2015 and they are:

1. Stay with the original recovery plan and submit the fourth year.
2. Adjust the plan for new employees by making the changes the Teachers Fund for Retirement (TFFR) made for their members. Some of these were a part of their recovery plan.
3. Submit no legislation and rely on investment returns for future improvement in the funded status.

At this point this memo will review each of the options.

OPTION #1 – SUBMIT FOURTH YEAR OF RECOVERY PLAN

Option #1 is to submit the fourth year of the recovery plan. The fourth year has been considered by the 2011 and 2013 sessions and was not adopted by either. In both cases the recovery plan had a favorable recommendation by the Legislative Employee Benefits Committee, the Governor and all of our employee organizations. In both cases there was no opposition at the hearings. However, even with this support the fourth year has not been passed by the legislature twice. The following table shows the benefit of receiving the fourth year of additional contributions.



The top line is what happens to our long term funding projections with the fourth year of contribution increases. As you will note, we get back to 100% by 2046. The bottom line is our funding projection without the fourth year and assuming in 2017 the DC option goes away or is funded. This option clearly meets all three of our goals.

The next graph shows the cost to our participating employees for their share of the 2% increase which would be 1% for the employer and 1% for employees.

	Jul-13	2013-2015	1.00%
Plan	Employees	Biennium Payroll	
Main - State	11631	$ 1,093,946,372	$ 10,939,464
Judges	47	$ 12,810,520	$ 128,105
Highway Patrol	141	$ 18,073,433	$ 180,734
DC Plan	219	$ 33,540,006	$ 335,400
Total	**12038**	**$ 1,158,370,331**	**$ 11,583,703**
General Fund	53.38%	$ 618,338,083	$ 6,183,381
Political Subs			
County	3581	$320,111,689	$ 3,201,117
City	1475	$162,456,950	$ 1,624,570
Schools	4988	$303,998,340	$ 3,039,983
Others	557	$47,604,153	$ 476,042
Subs Total	**10601**	**$834,171,132**	**$ 8,341,711**
Total			**$ 19,925,415**

As the above chart shows, the cost for the next biennium for our participating employers is almost $20 million. The state's portion is almost $12 million and the political subdivision's is about $8 million for a total of about $20 million for 2015-2017 (two years).

Please note an equal amount would be deducted from our participating employee's salaries. Specifically our participating employees would need to contribute almost $20 million as well.

In total for both our employers and employees, the total cost for 2015-17 would be about $40 million. The total increase (considering inflation on payroll which will occur and make the amount larger) for the period until the plan becomes 100% funded is $1.25 billion. This amount would be split equally between employers and employees (about $625 million each over the period).

OPTION #2 – IMPLEMENT SIMILAR CHANGES TO PERS AS TFFR HAS IMPLEMENTED FOR ITS MEMBERS.

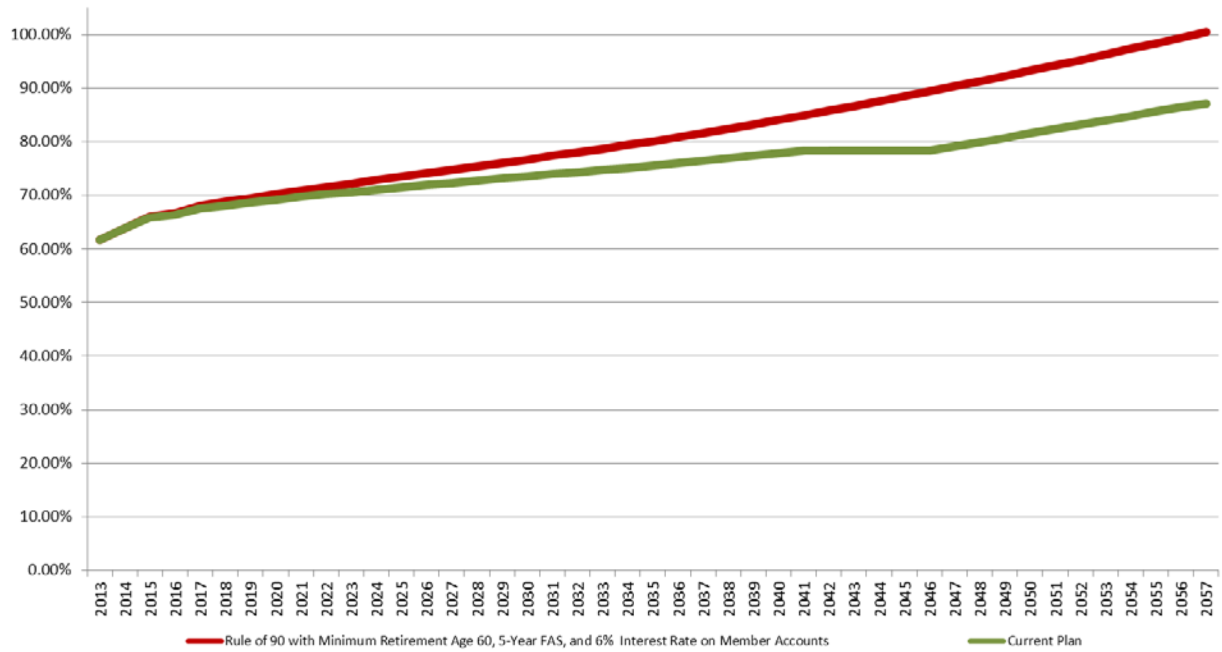
Option #2 is to implement similar changes to the plan design for PERS as TFFR has for its members. Some of these changes were a part of TFFR's recovery. The changes discussed here for PERS would be for new employees only (TFFR had some of these apply to existing members).

In making our plan similar to TFFR, we are not opening up the plan design for Board considerations but only matching provisions in our sister system that have been agreed to by the groups and the legislature. If we went beyond those, we would be opening the plan design to broader considerations which could be a more extensive process. For example, some have suggested that we should have a cash balance plan design and that is what the PEW organization is advocating nationally. Opening up the plan design for broader considerations beyond matching our sister system means that many ideas could emerge, consequently the narrow focus offered here.

The changes that would match those in TFFR are:

1. Match the interest on member accounts to TFFR which is 6%
2. Change early retirement reduction from 6% per year to 8% per year
3. Change FAS to high 5 years instead of 3 years
4. Change rule of 85 to 90 with minimum age of 60

When the above was discussed with the PERS benefits committee, they expressed concern with applying some of the above changes to existing employees as TFFR did, consequently the above is proposed to apply to new employees only. If these changes were made, the following table shows their effect on the long term funded status of the plan.

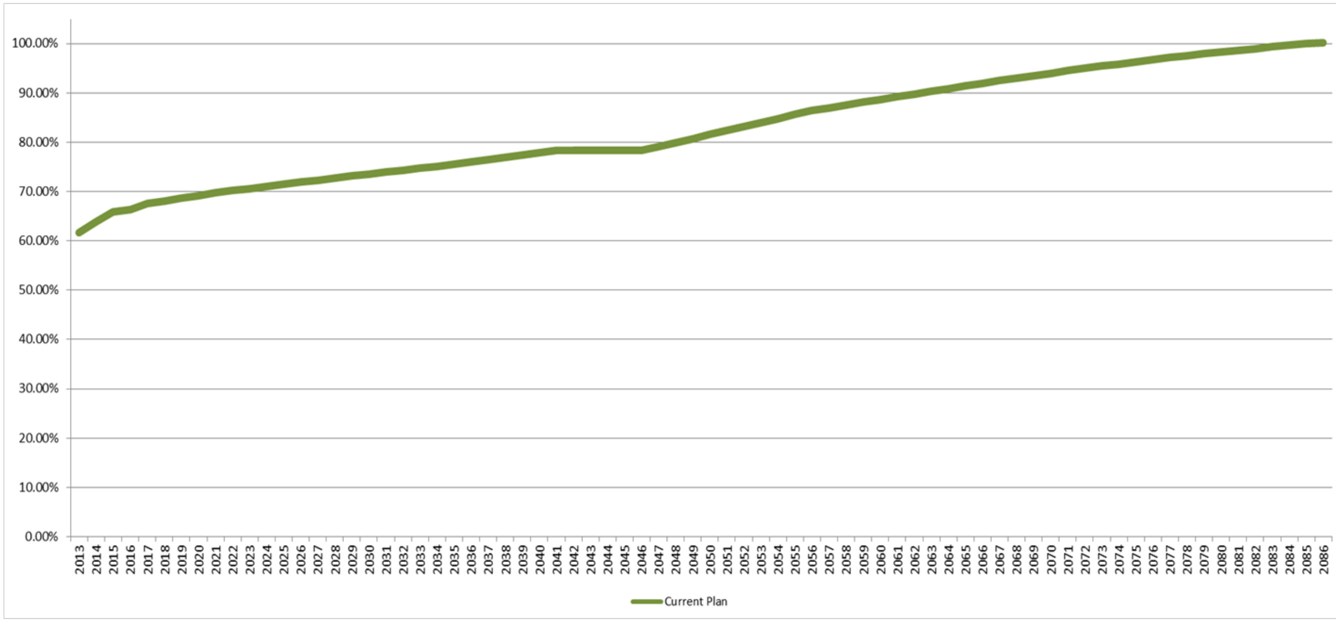


The lower line is the plan funding based upon the existing contributions and the top line is the plan funding with the changes offered here. As the above shows this will return the plan to 100% by 2057. This is about 10 years later than Option #1. Option # 2 would meet all of three goals and would not require employees or employers to pay the additional $40 million next biennium and going forward would save our employee/employer members $1.25 billion.

OPTION #3 – SUBMIT NO LEGISLATION AND RELY ON WHAT HAS BEEN ACCOMPLISHED TO DATE AND FUTURE RETURNS

Option #3 is that no new legislation relating to the recovery would be submitted in 2015 and we would relay on what has been accomplished to date with contributions and future investment returns to get the plan back to 100%.

The following chart shows when the plan would return to 100% with the existing contributions and 8% returns each year going forward.



As this chart shows, the plan would return back to 100% in about 2086 (the last year on the above projection) based on the existing contributions and 8% returns. This is about 29 years longer than Option #1 and about 19 years longer than Option #2.

Looked at from a different perspective, the following are the returns required over 20 years to get back to 100% each year if the assumed return for 2014 is between 24% and -24%. For example if the return this year is 8%, then the plan will need 9.6% annually for the next 20 years to get back to 100%.

Target Funded Ratio	Rate of Return Required for All Years Beginning on and after 2014/2015 To Achieve Target in 2033						
	Assumed 2013/2014 Return						
	24.0%	**16.0%**	**8.0%**	**0.0%**	**-8.0%**	**-16.0%**	**-24.0%**
70%	6.8%	7.3%	7.7%	8.3%	8.8%	9.5%	10.2%
80%	7.5%	7.9%	8.4%	9.0%	9.5%	10.2%	10.9%
90%	8.1%	8.6%	9.1%	9.6%	10.2%	10.8%	11.5%
100%	8.7%	9.1%	9.6%	10.1%	10.7%	11.4%	12.1%

It can be argued that Option #3 meets all three goals if you accept that getting to 100% in 2086 meets the goal. However, as noted above, this option does move the date down the line significantly and to rely on investment returns to get it to 100% sooner will require strong returns.

Staff Recommendation

Staff is recommending Option #2. Staff is not recommending Option #3 since it makes no changes on the income side (contributions) or the liability side (benefits) with the result being a significantly longer recovery.

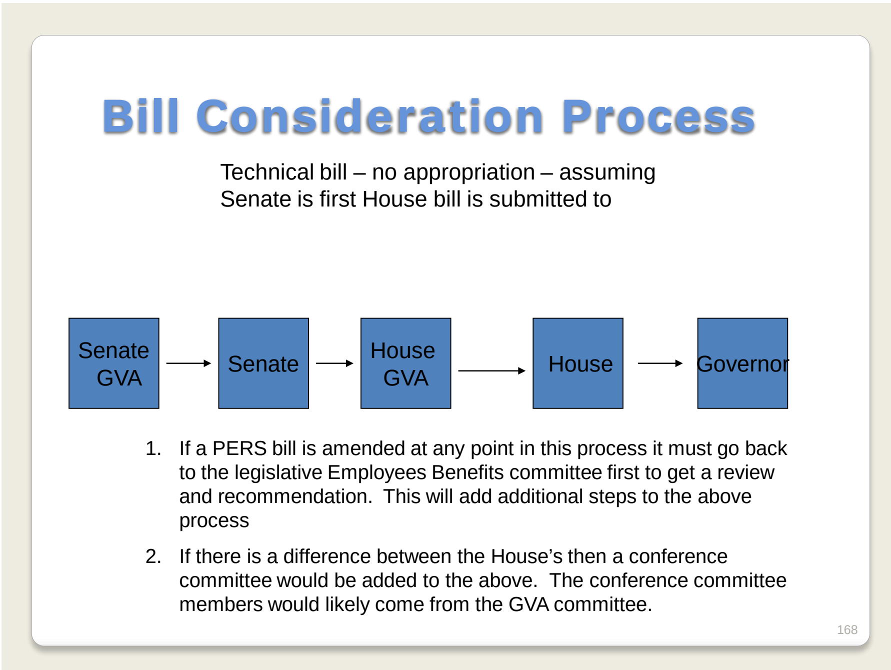
In developing this recommendation for Option #2, staff reviewed each of the variables in our decision environment for both Options #1 & #2 and makes the following observations:

Variable	Option #1	Option #2
Governmental Accounting Standards Bd (GASB)	Additional contributions being required of our employers and the recognition of the GASB liability will be a difficult challenge for our political subdivision boards.	This option would mean that our participating employers would have no additional contributions and could focus solely on the recognition of the new liability. This would reduce the magnitude of retirement issues facing our employers in 2015
DC Option	The requirement for $20 million in additional employer contributions for 2015 -2017 and $625 million over the recovery period could be an argument for the need to change the DB/Hybrid plan and overshadow considerations relating to a DC plan based solely upon its merits	With no contribution increase policy makers could focus on the merits of the DC plan option change only.
State Bond Rating	The attainment of AAA rating by the state means that it does not need to make additional contributions to satisfy the needs of the rating agency.	Since this option is budget neutral for our employers they would not need to consider the merits of additional contributions.
Rising Health Premiums	When our recovery plan was developed, health premiums were going up 7% or 3.5% a year. We testified that the lower premiums made the increase more affordable. Now premiums are projected to increase 14% or more making it less affordable and	No budget issues so it would not affect considerations relating to salary or other benefits for our members

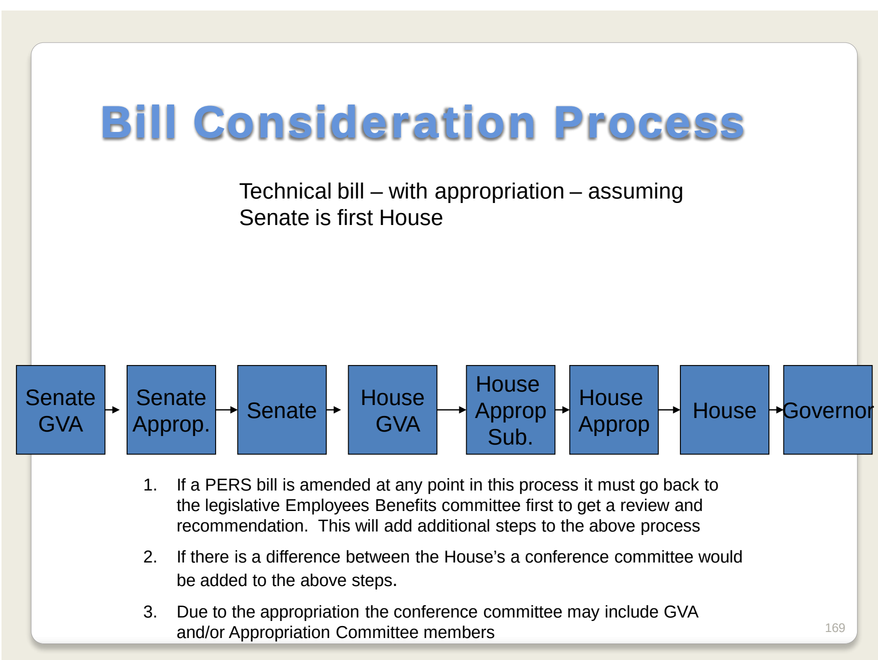
Variable	Option #1	Option #2
	could affect considerations of salary and health premium contributions for our participating members. If so, our members could receive less salary or health support in addition to paying 1% more in retirement contributions. Our members could be affected significantly	
Funded Status	This option will get us to 100% faster than Options #2 or #3. However, when the recovery plan was originally developed, this option (contribution increases) was the only option to 100%. This is no longer the case as we look to closing the final 20%.	This option helps close the last 20% without requiring additional contributions from our members or employers who have already contributed 3%.
Interim Study	As with the DC option, this proposal requires $20 million in additional employer contributions and over the recovery period $625 million which could be an argument/ impetus for the need to change the DB/Hybrid plan instead of focusing on the merits.	With no contribution increase, policy makers could focus on the merits of such a change

Based upon the above review of the environmental decision variables and the significant savings to our members ($625 million over the recovery period), staff concludes that Option #2 is more favorable for our employers and employees while meeting our goals.

In addition to the above, staff noted that the likelihood of success of Option #2 is greater than Option #1 due to the legislative consideration process relating to Option #1 versus Option #2. If Option #2 is selected, the Bill Consideration Process is:



The legislative consideration process for Option #2 is that it needs to pass two standing committees, the floor of both chambers and get signed by the Governor. Whereas for Option #1 the following process is required since there is an appropriation:



In addition to the steps for Option #2, Option #1 must also go through the Appropriation Committees of both the House and Senate (two additional steps). This means the consideration of retirement increases are a part of allocating funds for all governmental efforts and prioritized against all other requests. When funding for any effort is part of overall considerations, it may or may not be funded based solely on its own merits but also how it compares to other competing priorities. In 2013 you will remember that it was the House Appropriations Committee that removed funding for the recovery plan before any hearings on the bill since other funding considerations were given a higher priority and therefore it was not included.

In addition to the above, another consideration compared to 2009 is that at this point in time the legislature has on two occasions not passed the fourth year of the recovery plan. Unlike the first time when there was no legislative history relating to the fourth year of the recovery plan, we now have that to consider as well.

Consequently, since Option #2 is more positively aligned with the decision variables identified/discussed above, and the legislative considerations relating to a bill without an appropriation allows considerations based solely on its merits, staff feels that Option #2 would have a greater chance for success and for us to fulfill our goals sooner. In addition, staff notes that not requiring more contributions from our existing members is beneficial to them since they have already had to give up 3% of take home pay over the years and Option #2 instead of Option #1 saves future employees about $625 million in salary contributions over the recovery period while maintaining our core plan benefit which is 50% of final average salary at retirement.

In summary, staff recommendations are:

1. No additional legislation for the Judges, Law Enforcement Plans, National Guard Plan and Highway Patrol plan. Also, for the Law Enforcement Contributions for the BCI to drop them to equal the level of the other members.
2. Submit Option #2 for the Main Plan.

If you need additional time to consider the above, a final decision is not needed until March. However, we will need to develop legislation for your final consideration, so if you could narrow the options, we can begin work based upon that direction. In addition, another option would be to submit both Options #1 and #2 to the Legislative Employee Benefits Committee to allow them both to get further study and comment.

Segal Consulting

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February 19, 2014

Mr. Sparb Collins
Executive Director
North Dakota Public Employees Retirement System
400 East Broadway, Suite 505
Bismarck, ND 58502

Re: ND PERS Retirement System – Cost Analysis of Potential Plan Changes
Rule of 90 and Early Retirement

Dear Sparb:

Per your request, we have calculated the effect of eight possible changes in plan provisions for North Dakota PERS.

<u>1. Changing Rule of 85 to Rule of 90</u>
Currently, members in the Main System are eligible for the Normal Service Retirement at age 65 or when their age plus service is equal to 85 ("Rule of 85"), if earlier. Under the scenarios shown below, current participants who will be eligible for a Rule of 85 benefit within 10 years continue under the Rule of 85. The Rule of 90 changes we analyzed follow:

a. Change from a Rule of 85 to a Rule of 90 benefit with a minimum age of 58.

b. Change from a Rule of 85 to a Rule of 90 benefit with a minimum age of 60.

c. Change from a Rule of 85 to a Rule of 90 benefit with a minimum age of 62.

<u>2. Changing Early Retirement Factor</u>
Currently, the reduction for early retirement is 6% per year for each year early retirement age precedes normal retirement age. Under the scenarios shown below, current participants who will be eligible for a Rule of 85 benefit within 10 years and inactive vested participants continue with a 6% per year early retirement reduction. In addition, the reductions for Early Retirement were limited to 70% (the benefits were not allowed to fall below 30% of the Normal Service Retirement benefits). The Early Retirement changes we analyzed follow:

a. Change the reduction for early retirement from 6% per year for each year early retirement age precedes normal retirement age to 8% per year.

b. Change the reduction for early retirement from 6% per year for each year early retirement age precedes normal retirement age to 9% per year.

c. Change the reduction for early retirement from 6% per year for each year early retirement age precedes normal retirement age to 10% per year.

d. Change the reduction for early retirement from 6% per year for each year early retirement age precedes normal retirement age to 11% per year.

e. Change the reduction for early retirement from 6% per year for each year early retirement age precedes normal retirement age to 12% per year.

The actuarial recommended contribution rates are shown below as a percentage of payroll.

Plan Provision	Ultimate Contribution Rate If Only New Employees Affected	Savings If Only New Employees Affected	Savings If Current Employees Included (except as specified)
Current Plan	12.14%	N/A	N/A
1.a. Rule of 90, Minimum Retirement Age 58	11.96%	0.18%	0.35%
1.b. Rule of 90, Minimum Retirement Age 60	11.93%	0.21%	0.39%
1.c. Rule of 90, Minimum Retirement Age 62	11.89%	0.25%	0.48%
2.a. Early Retirement Reductions of 8% per year	12.07%	0.07%	0.12%
2.b. Early Retirement Reductions of 9% per year	12.04%	0.10%	0.16%
2.c. Early Retirement Reductions of 10% per year	12.01%	0.13%	0.20%
2.d. Early Retirement Reductions of 11% per year	11.99%	0.15%	0.24%
2.e. Early Retirement Reductions of 12% per year	11.96%	0.18%	0.27%

For the highest-impact scenarios, graphs are attached showing the projected Funded Ratios and the projected Unfunded Actuarial Accrued Liability (using the Actuarial Value of Assets) for new employees only.

Please note that we have not adjusted the valuation retirement rate assumptions in performing this analysis. However, these plan changes could cause participants to delay retirement, which could affect costs. In addition, we recommend that any change to the plan that affects current participants be evaluated by the System’s legal counsel to make sure that the new provisions do not violate applicable laws.

These cost estimates are based on the July 1, 2013 actuarial valuation results. Calculations were completed under the supervision of Tammy Dixon, FSA, MAAA, Enrolled Actuary.

Please call if you have any questions or comments.

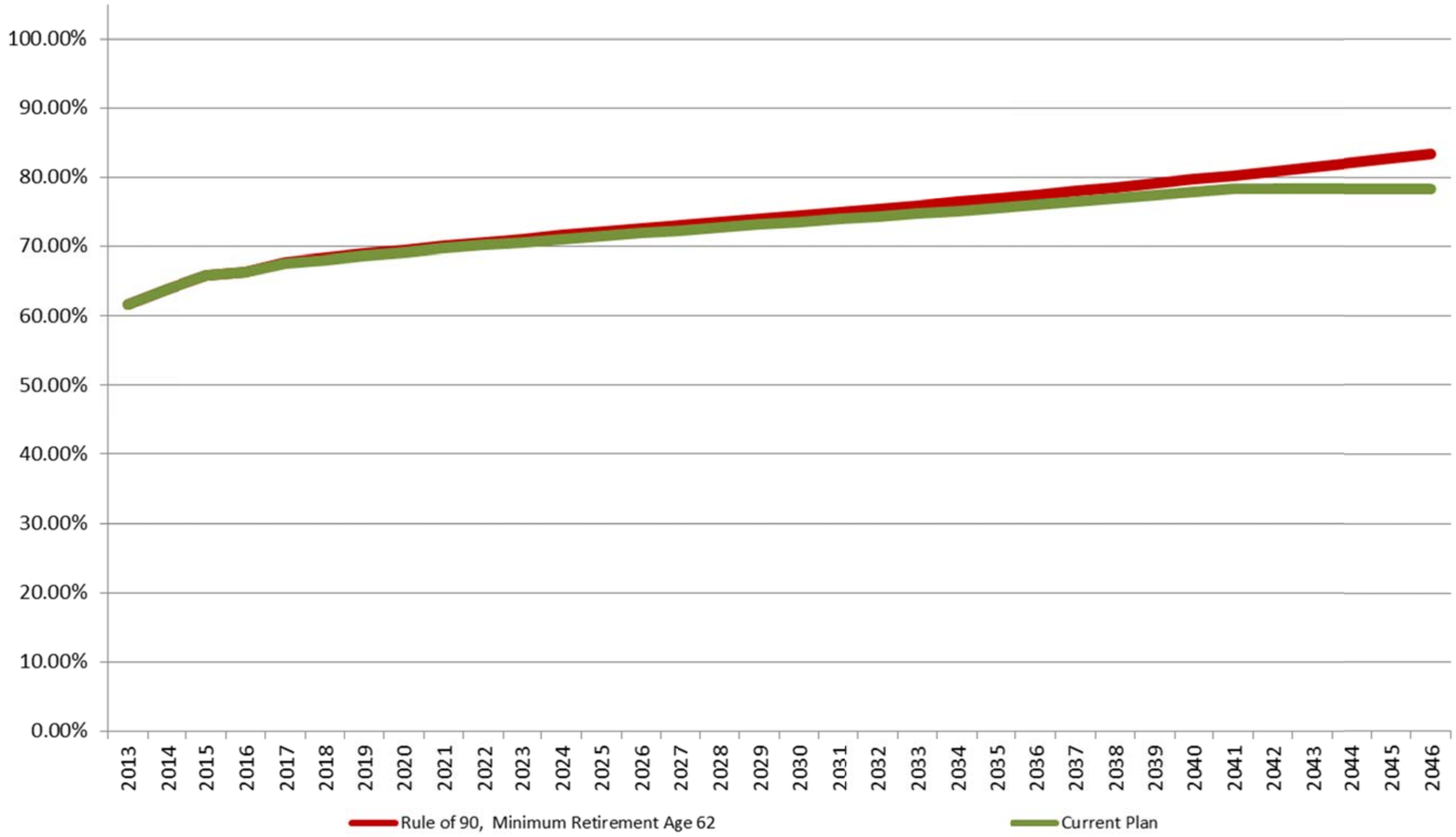
Sincerely,

Brad Ramirez, FSA, MAAA, EA
Consulting Actuary

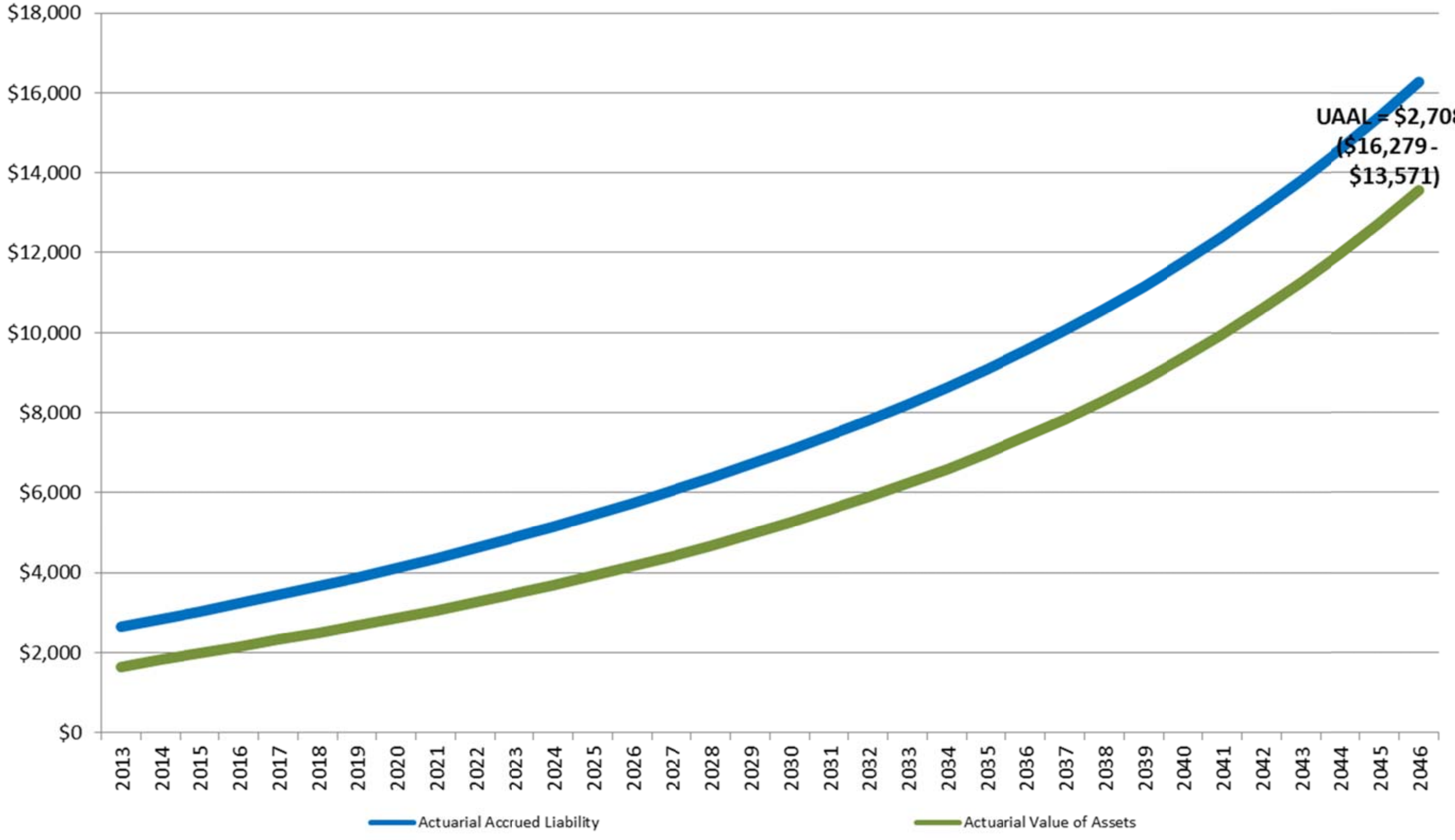
cc: Tammy Dixon

5296731v1/01640.001

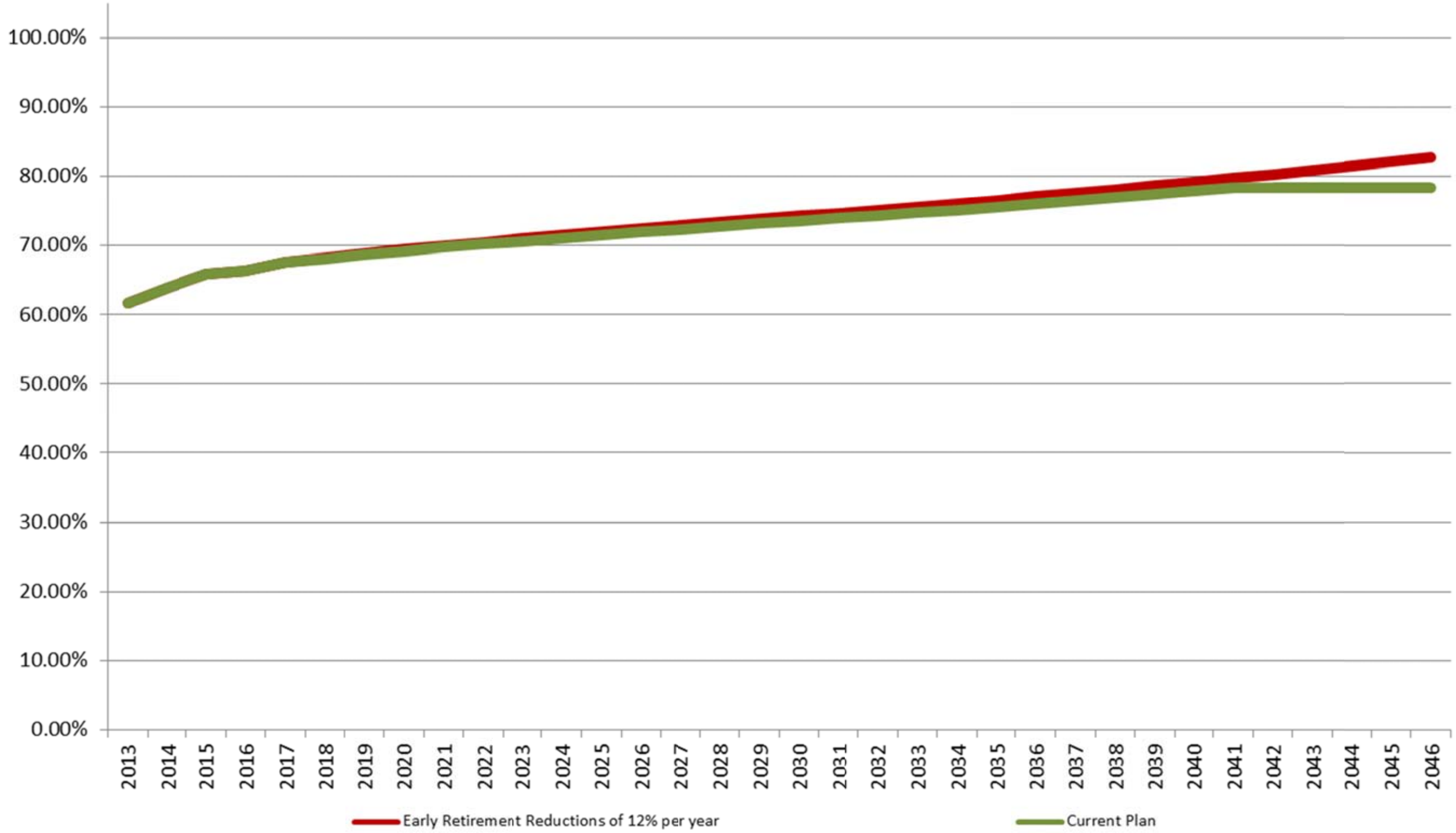
Projected Funded Ratios (AVA Basis) – Main System:
1.c. Rule of 90, Minimum Retirement Age 62



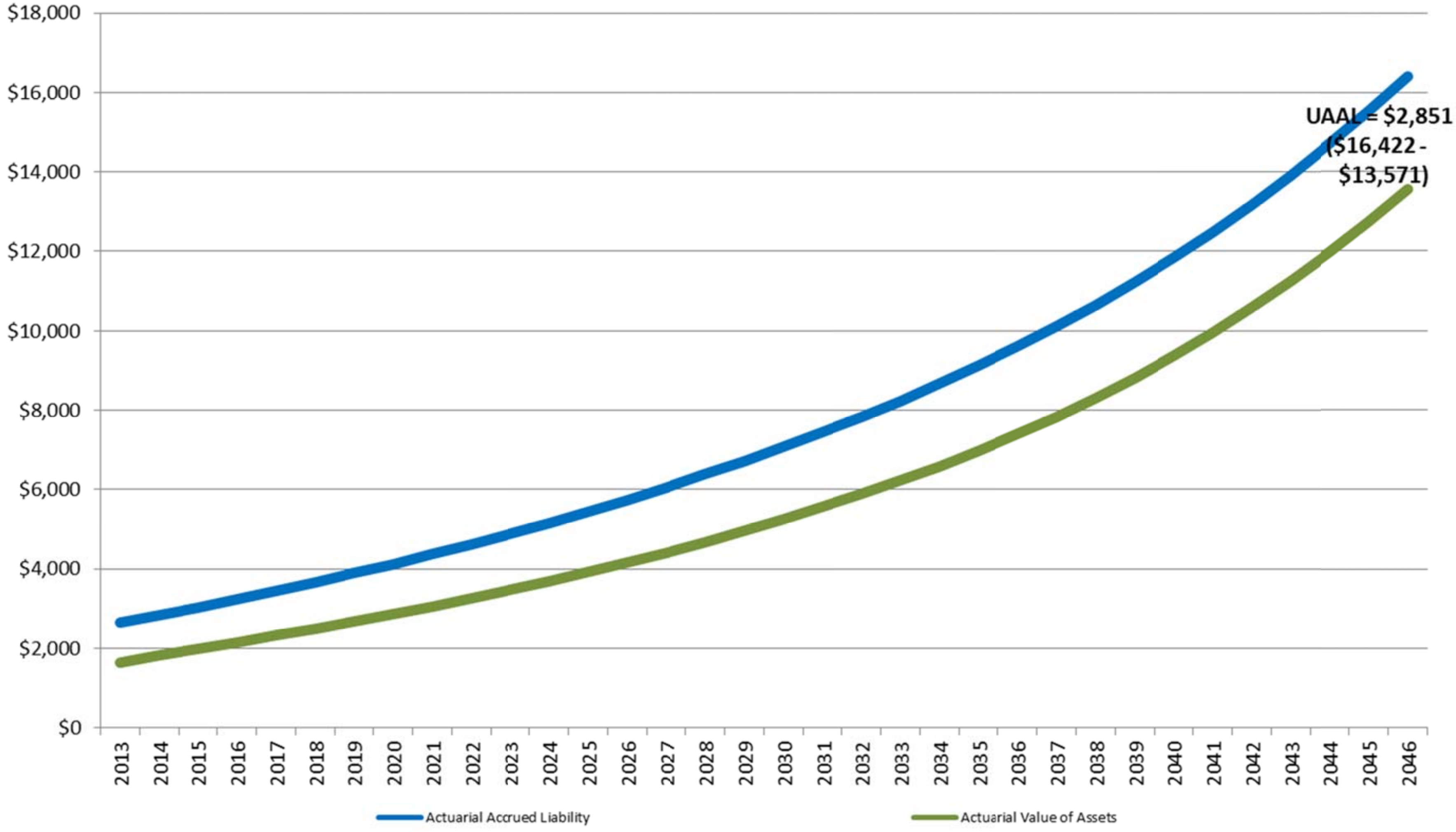
Actuarial Value of Assets and Accrued Liability – Main System: 1.c. Rule of 90, Minimum Retirement Age 62 (In Millions)



Projected Funded Ratios (AVA Basis) – Main System:
2.e. Early Retirement Reductions of 12% Per Year



Actuarial Value of Assets and Accrued Liability – Main System: 2.e. Early Retirement Reductions of 12% Per Year (In Millions)



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Memorandum

TO: PERS Board

FROM: Sparb

DATE: February 13, 2014

SUBJECT: Pre-Medicare Retiree Health/Retiree Health Credit

Last session we submitted HB 1058 which did:

1. Closed the PERS health plan to pre-Medicare retirees on July 1, 2015 (Section 1).
2. Made the retiree health credit portable (Section 2 & 3).

The PERS Benefits Committee is suggesting that we submit legislation this session to move back the effective date from July 1, 2015 to July 1, 2017.

Background on HB 1058

SECTION 1 - CLOSED THE PERS HEALTH PLAN TO PRE-MEDICARE RETIREES

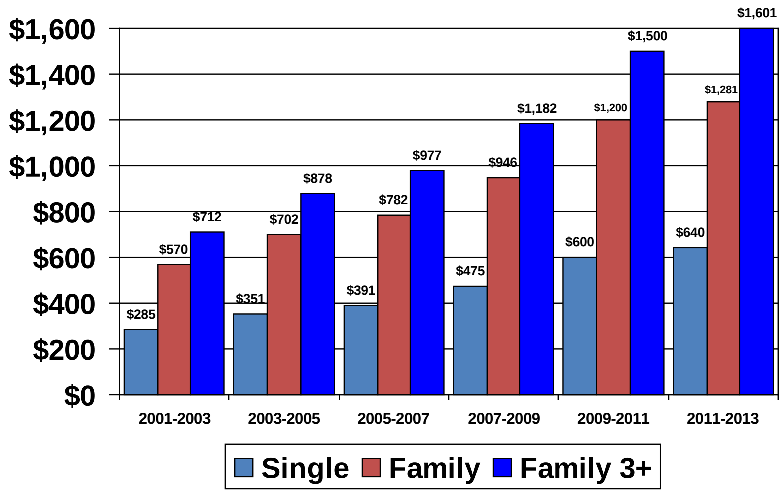
Section 54-52.1-02 (1) authorizes retired employees not eligible for Medicare the option to participate in the PERS Health Plan. Historically this option was available to insure that retiring employees would be able to find health coverage when they retired without having to be exposed to medical underwriting requirements or pre-existing condition provisions. The rate for this coverage is also set in statute as:

– the rate for a non-Medicare retiree single plan is one hundred fifty percent of the active member single plan rate,

– the rate for a non-Medicare retiree family plan of two people is twice the non-Medicare retiree single plan rate, and

– the rate for a non-Medicare retiree family plan of three or more persons is two and one-half times the non-Medicare retiree single plan rate.

The following is a history of the premium for that coverage:



Since the above rate is set by a state statute and is not based upon the actuarial requirements of the group, the above rates while high, do not reflect the full cost of that coverage. If the rate was set based upon the actuarial requirement for the pre-Medicare group, it would be even higher. This difference between the statutory rate and the actuarial rate is called an implicit subsidy of the plan.

Relating to financial reporting of this implicit subsidy, the Governmental Accounting Standards Board (GASB) finalized Statements No. 43 (GASB 43 for funded OPEB plans) and 45 (GASB 45 for employers) in 2004. The statements' objectives are to establish uniform standards of financial reporting by state and local governmental entities for post-employment benefit plans other than pension benefits (OPEB plans). This includes post-employment health care benefits such as the one provided to North Dakota pre-Medicare retirees. Pursuant to these statements the State must report the present value of this implicit subsidy as a footnote on the State's financial reports. The most recent valuation put this amount at $65.2 million. With the adoption of this bill PERS will no longer offer this coverage. Consequently, this liability would be substantially eliminated and, therefore, would not appear on the financial statements.

The second aspect of the implicit subsidy is that in the near term (the cost for one year) the actuarial difference in the cost is applied to the active contracts in the plan. The estimated cost of this to the active contracts in the plan is about $2.46 per contract per month on premiums for 2013-15. Again, if the provisions of this bill are approved, this cost would no longer be applied to the active contracts in the plan. In the fiscal note, we assumed that this would reduce the active health insurance coverage by about half of this amount in 2015-17. We would expect that by 2018 nearly all pre-Medicare members would be off the health plan and this entire savings would then be reflected in the active premiums.

While the provisions of this bill will result in the above two savings for the employer (no longer having to report the present value of the subsidy on the states financial statements and the subsidy being reflected on the active rates), what about the effect on retirees? First, as mentioned at the beginning, this coverage was offered to pre-Medicare retirees to insure they had access to coverage when they retired. Due to the passage of the

Affordable Care Act (ACA), there are provisions in the bill that provide access to insurance without having to be concerned with being medically underwritten or having pre-existing condition provisions. Consequently, the primary reason that PERS offers this coverage to this group may no longer apply. Additional advantages for the pre-Medicare retirees to access coverage through the new health care exchanges may be:

- Possible subsidies for coverage
- More selection of plans

The primary disadvantage to our pre-Medicare retirees is that at this time the PERS Retiree Health Insurance Credit is not portable, so they would lose that benefit by going to the health care exchange. That is why Sections 2 & 3 of the bill were proposed. You will note, however, that the effective date of this act is not until July 1, 2015. The reason for this is to allow us enough time to confirm our understanding when the Affordable Care Act provisions are implemented in 2014. We noted in our testimony if our understanding proves to be incorrect, then corrective provisions can be proposed to the 2015 legislative session before we stop offering non-Medicare coverage. The PERS benefits committee is suggesting that due to the rocky rollout of the ACA more time is needed to access its viability as an alternative to the PERS plan for pre-Medicare retirees.

<u>SECTIONS 2 & 3 – RETIREE HEALTH CREDIT PORTABILITY</u>

In 1989, the North Dakota Legislature started the Retiree Health Insurance Credit Program (RHIC). The purpose of this program was to help retirees offset the cost of health insurance. It was recognized at the time that the cost of health insurance was becoming increasingly unaffordable. The monthly benefit formula and benefit paid information is:

<u>BENEFIT FORMULA:</u>

$5 for each year of credited service

<u>Example:</u> $*5 x 25 years = $125*

During the last year, the program paid out the following benefits:

<u>BENEFITS PAID</u>

Average benefit: $118 per month to 4,442 members

This program is presently funded by a 1.14% contribution from payroll.

Presently, this benefit can only be used to purchase PERS retiree health insurance coverage.

If the provision in Section 1 of this bill alone was passed, it would mean that pre-Medicare retirees would not be able to participate in the PERS health plan and would lose this benefit. Consequently, the proposal in Sections 2 & 3 would make this coverage portable for any health insurance coverage and also allow it to be used for the PERS dental, vision, prescription and long term care coverage. This provision adds the portability feature for not only pre-Medicare retirees but also Medicare retirees.

Summary

HB 1058 did two basic things:

1. Closed the PERS Health Plan to pre-Medicare retirees on July 1, 2015 (Section 1). As discussed above, this will eliminate the implicit subsidy associated with offering this coverage, which consists of a present value of about $65 million, thus reducing that amount on the state's financial statements. In addition, this change will reduce the active rates in the future by the annual implicit subsidy cost of about $2.46 per contract per month.

2. Made the retiree health insurance credit portable. While this will increase the cost of this program based upon the most recent actuarial valuation, the additional cost can be paid within the existing contribution.

Recommendation

The PERS Benefits Committee is recommending moving back the effective date of the bill to allow more time to determine that the ACA is a viable alternative for PERS pre-Medicare Retirees.

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Memorandum

TO: PERS Board

FROM: Sparb

DATE: February 13, 2014

SUBJECT: Defined Contribution Plan Legislation

As we have reviewed, there is much discussion about Defined Contribution Plans these days. Among our responsibilities in NDCC 54-52.6 is the administration of the state DC option which has given us an administrative perspective on the plan with regard to its strengths and weaknesses. Among its strengths are the lower costs, enhanced services and additional investment options that have been added to the DC plan since its inception in 1999 through the bidding process. Among its weaknesses we have noted the following:

1. Pension Adequacy - Contribution levels
2. Limited disability benefit
3. Limited spouse benefit
4. Time for financial planning

It should be noted that while there is discussion on DB vs. DC and who should be in what plan, there is little to no discussion of the above plan design features. This memo outlines each of the above features and provides a staff recommendation for proposed legislation.

1. Pension Adequacy - Contribution Levels

In recent years we have had Segal do a study concerning the benefit levels in the DC plan compared to the DB/Hybrid plan. The following table summarizes their findings for the existing population:

Ratio of Projected DC to DB Benefits	Future Contribution Rate: Current Plan 14.12% effective January 1, 2014	Increase to 16.12% effective July 1, 2015	Increase to 20.00% effective July 1, 2015
Less than 50%	49	41	32
50% - 75%	149	131	106
75% - 100%	27	52	69
100% and Over	2	3	20
Total	227	227	227

In that report Segal said:

Concerning the above, the Segal report stated: *Overall, this analysis shows that the majority of the current DC Plan members are projected to receive significantly less retirement income under the DC Plan than projected under the DB Plan. In particular, the ratio of DC Plan to DB Plan benefits declines somewhat as age increases, and declines dramatically as length of service increases. The DC Plan benefits are projected to be higher with an increase in the contribution rate but are still less than 100% of the DB Plan benefits for most participants. Under existing contribution levels, the only way that DC Plan benefits would consistently reach the level of DB Plan benefits would be to earn long term investment returns above the assumed 8%.*

For many of the above members the reason the benefit is so low is due to the poor timing of the plan's implementation, which was when the markets crashed, and secondly, due to the low contribution level. While little can be done about the investment environment, we can consider actions relating to the contribution levels. To that extent we did include the DC plan in our recovery plan legislation with the goal of increasing the contributions to plan to provide a more reasonable benefit.

In considering what is a reasonable level for the DC plan, we have been benchmarking it against that DB plan which pays a benefit at 25 years of service of 50% of final average salary. For a new DC member entering the plan at age 35 and retiring at their normal retirement age, they would receive a benefit of equal to about 85.5% of the DB benefit. This review would indicate that the DC plan is providing a lower benefit then the DB plan to its participants (this does not include a risk premium).

With the above in mind, in recent years we have worked to increase the contribution level to the DC plan. It is now at 14.12% compared to 8.12% when the plan started (at that point the DC benefit would have been about 49.5% of the DB benefit). This has helped the plan for new employees going forward. These increases have been included in the recovery plan legislation and were proposed to go to 16.12% (which would have gotten the DC benefit to about 94% of the DB benefit based upon the above situation). If we do not submit additional contribution increase legislation for the DB plan (Option #1 in the retirement memo) and go with Option #2, the question is if we should continue pursuing additional contributions to this plan? The following table shows for a new employee the projected level of benefits compared to the DB/Hybrid plan. It would suggest that enhancing the contribution level would be appropriate.

For a new participant entering at age 35, these are the ratios we calculated.

Contribution	DC/DB ratio
8.12%	49.50%
14.12%	85.54%
16.12%	94.31%
20.00%	116.05%

The options relating to pension adequacy/contributions would be based upon the original recovery plan:

Options #1	Option #2 (assuming no Hybrid increase)	Option #2 (assuming no Hybrid increase)	Option #3 (assuming no Hybrid increase)
No action on Pension Adequacy	Increase employee contributions for DC plan by 2%	Increase employer contributions for DC plan by 2%	Increase employer/ employee contributions for DC plan by 1%

Staff Recommendation
Staff would suggest that if Option #1 (in the retirement memo) is submitted for the DB/Hybrid plan, then Option #3 above should be submitted for the DC plan (this would be the same approach as used in the past). If Option #2 (in the retirement memo) for the DB/Hybrid plan is submitted then staff would suggest Option #1 above (increase employee contributions by 2%) should be submitted for new employees to the DC plan. Please note this would be just for new employees and that the PERS Benefits Committee had no recommendation on this.

2. Limited Disability Benefit

The DC plans disability benefit is the member's cash balance. We note that the DB/Hybrid Plan's benefit is 25% of salary after 6 months of employment. We have noted this in our testimony on the DC plan as an area of concern with the existing DC plan since the benefit level is so low.

Staff Recommendation
Staff would suggest legislation providing for disability insurance to DC plan members that would be equal to that in the DB/Hybrid plan to be paid by the employer with an increase in employer contributions. To provide time to implement this option, it is suggested that it not be effective until July 2017. The PERS Benefits committee did not make a recommendation on this but a couple of members though it may be beneficial.

3. Limited Spouse Benefit

The DC plan surviving spouse benefit is the member's cash balance. In the DB/Hybrid plan the spouse is entitled to 50% of the accrued benefit for life. Clearly the DC plan does not have an adequate spouse benefit.

Staff Recommendation
Staff would suggest legislation providing for a spouse benefit upon the death of the member of $50,000 that would paid by the employer with an increase in employer contributions. To provide time to implement this option and get it included in the budget, it is suggested that it not be effective until July 2017. The PERS Benefits committee did not make a recommendation on this, but a couple of members though it may be beneficial.

4. Time for Financial Planning

One of the key elements of the DC plan is the member's responsibility for investing their own funds. They direct the asset allocation and are responsible for monitoring it and rebalancing their portfolio as needed. We know that many of the DC members need assistance in this effort to be successful. To date, our participating employers have allowed employees to meet with investment advisors, provided by our vendor, during working hours. However, with the expansion of the program to more employees and more state employers, it may be beneficial to specify in legislation that DC members get up to 4 hours of leave each year to meet with investment advisors.

Staff Recommendation

Staff would suggest legislation providing up to 4 hours of paid leave annually for DC members to meet with investment advisors. There was some concern expressed by one of the members on the PERS Benefits Committee about adding this to state statute.

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Memorandum

TO: **NDPERS Board**

FROM: **Kathy & Sparb**

DATE: **February 12, 2014**

SUBJECT: **Technical Legislation**

In March we must finalize our proposed legislation. Attachments 1 & 2 are suggestions by PERS staff relating to various administrative changes for the Main and Highway Patrol Systems and the Uniform Group Insurance Program. Staff is requesting your direction on the attached so we can prepare legislative bill drafts for your consideration and approval at the March meeting.

Board Action Requested

Determine what items should be included in proposed legislation for next session.

Retirement – Main System

Attachment 1

	NDCC Section Changed	Proposed Change	Reason for Proposed Change
1	**54-52-17.2 (1b 1 & 2)**	Update the final average salary from 120 to 180 months. b(1)*The <ins>final</ins> average ~~of the highest~~ salary ~~received by the member for any thirty-six months employed during the last one hundred twenty months of employment in the public employees retirement system salary~~ as calculated in 54-52-17. b(2) The <ins>final</ins> average ~~of the highest~~ salary ~~received by the member for any thirty-six consecutive months during the last one hundred twenty months~~ <ins>as calculated in 54-52-17</ins> ~~of~~ <ins>for</ins> employment with any of the three eligible employers under this subdivision, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system.*	This is a technical correction as this was previously overlooked when this change was originally implemented.
2	**54-52-02.9 & 54-52.6-02(3)**	Eliminate eligibility of temporary employees to participate in the Main and Defined Contribution plans, prospectively.	Participation by these individuals is a liability to the Retiree Health Insurance Credit fund.
3	**54-52-17.2**	Clarify that dual membership does not apply to temporary employees.	Participation by these individuals is a liability to the Retiree Health Insurance Credit fund.
4	**54-52-05 & 06**	Allow the NDPERS board general authority to establish rules with regard to options available to members to make payment for missed retirement contributions. *<ins>The board may establish rules to specify a payment option for missed retirement contributions</ins>*	Currently members are only allowed to make up missed retirement contributions with a lump sum payment.
5	**54-52-02**	Allow NDPERS to 'auto' enroll eligible members for participation in the respective defined benefit plan when we have all information necessary required from the employer to determine eligibility and the employer is reporting wages and paying contributions for a member that was not enrolled by the employer.	If the employer does not enroll an eligible member for participation, NDPERS cannot accept the contributions. See comments provided by Segal in attachment 2.
6	**54-52-17.14**	Incorporate the provisions of the Heroes Earnings Assistance and Relief Tax Act (HEART). *If a participating member dies on or after January 1, 2007 while performing qualified military service (as defined in section 414(u)(5) of the Internal Revenue Code), the deceased member's beneficiaries shall be entitled to any death benefits (other than credit for years of service for purposes of benefits) that would have been provided under the Plan if such participating*	Compliance with federal requirements. (Language was provided by Segal.)

	NDCC Section Changed	*Proposed Change*	*Reason for Proposed Change*
		member had resumed employment and then terminated employment on account of death. In addition, the period of such member's qualified military service shall be treated as vesting service under the Plan."	
7	**54-52-28**	The board shall administer the plan in compliance with the following sections of the Internal Revenue Code in effect on August 1, ~~2013~~2015, as it applies for governmental plans.	Each session we submit this to update the reference to the IRS code.

Retirement – Highway Patrol

	NDCC Section Changed	Proposed Change	Reason for Proposed Change
1	**39-03.1-14.1(3a&b)**	Update final average salary from 120 to 180 months. 3(a) *By using the <u>final</u> average salary ~~of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment in the highway patrolmen's retirement system.~~ <u>as calculated in 39-03.1-11.</u>* *3(b) Using the final average ~~of the highest~~ salary ~~received by the member for any thirty-six months during the last one hundred twenty months~~ <u>as calculated in 39-03.1-11</u> ~~of~~ <u>for</u> employment, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system.*	This is a technical correction as this was previously overlooked when this change was originally implemented.
2	**39-03.1-11.2**	The board shall administer the plan in compliance with the following sections of the Internal Revenue Code in effect on August 1, ~~2013~~<u>2015</u>, as it applies for governmental plans.	Each session we submit this to update the reference to the IRS code.
3	**39-03.1-01(06)**	*"Salary" means the actual dollar compensation, excluding any bonus, overtime or <u>expense allowance</u>, paid to or for a contributor for the contributor's services.*	Clarify the definition of Salary.

Group Health

	NDCC Section Changed	Proposed Change	Reason for Proposed Change
1	**54.52.1-03.4**	*A temporary employee employed before August 1, 2007, may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program if such election is made prior to and they are participating in the uniform group insurance program as of January 1, 2015. A temporary employee employed on or after August 1, 2007, is only eligible to participate in the uniform group insurance program if the employee is employed at least twenty hours per week and at least twenty weeks each year of employment and elected to participate prior to, and is participating in the uniform group insurance program as of January 1, 2015. A temporary employee first employed on or after ~~December 31, 2013~~ January 1, 2015, or any temporary employee not participating in the uniform group insurance program as of January 1, 2015, is eligible to participate in the uniform group insurance program only if the employee meets the definition of a full-time employee under section 4980H(c)(4) of the Internal Revenue Code [26 U.S.C. 4980H(c)(4)].*	To comply with the new definition of temporary employees contained in the ACA. Language was provided by legal counsel.
2	**54-52.1-18**	Propose language to clarify that participation by political subdivisions would be as a group and not as an option to the PPO/Basic plan on an individual employee basis. *A political subdivision electing this option agrees to only offer the high deductible health plan to employees and will not offer the plan under section 54-52.1-06.* ~~Each new employee of a participating employer under this section must be provided the opportunity to elect the high-deductible health plan alternative.~~	Based on current language, it appears that coverage can be made available to political subdivisions on an individual basis as an option to the PPO/Basic plan. The intent was to make the HDHP available on a group basis.

3	**54-52.1-18**	Clarify conditions under which an employee may maintain coverage in the HDHP if the employer is unable to establish an HSA. *Subject to the limits of section 223(b) of the Internal Revenue Code [26 U.S.C. 233(b)], the difference between the cost of the single and family premium for eligible state employees under section 54-52.1-06 and the premium for those employees electing to participate under the high-deductible health plan under this section must be deposited in a health savings account for the benefit of each participating employee <u>unless the public employees retirement system is unable to establish a health savings account due to the employee's ineligibility under federal or state law or due to the failure of the employee to provide necessary information in order to establish the account, then the system shall not be responsible for depositing the health savings account contribution. The member will remain a participant in the high deductible health plan.</u> Each new <u>state</u> employee ~~of a participating employer under this section~~ must be provided the opportunity to elect the high-deductible health plan alternative. At least once each biennium, the board shall have an open enrollment period allowing existing <u>state</u> employees ~~of a participating employer under this section~~ <u>or a political subdivision</u> to change their coverage.*	Federal law requires confirmation of certain demographic data in order for an HSA to be established and accept contributions for a participant. Provides staff with direction as to options should a participant not respond to our request for information or is not eligible to have an HSA.
4	**54-52.1-03**	Modify language so that NDPERS can automatically enroll an eligible employee in the basic life insurance and EAP program.	This will assist NDPERS with establishing employer paid benefits for eligible employees in a timely manner without requiring employee elections.
5	**54-52.1-03.1**	Clarify that political subdivisions can only join the NDPERS insurance plan if permitted under federal law.	Clarification is necessary due to ACA provision that small employer groups must participate in a Qualified Health Plan that is rated based upon a unique rating pool, which the NDPERS health plan does not meet.

Attachment 2

1) Since participation in the Plan is mandatory and you already receive the information necessary to enroll new members, I think PERS has the authority to adopt a policy on establishing membership in Plan for new employees while you are waiting for the member to complete the required enrollment form. This should be an interim solution until you can amend the Admin Code and/or Century Code to establish enrollment without the member completing a form, since a statutory rule on enrollment would be preferable to an internal policy. It is fairly common among contributory governmental plans to require an enrollment form from new members, even though membership is mandatory, so other public systems have such internal policies on what to do if the member does not complete the form.

2) In order to ensure that such a policy is consistent with the current Admin Code rules, you may wish to include language that describes why and how you are "auto enrolling" new members until an enrollment form is received. That is, you could state that: a) membership is mandatory; b) PERS receives sufficient information from the employer to enroll new members; c) PERS has determined that it is prudent to allocate the contributions made on behalf of new members as soon as possible, even where an enrollment form has not yet been submitted; d) once an enrollment form is submitted by the new member, enrollment and participation are retroactive to the date of hire (or other participation entry date). I would also recommend that the policy clearly indicate that this policy governs permanent employees and does not affect the current rules for temporary employees to voluntary enroll in the PERS.

3) The only concern that you may want to address is whether the State's wage withholding laws require a member's permission before employee contributions can be deducted from wages, which may explain why an enrollment form is necessary.

Regards.

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Sixty-fourth
Legislative Assembly
of North Dakota

________ BILL NO. _____

Introduced by

(At the request of the Public Employees Retirement System)

A BILL for an Act to amend and reenact subsection 6 of section 39-03.1-01, section 39-03.1-11.2, subsection 3 of section 39-03.1-14.1, subsection 1 of section 54-52-05, subsection 1 of section 54-52-17.2, sections 54-52-17.14, 54-52-28, subsection 1 of section 54-52.1-03, sections 54-52.1-03.1, 54-52.1-03.4, and 54-52.1-18 of the North Dakota Century Code, relating to the definition of salary, incorporation of Internal Revenue Code compliance, and calculation of final average salary under the highway patrolmen’s retirement plan, employee enrollment, the eligibility for benefits of a temporary employee having multiple plan membership, the calculation of final average salary, and incorporation of federal law changes under the public employee’s retirement system, requests for coverage for minimum employer paid life insurance benefits coverage or employee assistance benefits coverage, the eligibility of political subdivisions to join, and the eligibility of temporary employees to participate in the uniform group insurance program, the eligibility of political subdivisions to offer participation in the high deductible health plan, and the failure to establish a health savings account when the high deductible health plan is elected.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 39-03.1-01 of the North Dakota Century Code is amended and reenacted as follows:

6. "Salary" means the actual dollar compensation, excluding any bonus, ~~or~~ overtime, or expense allowance, paid to or for a contributor for the contributor's services.

SECTION 2. AMENDMENT. Section 39-03.1-11.2 of the North Dakota Century Code is amended and reenacted as follows:

39-03.1-11.2. Internal Revenue Code compliance.

The board shall administer the plan in compliance with the following sections of the Internal Revenue Code in effect on August 1, ~~2013~~2015, as it applies for governmental plans.

1. Section 415, including the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code.
    a. The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as approved by the legislative assembly, must be adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session. The adjustment of the defined benefit dollar limitation under section 415(d) applies to participating members who have had a separation from employment, but that member's benefit payments may not reflect the adjusted limit prior to January first of the calendar year in which the adjustment applies.
    b. If a participating member's benefit is increased by plan amendment after the commencement of benefit payments, the member's annual benefit may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as adjusted under section 415(d) for the calendar year in which the increased benefit is payable.
    c. If a participating member is, or ever has been, a participant in another defined benefit plan maintained by the employer, the sum of the participant's annual benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating

member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. This reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.

2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.

3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).

4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.

5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued

retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

SECTION 3. AMENDMENT. Subsection 3 of section 39-03.1-14.1 of the North Dakota Century Code is amended and reenacted as follows:

3. Pursuant to rules adopted by the board, a member who has service credit in the system and in any of the alternate plans described in subdivision a or b of subsection 1 is entitled to benefits under this chapter. The employee may elect to have benefits calculated using the benefit formula in section 39-03.1-11 under either of the following calculation methods:

    a. By using the final average ~~of the highest~~ salary ~~received by the member for any thirty-six months employed during the last one hundred twenty months of employment in the highway patrolmen's retirement system~~as calculated in 39-03.1-11. If the participating member has worked for less than thirty-six months at retirement, the final average salary is the average salary for the total months of employment.

    b. Using the final average ~~of the highest~~ salary ~~received by the member for any thirty-six months during the last one hundred twenty months of~~as calculated in 39-03.1-11 ~~employment~~, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system.

The board shall calculate benefits for an employee under this subsection by using only those years of service employment earned under this chapter.

SECTION 4. AMENDMENT. Subsection 1 of section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

1. Every eligible governmental unit employee ~~concurring in the plan must so state in writing~~ and all future eligible employees are participating members in the plan and must be enrolled in the plan within the first month of employment. An employee who was not enrolled in the retirement system when eligible to participate must be enrolled immediately upon notice of the employee's eligibility, unless the employee waives in writing the employee's right to participate for the previous time of eligibility, to avoid contributing to the fund for past service. An employee who is eligible for normal retirement who accepts a retirement benefit under this chapter and who subsequently becomes employed with a participating employer other than the employer with which the employee was employed at the time the employee retired under this chapter may, before ~~reenrolling~~being reenrolled in the retirement plan, elect to permanently waive future participation in the retirement plan and the retiree health program and maintain that employee's retirement status. An employee making this election is not required to make any future employee contributions to the public employees retirement system nor is the employee's employer required to make any further contributions on behalf of that employee.

SECTION 5. AMENDMENT. Subsection 1 of section 54-52-17.2 of the North Dakota Century Code is amended and reenacted as follows:

1. a. For the purpose of determining eligibility for benefits under this chapter, an employee's years of service credit is the total of the years of service credit earned in the public employees retirement

system and the years of service credit earned in any number of the following:

(1) The teachers' fund for retirement.

(2) The highway patrolmen's retirement system.

(3) The teachers' insurance and annuity association of America - college retirement equities fund (TIAA-CREF), for service credit earned while employed by North Dakota institutions of higher education. Service credit may not exceed twelve months of credit per year.

b. Pursuant to rules adopted by the board, an employee who has service credit in the system and in any of the plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter. ~~The~~A permanent employee and a temporary employed prior to August 1, 2015, may elect to have benefits calculated using the benefit formula in section 54-52-17 under either ~~of the following methods:~~method listed in this subdivision. A temporary employee employed on or after August 1, 2015, will have benefits calculated using the benefit formula in section 54-52-17 under the method listed in paragraph (1).

(1) The final average ~~of the highest~~ salary ~~received by the member for any thirty-six months employed during the last one hundred twenty months of employment in the public employees retirement system~~as calculated in 54-52-17. If the participating member has worked for less than thirty-six months at retirement, the final average salary is the average salary for the total months of employment.

(2) The final average ~~of the highest~~ salary ~~received by the member for any thirty-six consecutive months during the last one hundred twenty months of~~as calculated in 54-52-17 for employment with any of the three eligible employers under this subdivision, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system.

The board shall calculate benefits for an employee under this subsection by using only those years of service credit earned under this chapter.

SECTION 6. AMENDMENT. Section 54-52-17.14 of the North Dakota Century Code is amended and reenacted as follows:

54-52-17.14. Military service under the Uniformed Services Employment and Reemployment Rights Act - Member retirement credit.

A member reemployed under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4333], is entitled to receive retirement credit for the period of qualified military service. The required contribution for the credit, including payment for retiree health benefits, must be made in the same manner and by the same party as would have been made had the employee been continuously employed. If the salary the member would have received during the period of service is not reasonably certain, the member's average rate of compensation during the twelve-month period immediately preceding the member's period of service or, if shorter, the period of employment immediately preceding that period, times the number of months of credit being purchased must be used. Employees must be allowed up to three times the period of military service or five years, whichever is less, to make any required payments. This provision applies to all qualifying periods of military service since October 1, 1994. Any payments made by the member to receive qualifying credit inconsistent with this provision must be refunded. Employees shall make application to the employer for credit and provide a DD Form 214 to verify service. If a participating member dies on or after January 1, 2007, while performing qualified military service, as defined in section 414(u)(5) of the Internal Revenue Code, the deceased member’s beneficiaries shall be entitled to any death benefits, other than credit for years of service for purposes of benefits, that would have been provided under the plan if such participating member had resumed employment and then terminated employment on account of death. The period of such member’s qualified military service shall be treated as vesting service under the plan.

SECTION 7. AMENDMENT. Section 54-52-28 of the North Dakota Century Code is amended and reenacted as follows:

54-52-28. Internal Revenue Code compliance.

The board shall administer the plan in compliance with the following sections of the Internal Revenue Code in effect on August 1, ~~2013~~2015, as it applies for governmental plans.

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

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

c. If a participating member is, or ever has been, a participant in another defined benefit plan maintained by the employer, the sum of the participant's annual benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. The reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.

2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.

3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

SECTION 8. AMENDMENT. Subsection 1 of section 54-52.1-03 of the North Dakota Century Code is amended and reenacted as follows:

1. Any eligible employee may be enrolled in the uniform group insurance program created by this chapter by requesting enrollment with the employing department. If an eligible employee does not enroll in the uniform group insurance program at the time of beginning employment, the eligible employee must meet minimum requirements established by the board to enroll thereafter. An employing department shall not require an active eligible employee to request coverage to receive the minimum employer paid life insurance benefits coverage or employee assistance program benefits coverage.

SECTION 9. AMENDMENT. Section 54-52.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

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

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

SECTION 10. AMENDMENT. Section 54-52.1-03.4 of the North Dakota Century Code is amended and reenacted as follows:

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

A temporary employee employed before August 1, 2007, may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program if such election is made prior to and they are participating in the uniform group insurance program as of January 1, 2016. A temporary employee employed on or after August 1, 2007, is only eligible to participate in the uniform group insurance program if the employee is employed at least twenty hours per week and at least twenty weeks each year of employment and elected to participate prior to and is participating in the uniform group insurance program as of January 1, 2016. A temporary employee first employed on or after ~~December 31, 2013~~January 1 , 2016, or any temporary employee not participating in the uniform group insurance program as of January 1, 2016, is eligible to participate in the uniform group insurance program only if the employee meets the definition of a full-time employee under section 4980H(c)(4) of the Internal Revenue Code [26 U.S.C. 4980H(c)(4)]. The temporary employee or the temporary employee's employer shall pay monthly to the board the premiums in effect for the coverage being provided. In the case of a temporary employee who is an applicable taxpayer as defined in section 36B(c)(1)(A) of the Internal Revenue Code [26 U.S.C. 36B(c)(1)(A)], the temporary employee's required contribution for medical and hospital benefits self-only coverage may not exceed the maximum employee required contribution specified under section 36B(c)(2)(C) of the Internal Revenue Code [26 U.S.C. 36B(c)(2)(C)], and the employer shall pay any difference between the maximum employee required contribution for medical and hospital benefits self-only coverage and the cost of the premiums in effect for this coverage. An employer may pay health or life insurance premiums for a permanent employee on an unpaid leave of absence. A political subdivision, department, board, or agency may make a contribution for coverage under this section.

SECTION 11. AMENDMENT. Section 54-52.1-18 of the North Dakota Century Code is amended and reenacted as follows:

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

The board shall develop and implement a high-deductible health plan as an alternative to the plan under section 54-52.1-06. The high-deductible health plan alternative with a health savings account must be made available to state employees by January 1, 2012. The high-deductible health plan alternative may be offered, at the discretion of the board, to political subdivisions after June 30, 2013. A political subdivision electing this option agrees to only offer the high deductible health plan to employees and will not offer the plan under section 54-52.1-02. Health savings account fees for participating state employees must be paid by the employer. Subject to the limits of section 223(b) of the Internal Revenue Code [26 U.S.C. 233(b)], the difference between the cost of the single and family premium for eligible state employees under section 54-52.1-06 and the premium for those employees electing to participate under the high-deductible health plan under this section must be deposited in a health savings account for the benefit of each participating employee unless the public employees retirement system is unable to establish a health savings account due to the employee’s ineligibility under federal of state law or due to failure of the employee to provide necessary information in order to establish the account, then the system shall not be responsible for depositing the health savings account contribution. The member will remain a participant in the high deductible health plan regardless of whether a health savings account is established. Each new state employee ~~of a participating employer under this section~~ must be provided the opportunity to elect the high-deductible health plan alternative. At least once each biennium, the board shall have an open enrollment period allowing existing <u>state </u>employees ~~of a participating employer under this section~~<u>or a political subdivision </u>to change their coverage.

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

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

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

Memorandum

TO: PERS Board

FROM: Sparb

DATE: March 10, 2014

SUBJECT: Retirement and Health Consultants

At this meeting we will continue our discussion on the health and retirement consultant. Attached, for your reference, are the Board memos from the last meeting:

1. Retirement Consultant
2. Health Consultant

Also at the last meeting we discussed going out to bid for a consultant to assist with the placement of the health plan. Attached is a draft RFP for that effort.

We also discussed continuing Deloitte for the next year to help with the general consulting, in particular assisting our employers with implementing the shared responsibility rules.

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Public Employees Retirement System
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Memorandum

TO: PERS Board

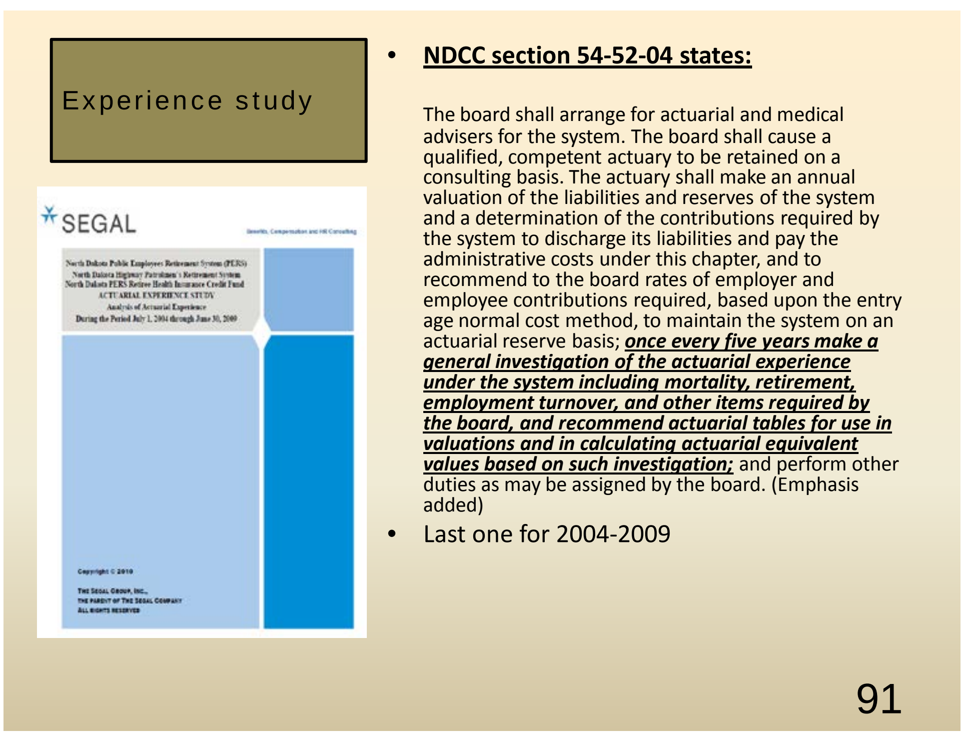
FROM: Sparb

DATE: February 12, 2014

SUBJECT: Retirement Consultant (Segal)

At the January 2014 meeting it was decided to seek a renewal offer from Segal for two more years since they have been extensively involved in developing our recovery plan, doing all the requested projections and working on the DC option.

In addition to the attached work efforts, we discussed the Experience Study:



If you elect to extend the Segal contract for the next two years, I will follow-up with them to get a quote on the experience study.

Staff would recommend extending the Segal contract due to:

1. Experience with the recovery plan.
2. Experience with the DC option.
3. The ability to coordinate with the TFFR in the next two years on the GASB implementation.

BOARD ACTION REQUESTED

Determine if the Segal contract should be extended.

Segal Consulting

5990 Greenwood Plaza Boulevard Suite 118 Greenwood Village, CO 80111-4708
T 303.714.9900 www.segalco.com

February 7, 2014

Mr. Sparb Collins
Executive Director
North Dakota Public Employees' Retirement System
400 East Broadway, Suite 505
Bismarck, ND 58502

Re: Proposed Contract Extension

Dear Sparb:

The current consulting services contract extension expires on June 30, 2014. Based upon your request, we are proposing our fees for the next two years of the current contract. Due to the increasing costs of providing actuarial and consulting services, we are requesting an approximate 3% increase in our fixed fee in both years of the extension period.

Segal values our over 20-year relationship with the System and has made every effort to provide increases that support the ever increasing level of diligence and care required for all public employee retirement systems. Our knowledge of the System's plans and provisions enhances assessing the impact of proposed changes and identifying future challenges. We will continue to work closely with the Board and staff through increased communications utilizing team calls to assure concurrence on and the outcome of core services and special projects.

The following tables set forth the proposed fees for consideration.

Fixed Fee Rates	Existing Fee 7/1/13-6/30/14	Proposed Fee Year One 7/1/14-6/30/15	Proposed Fee Year Two 7/1/15-6/30/16
Actuarial Valuation and Consulting Services			
• Plans: General, Judges, Law Enforcement with prior service. Law Enforcement without prior service. Highway Patrol, National Guard, et.al.	$71,000	$73,100	$75,300
• Retiree Health Insurance Credit Fund	$13,100	$13,500	$13,900
• Job Service North Dakota	$19,000	$19,600	$20,200
Total Fixed Fee Matters	**$103,100**	**$106,200**	**$109,400**

Time Charge Rates		
QDRO, Compliance Consulting, General Consulting and Special Projects	Time Charges per schedule	Time Charges per schedule
Flexible Compensation	Time Charges per schedule	Time Charges per schedule
Legislative Analysis	Time Charges per schedule	Time Charges per schedule
401(a) Defined Contribution Plans	Time Charges per schedule	Time Charges per schedule
457 Plan	Time Charges per schedule	Time Charges per schedule

The overall fixed fee covers the valuations listed above and two onsite meetings, one with the Board and one before the Legislative Committee. Other special projects or consulting will be charged on an hourly rate basis as listed below with prior approval from the System.

Hourly Rates	**Existing Fee 7/1/13-6/30/14**	**Proposed Fee Year One 7/1/14 - 6/30/15**	**Proposed Fee Year Two 7/1/15 - 6/30/16**
Blended Rate	$280	$290	$300

We respectfully submit this proposal for an extension. Please do not hesitate to call if I can answer any questions.

Sincerely,

Brad Ramirez, FSA, MAAA, FCA, EA
Consulting Actuary

/cz

cc: John Coyle
Cathie Eitelberg
Tammy Dixon
Steve Ohanian

North Dakota
Public Employees Retirement System
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Memorandum

TO: PERS Board

FROM: Sparb

DATE: February 13, 2014

SUBJECT: Health Consultant

At the last meeting we discussed if we should continue with Deloitte as our group insurance consultant for the next two years. It was decided that we should get an offer from them. Attached is a letter from Pat with Deloitte. Unlike our retirement consultant which has certain specific projects during the course of the contract, our health consultant is an advisor based upon specific questions that arise during the course of the contract. The only exception to this is the health bid. You will note that Pat included the estimated cost of that effort in the Health Plan placement memo. Consequently, for the other efforts their costs are billed on an hourly basis. Reflected on the attached memo is the hourly rates for Deloitte.

Areas that we need general consulting help include:

1. Implementation of the shared responsibility rules
2. Implementation of other parts of the ACA
3. HIPPA
4. COBRA
5. Part D Renewals
6. Other group insurance areas such as dental, vision and life

Staff would recommend continuing with Deloitte for the next two years to maintain the continuity for implementation of the ACA.

Deloitte.

Deloitte Consulting LLP
50 South Sixth Street
Suite 2800
Minneapolis, MN 55402
USA

Tel: 612-397-4000
Fax: 612-692-4094
www.deloitte.com

February 10, 2014

Mr. Sparb Collins
North Dakota Public Employees Retirement System (NDPERS)
400 East Broadway, Suite 505
Box 1214
Bismarck, ND 58502

Subject: North Dakota Public Employees Retirement System (NDPERS) 2014 – 2015 Consulting Services

Dear Sparb:

Deloitte Consulting was asked to provide our hourly billing rates for providing our consulting services over the next two years. The billing rates were not increased for 2013, so the proposed rates do reflect a small increase from 2012.

Consulting Title	2014 Hourly Billing Rate	2015 Hourly Billing Rate
Director	$480	$495
Senior Manager/Specialist Leader	$430	$450
Manager	$400	$420
Analyst/Consultant	$235	$250

Our billing rates include expenses for overhead, but exclude travel expenses, which are subject to approval in advance by you.

We look forward to continuing to work with you and the PERS Board.

If you have any questions, please contact me at 612.397.4033 or at ppechacek@deloitte.com.

Sincerely,

Deloitte Consulting LLP

By: Patrick L. Pechacek

Patrick L. Pechacek
Director

cc: Josh Johnson

REQUEST FOR PROPOSAL

FOR

North Dakota
Public Employees Retirement System

Uniform Group Insurance
Actuarial and Consulting Services

April 2014

Prepared by:

North Dakota Public Employees Retirement System
400 East Broadway, Suite 505
P.O. Box 1657
Bismarck, ND 58502-1657
701.328.3900

Request for Proposal
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SECTION 1 – INTRODUCTION

This Request for Proposal (RFP) is issued for actuarial and consulting assistance for the period April, 2014 through June 30, 2015. This agreement may be extended by the Board and contractor.

The Board is seeking services of a consultant to develop, issue and evaluate proposals for the group health plan on a fully insured and self insured basis. Since the work effort is dependent on the number of proposals received we are seeking a fixed fee proposal for the development of the RFP's and a fee for service proposal for the evaluation/implementation along with your estimate of the number of hours required.

Following is a sequence of major activities.

April/May, 2014	Begin work on health RFP's. The consultant and NDPERS will meet at the NDPERS office to discuss the upcoming work schedule.
June/July 1, 2014	Issue health RFP's. One for Fully Insured & One for Self Insured
Aug, 2014	Health RFP's fully insured & self insured due.
Aug/Sept , 2014	Submit draft analysis of fully insured proposals and recommendations to NDPERS staff.
Aug, 2014	Review preliminary information on proposals with NDPERS Board.
September, 2014	Submit to NDPERS staff and NDPERS Board draft analysis of fully insured proposals and recommendations.
September, 2014	Conduct interviews if necessary. NDPERS Board selects best fully insured proposal.
October, 2014	Review self insured proposals including evaluation to fully insured proposals with staff and the NDPERS Board.
November, 2014	Conduct interviews if necessary with staff and NDPERS Board.
December, 2014	NDPERS Board determines if plan should be fully insured or self-insured. If self insured the NDPERS Board selects vendor(s).
Jan-April, 2015	North Dakota Legislative session begins. Assist with providing information as requested.
April, 2015	Assist with implementation of the plan for 2015-17

SECTION 2 - BACKGROUND

A. The Agency:

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

NDPERS is managed by a Board comprised of seven members:

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

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

B. Group Health

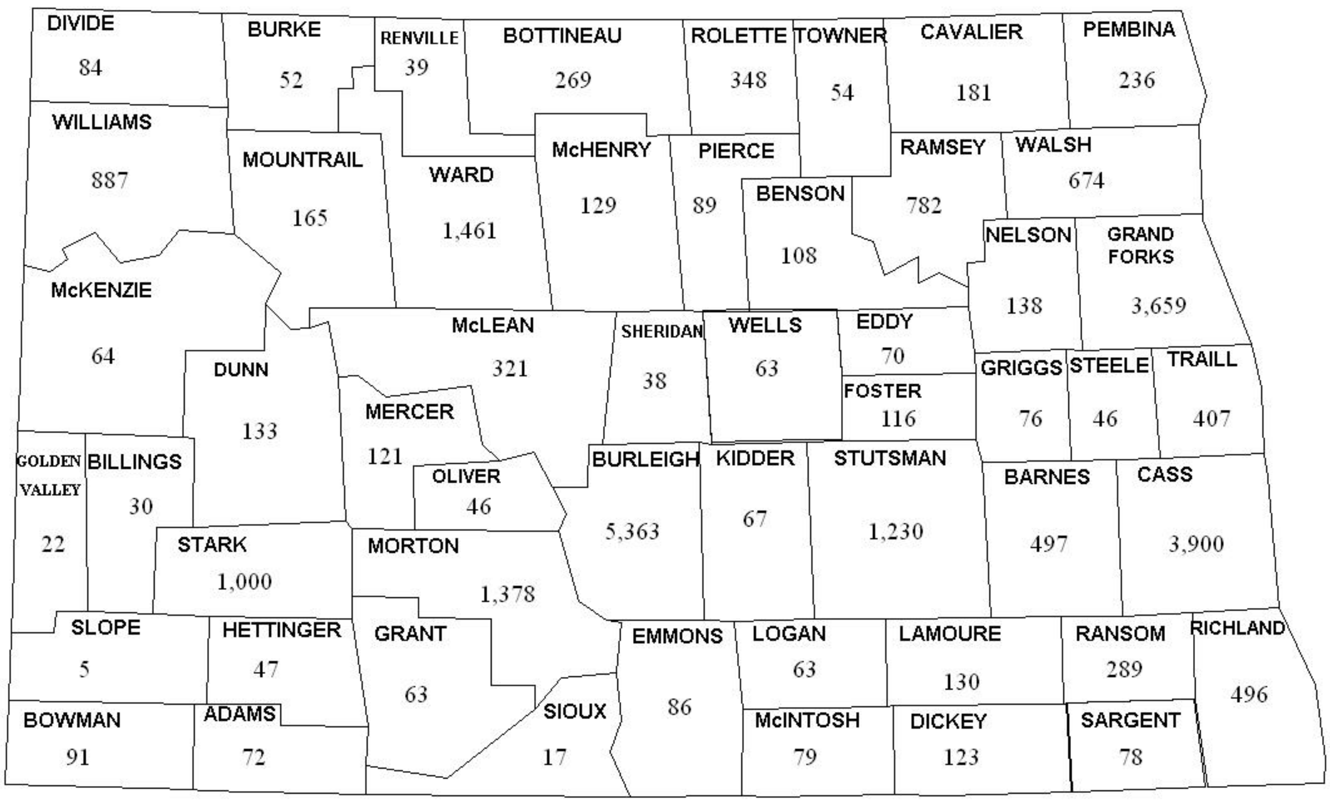
<u>Group Health:</u>

The Uniform Group Health Insurance Plan is presently a fully insured plan underwritten by BCBSND. All state employees are eligible to be covered under the plan, including the staff at colleges and universities. Political subdivisions may participate in the health plan at their option. Retirees may also participate in the plan. Estimated premiums for this biennium (2013-2015) will be approximately $550,000,000 and the number of contracts under the plan is estimated to be 28,500.

The following map shows the members of the plan and their geographic distribution:

NDPERS Health Contracts

January 2014



Out-of-State – 2,565

Total – 28,544

Average Contract Size = 2.27

SECTION 3 - SCOPE OF SERVICES

This Section outlines the scope of services.

A. Bid Process

The North Dakota Century code directs in NDCC 54-52.1-04.2:

> *Any self insurance plan under this section …..may be established only if it is determined by the board that an administrative services only or third-party administrator plan is less costly than the lowest bid submitted by a carrier for underwriting the plan with equivalent contract benefits*.

Pursuant to this direction we are asking for the two proposals, one for a fully insured plan and the other for a self insured plan. As outlined, the first step in the process is to review the fully insured proposals. The findings will be reported to the Board and the fully insured proposal that is most responsive to the review criteria will be selected by the Board.

Once the above is completed, the second step in the process will be the review of the self insured proposals. As directed in North Dakota statute, these proposals will be reviewed to determine if any of the proposals are "less costly" than the fully insured proposal. Cost is interpreted as all costs associated with a self insured proposal as compared to the fully insured proposal.

North Dakota statute also directs that stop loss coverage shall be a part of any self insured plan. In addition, statute directs the establishment of reserves for a self insured plan as follows:

1. The Board shall establish under a self-insurance plan a contingency reserve fund to provide for adverse fluctuations in future charges, claims, costs, or expenses of the uniform group insurance program.
2. The Board shall determine the amount necessary to provide a balance in the contingency reserve fund between one and one-half months and three months of claims paid based on the average monthly claims paid during the twelve-month period immediately preceding March first of each year.
3. The Board also shall determine the amount necessary to provide an additional balance in the contingency reserve fund between one month and one and one-half months for claims incurred but not yet reported.
4. The Board may arrange for the services of an actuarial consultant to assist the Board in making these determinations
5. Upon the initial changeover from a contract for insurance pursuant to section 54-52.1-04 to a self-insurance plan pursuant to section 54-52.1-04.2, the Board must have a plan in place which is reasonably calculated to meet the funding requirements of this chapter within sixty months.

B. Bid Solicitation and Evaluation for the Group Health Insurance Bids

The consultant will be expected to take a lead role in developing and issuing RFPs, and analyzing any proposals for the group health plan:

1. The first bid will be for the plan on a fully insured basis.
2. The second bid will be for the plan on a self insured basis.

Information on the existing plan is available at http://www.nd.gov/ndpers/insurance-plans/group-health.html. Information on the retiree plan can be found at: http://www.nd.gov/ndpers/insurance-plans/group-health-retirees.html. You will note the existing plans offered by NDPERS for active members are a PPO Grandfathered Plan; a PPO Non-grandfathered plan and an HDHP/HSA. The retiree plan is the equivalent of Med Supplement Plan F. NDPERS also offers a Part D plan for retirees which will be a part of the bid. The renewal date for that plan, however, is on a calendar year.

Pursuant to NDCC 54-52.1-14 the group insurance program has a wellness program. Information on that program can be found at http://www.nd.gov/ndpers/insurance-plans/employer-based-wellness.html.

The proper placement of this plan is a major and significant task for NDPERS. The consultant must provide the following service for all of the above efforts:

1. Sections 54-52.1-04 and 54-52.1-04.2 NDCC requires that the NDPERS Board solicit bids for the insurance programs. The consultant must prepare draft bid proposals to replicate the existing plans pursuant to the schedule outlined previously. The consultant will also be responsible for developing a list of firms to be solicited. This list will be supplemented by requests NDPERS has received and those additional requests that come in as a result of a notice appearing in local newspapers in North Dakota.

2. The Board and staff will review draft RFP's pursuant to the schedule outlined previously.

3. The consultant shall review all bids within the timeframes previously outlined. The analysis shall include the following:

   a) Confirm that all bidders meet the minimum requirements and eliminate any non-qualified bidders.
   b) Evaluate the financial implications of each bid (quantitative factors). Section 54-52.1-04 of NDCC requires the Board to give consideration to the following:
      (1) The economy to be affected
      (2) The ease of administration
      (3) The adequacy of the coverage
      (4) The financial position of the carrier, with special emphasis as to its solvency
      (5) The reputation of the carrier and such other information as is available tending to show past experience with the carrier in matters of claim settlement, underwriting and services.

c) Review the technical aspects of each proposal (qualitative factors).

d) The consultant will be required to estimate the required premiums for the group health insurance program for a twenty-four (24) month period beginning July 1, 2015 and ending June 30, 2017. The consultant will be supplied the proposed plan of benefits by July 2014. The consultant must have completed the estimates by August 20, 2014.

e) Review the group insurance proposals when received for fully insured offers. The consultant shall prepare a recommendation to the Board as to merits of each fully insured offer and a recommendation.

f) Once the optimum fully insured proposal is selected, the self insured proposals must be reviewed. NDCC 54-52.1-04.2 states that the board may establish a self insured plan only if it is determined that it is less costly than the fully insured method. The consultant will review the self insured offers to determine is they are less costly and meet the minimum requirements. If so the proposals will be reviewed pursuant to 3.b and the Board will make the final decision.

g) Do all other analysis that will be required based upon the outcome of the review of the bidding methodology

4. Present findings to the Board pursuant to the schedule previously outlined.

5. The consultant shall assist in developing contracts with the successful bidder and with implementation.

SECTION 4 - INFORMATION REQUESTS

Responses to this proposal must comply with the format as set forth below and contain your organization's response to the requested information. The request must be restated followed by your response.

Part I - Executive Summary
Discuss your view of the entire project as requested in this RFP and provide a flow chart depicting your understanding of the major work efforts and timeframes for beginning and completing tasks.

Part II - Minimum Requirements
The successful vendor must have a multidisciplinary staff including a health actuary with experience in the work requirements outlined herein. The firm must also have demonstrated experience in doing the work outlined herein. Preference will be given to those firms with public sector experience and with state level experience.

Part III – Proposal

1) Technical Approach.

1. Group Insurance Bid

    (a) Generally discuss your understanding of the requested work
    (b) Timeline – discuss your understanding of the timeline for this effort
    (c) Approach – discuss your project plan for this effort, identify major steps, timeframes and products
    (d) Describe the method used by your firm to project expected claims. Also, provide <u>specific details</u> of how your firm decides the appropriate medical trend; what factors are considered; (i.e., historical claims trends, cost shifting, leveraging, intensity, etc.) and how these factors are weighted or allocated in the final decision. Please discuss how this relates to the NDPERS renewal.
    (e) Specifically address how you would approach the review of the NDPERS bidding process, the product we could expect and the range of considerations you may review.
    (f) Discuss how you would evaluate the full insured proposals received.
    (g) Discuss how you would evaluate the self insured proposals.
    (h) Discuss how you would approach the evaluation of fully insured vs self insured. In particular discuss how you would respond to the North Dakota Century Code requirement that any self insured arrangement must be compared to the fully insured proposal to determine if it is less costly.
    (i) Exceptions – identify any exceptions or variations in your proposal from the work effort identified in this RFP.
    (j) Outline the product NDPERS will receive from you.

2) Experience.

a) General firm experience - a brief description of the size, structure and services provided by your organization.

b) Describe your organization's approach evaluation efforts similar to that requested here.

c) Discuss the following:

1. Detail your experience in preparing, issuing and analyzing health insurance bids.
2. Discuss how your experience will allow you to provide a comprehensive assessment of the NDPERS bidding process and what special insight your experience will lend to such an assessment.
3. Discuss your experience in working with Part D products in general and in the public sector. Also identify the types of arrangements or options.
4. Discuss your experience in doing health premium projections such as that requested in this RFP.
5. Provide a list of clients for whom your organization has performed similar tasks and specifically highlight efforts in the public sector.
6. Indicate your organization's depth of experience in each of the following areas:
   (a) Benefit Design (health)
   (b) Retiree Health Insurance
   (c) Preparation of Plan Documents
   (d) Preparation of Member Booklets
   (e) Provider Contract Negotiations
   (f) PPO Formulation and Development
   (g) Actuarial Analysis and Reporting
   (h) Preparation of Contracts, Bid Specifications and RFPs
   (i) COBRA Administration and Interpretation
   (j) Legal Issues
   (k) Disease Management Programs
   (l) Wellness Programs
   (m) RX Carve out Programs
   (n) Legal Assistance
7. Describe your organization's experience and availability regarding legislative hearings and testimony.
8. Explain how your organization develops premium rates for health insurance plans.
9. What new cost containment programs does your organization foresee being implemented in the next 2-3 years and how are you positioned to provide assistance.
   (a)

3) Staffing.

a) This Section should include individual resumes for the personnel who are to be assigned to the project and should indicate the proposed project role or assignment of each individual. The project team should include staff with experience in developing RFP's of the type requested herein, evaluating responses, doing the required actuarial analysis and assisting with implementation.

b) Resume information should identify not only educational and work history but also specific information on what clients the individual has worked for and in what role.

Please note we may use this information to contact past clients to gather information on the individual.

c) Identify any potential conflicts of interest relating to any of the proposed project team.

Please note that it is critical that the information presented in this section is specific enough for us to understand who is being assigned to each major effort proposed in the RFP and that their role, responsibility and experience demonstrates their ability to successfully complete the required tasks.

4) Additional Information.

a) This section is optional and can include any additional information the offeror deems relevant to this procurement and the satisfaction of the Board's objectives.

5) Conflicts of Interest.

a) In this Section the offeror shall identify and discuss any potential conflicts of interest. The contractor cannot receive any other compensation relating to this work effort except as provided in the cost proposal. Any other arrangements/relationships/contracts the offeror may have with vendors that could be a part of this solicitation must be identified herein and may serve as cause to disqualify the offeror.

6) Company Literature (if applicable).

a) If company literature or other material is intended to respond to any RFP requirement, it must be included in this section. The offeror's responses in previous sections of the proposal must include reference to the document by name and page citation.

SECTION 5 – COST PROPOSAL - FEES/HOURS

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

Your proposal for fees for the consulting and actuarial services requested must be made as identified below. All services discussed in Sections III are to be provided on a fixed fee or fee for service basis. Expenses for travel, lodging, meals and other out-of-pocket expenses will be paid on an incurred basis if the Executive Director of NDPERS has given prior approval. NDPERS is under no obligation to reimburse the consultant if no approval was given.

Group Health Plan – Fixed Fee

Development of Fully Insured Proposal $________________
Development of Self Insured Proposal $________________
Develop initial premium projection (page 9) $________________

Development of the RFP's includes issuing it.

Group Health Plan - Fee for Service

Please identify here the four individuals that you anticipate will be doing most of the work relating to the fee for service efforts. NDPERS is requesting a composite rate for all fee for service efforts. Fee for service efforts will be all efforts (evaluation, projections, interviews, etc) that will be needed after the development of the proposal.

Please indicate what that rate would be for services.

Staff Assigned
Composite Rate
Estimated total hours

If you are unable to offer a composite rate please add another column to the above with the individual rate.

SECTION 6 - SUBMISSION OF PROPOSAL

A. Proposals should be prepared in a straightforward manner to satisfy the requirements of this RFP. Emphasis should be on completeness and clarity of content. Costs for developing proposals are entirely the responsibility of the proposer and shall not be chargeable to NDPERS.

B. Section 8 - Offer, should be signed by a partner or principal of the firm and included with your proposal. If changes are proposed they should be added and then a signed offer included. Each addition shall be identified along with the reason why.

C. Address or deliver the RFP to: Cheryl Stockert
North Dakota Public Employees Retirement System
400 E. Broadway, Suite 505
PO Box 1657
Bismarck, ND 58501

Questions concerning the RFP shall be directed, in writing, to the above individual by 5:00 p.m. CST on ???????. Responses will be posted on the NDPERS website (www.nd.gov/ndpers) by ?????? under "Request for Proposals". If you would like a copy emailed to you, please notify us at cstocker@nd.gov

D. Ten (10) copies of the proposal must be received at the above listed location by **5:00 p.m. CST on ??????**. The package the proposal is delivered in must be plainly marked "PROPOSAL TO PROVIDE CONSULTING AND ACTUARIAL SERVICES". In addition, we would request an electronic version of your proposal.

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

E. The policy of the NDPERS Board is to solicit proposals with a bona fide intent to award a contract. This policy will not affect the right of the NDPERS Board to reject any or all proposals.

F. The NDPERS Board may request that representatives of your organization appear before them for interviewing purposes. Travel expenses and related costs will be the responsibility of the organization being interviewed.

G. The NDPERS Board will award the contract for services no later than ??????.

H. In evaluating the proposals, price will not be the sole factor. The Board will consider the staff review as outlined herein and may consider any other factors it deems necessary and proper to make a determination.

I. The failure to meet all requirements herein shall not automatically invalidate a proposal or procurement. The final decision rests with the Board.

SECTION 7 – REVIEW PROCESS

Proposals will be evaluated in a three-step approach. The first step will be done by a review team composed of NDPERS staff and will be an initial screening of each proposal to determine if it is sufficiently responsive to the RFP to permit a valid comparison and meets the minimum qualifications of having completed past projects similar to the efforts requested herein and having a multi discipline project team. Also any conflicts of interest will be reviewed in this step.

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

For the fee for service efforts the rating will be:

• Technical Approach	30 Point
• Prior Experience	20 points
• Staffing/Organization	20 Points
• Pricing	30 points

The final step will be a review by the NDPERS Board. The NDPERS Board will use any and all information in making its determination and will use the staff's review as a guide but is not bound by that review.

SECTION 8 - OFFER

AGREEMENT FOR SERVICES

Contractor's proposal constitutes a formal offer to provide services to the North Dakota Public Employees Retirement System (NDPERS). The terms of this Contract, the RFP and the proposal shall constitute the consulting services agreement ("Agreement").

Contractor and NDPERS agree to the following:

1) **SCOPE OF SERVICES:** Contractor agrees to provide the above accepted services as specified in the RFP and proposal. The terms and conditions of the RFP and the proposal are hereby incorporated as part of the Contract.

2) **TERM:** The term of this contract shall commence on the date of award and continue until the completion of the services identified, with an expected date of completion of all services by December 31, 2015 pursuant to the terms of the RFP.

3) **FEES:** NDPERS shall only pay pursuant to the terms in the proposal and RFP.

4) **BILLINGS:** The Contractor shall receive payment from NDPERS upon the completion of the services identified under this Agreement.

5) **TERMINATION:**

a. Either party may terminate this agreement with respect to tasks yet to be performed with thirty (30) days written notice mailed to the other party.

b. Termination for lack of funding or authority. NDPERS by written notice of default to CONTRACTOR, may terminate the whole or any part of this contract, under any of the following conditions:

(1) 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.

(2) If federal or state laws or rules are modified or interpreted in 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.

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

Termination of this contract under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

c. Termination for cause. NDPERS may terminate this contract effective upon delivery of written notice to CONTRACTOR, or any later date stated in the notice:

(1) If CONTRACTOR fails to provide services required by this contract within the time specified or any extension agreed to by NDPERS; or

(2) If CONTRACTOR fails to perform any of the other provisions of this contract,

or so fails to pursue the work as to endanger performance of this contract in accordance with its terms.

6) **EMPLOYMENT STATUS:** CONTRACTOR is an independent entity under this contract and is not a STATE employee for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workforce Safety and Insurance Act. CONTRACTOR retains sole and absolute discretion in the manner and means of carrying out CONTRACTOR'S activities and responsibilities under this contract, except to the extent specified in this contract.

7) **SUBCONTRACTS:** CONTRACTOR may not assign or otherwise transfer or delegate any right or duty without STATE'S express written consent. However, CONTRACTOR may enter into subcontracts provided that any subcontract acknowledges the binding nature of this contract and incorporates this contract, including any attachments. CONTRACTOR is solely responsible for the performance of any subcontractor. CONTRACTOR does not have authority to contract for or incur obligations on behalf of STATE.

8) **ACCESS TO RECORDS:** All participation by NDPERS members and their dependents in programs hereunder is confidential under North Dakota state law. The Contractor shall not disclose any individual employee or dependent information to the covered agency or its' representatives without the prior written consent of the employee or family member. The Contractor will have exclusive control over the direction and guidance of the persons rendering services under this agreement. The Contractor agrees to keep confidential all NDPERS information obtained in the course of delivering services. CONTRACTOR shall not use or disclose any information it receives from NDPERS under this contract that NDPERS 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 NDPERS or specified under this contract. NDPERS shall not disclose any information it receives from CONTRACTOR that CONTRACTOR has previously identified as confidential and that STATE 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. ch. 44-04. The duty of STATE and CONTRACTOR to maintain confidentiality of information under this section continues beyond the term of this contract.

CONTRACTOR understands that, except for disclosures prohibited in this contract, STATE must disclose to the public upon request any records it receives from CONTRACTOR. CONTRACTOR further understands that any records that are obtained or generated by CONTRACTOR under this contract, except for records that are confidential under this contract, may, under certain circumstances, be open to the public upon request under the North Dakota open records law. STATE retains ownership of all work product, equipment or materials created or purchased under this contract. CONTRACTOR agrees to contact STATE immediately upon receiving a request for information under the open records law and to comply with STATE'S instructions on how to respond to the request.

9) **OWNERSHIP OF WORK PRODUCT:** All work product, equipment or materials created or purchased under this contract belong to STATE and must be delivered to STATE at STATE'S request upon termination of this contract. CONTRACTOR agrees that all materials prepared under this contract are "works for hire" within the meaning of the copyright laws of the United States and assigns to STATE all rights and interests CONTRACTOR may have in the materials it prepares under this contract, including any right to derivative use of the material. CONTRACTOR shall execute all necessary documents to enable STATE to protect its rights under this section.

10) **APPLICABLE LAW AND VENUE:** This agreement shall be 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.

11) **MERGER AND MODIFICATION:** This contract, the RFP and the proposal shall constitute the entire agreement between the parties. In the event of any inconsistency or conflict among the documents making up this agreement, the documents must control in this order of precedence: First – the terms of this Contract, as may be amended and Second - the state’s Request for Proposal and Third – Contractor’s Proposal. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.

12) **INDEMNITY:** Contractor agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers and employees (State), from and against claims based on the vicarious liability of the State or its agents, but not against claims based on the 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 and omissions. The legal defense provided by Contractor to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Any attorney appointed to represent the State must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08. Contractor also agrees to defend, indemnify, and hold the State harmless for all costs, expenses and attorneys' fees incurred if the State prevails in an action against Contractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

13) **INSURANCE:** Contractor shall secure and keep in force during the term of this agreement, and Contractor shall require all subcontractors, prior to commencement of an agreement between Contractor and the subcontractor, to secure and keep in force during the term of this agreement, from insurance companies, government self-

insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of $250,000 per person and $1,000,000 per occurrence.

2) Professional errors and omissions with minimum limits of $1,000,000 per occurrence and in the aggregate, Contractor shall continuously maintain such coverage during the contact period and for three years thereafter. In the event of a change or cancellation of coverage, Contractor shall purchase an extended reporting period to meet the time periods required in this section.

3) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of $250,000 per person and $1,000,000 per occurrence.

4) Workers compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this contract.

5) Employer's liability or "stop gap" insurance of not less than $1,000,000 as an endorsement on the workers compensation or commercial general liability insurance.

The insurance coverages listed above must meet the following additional requirements:

1) Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor.

2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the State. The policies shall be in form and terms approved by the State.

3) The duty to defend, indemnify, and hold harmless the State under this agreement shall not be limited by the insurance required in this agreement.

4) The state of North Dakota and its agencies, officers, and employees (State) shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insured. The State shall have all the benefits, rights and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this agreement or by the contractual indemnity obligations of the Contractor.

5) The insurance required in this agreement, through a policy or endorsement, shall include:

a) "Waiver of Subrogation" waiving any right to recovery the insurance company may have against the State;

b) a provision that Contractor's insurance coverage shall be primary (i.e. pay first) as respects any insurance, self-insurance or self-retention maintained by the State and that any insurance, self-insurance or self-retention maintained by the State shall be in excess of the Contractor's insurance and shall not contribute with it;

c) cross liability/severability of interest for all policies and endorsements;

d) The legal defense provided to the State under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary;
e) The insolvency or bankruptcy of the insured Contractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Contractor from meeting the retention limit under the policy.

6) Contractor shall provide at least 30 day notice of any cancellation or material change to the policies or endorsements.
7) The Contractor shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this agreement.
8) Failure to provide insurance as required in this agreement is a material breach of contract entitling State to terminate this agreement immediately.

14) **SEVERABILITY:** If any term in 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.

15) **FORCE MAJEURE**
CONTRACTOR shall not be held responsible for delay or default caused by fire, flood, riot, acts of God or war if the event is beyond CONTRACTOR'S reasonable control and CONTRACTOR gives notice to STATE immediately upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default.

16) **NOTICE**
All notices or other communications required under this contract must be given by registered or certified mail and are complete on the date mailed when addressed to the parties at the following addresses:

Sparb Collins, Executive Director
ND Public Employees Retirement System
400 East Broadway, Suite 505
PO Box 1657
Bismarck, ND 58502-1657

With a copy to:

Sharon Schiermeister
Chief Operating Officer
ND Public Employees Retirement System
400 East Broadway, Suite 505
PO Box 1657
Bismarck, ND 58502-1657

Notice provided under this provision does not meet the notice requirements for monetary claims against the State found at N.D.C.C. § 32-12.2-04.

17) **ATTORNEY FEES**
In the event a lawsuit is instituted by STATE to obtain performance due under this contract, and STATE is the prevailing party, CONTRACTOR shall, except when prohibited by N.D.C.C. § 28-26-04, pay STATE'S reasonable attorney fees and costs in connection with the lawsuit.

18) **NONDISCRIMINATION AND COMPLIANCE WITH LAWS**
CONTRACTOR agrees to comply with all laws, rules, and policies, including those relating to nondiscrimination, accessibility and civil rights. CONTRACTOR agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes and unemployment compensation and workers' compensation premiums. CONTRACTOR shall have and keep current at all times during the term of this contract all licenses and permits required by law.

19) **STATE AUDIT**
All records, regardless of physical form, and the accounting practices and procedures of CONTRACTOR relevant to this contract are subject to examination by the North Dakota State Auditor or the Auditor's designee. CONTRACTOR shall maintain all such records for at least three years following completion of this contract.

20) **TAXPAYER ID**
CONTRACTOR'S federal employer ID number is: ______________________.

21) PAYMENT OF TAXES BY STATE
State is not responsible for and will not pay local, state, or federal taxes. State sales tax exemption number is E-2001, and certificates will be furnished upon request by the purchasing agency.

22) EFFECTIVENESS OF CONTRACT
This contract is not effective until fully executed by both parties.

IN WITNESS WHEREOF, Contractor and NDPERS have executed this Agreement as of the date first written above.

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM	**CONTRACTOR**
By: Sparb Collins	By: ______________________________
Title: Executive Director	Title: ______________________________
Date: ______________________________	Date: ______________________________