NORTH DAKOTA
PUBLIC EMPLOYEES
RETIREMENT SYSTEM

Board Meeting Agenda

Location: WSI Board Room, 1600 East Century Avenue, Bismarck ND
By phone: 701.328.0950 Conference ID: 389 167 654#
Date: **Tuesday, February 10, 2026**
Time: 8:30 A.M. **Join the meeting now**

I. MINUTES

A. January 13, 2026
B. January 26, 2026 Special Meeting

II. CONFLICT OF INTEREST DISCLOSURE CONSIDERATION

III. PRESENTATIONS

A. Sanford Health Plan Updates:
   1. Sanford Health Executive Leadership Appointments
   2. Executive Summary 2025 Quarter 3
   3. Performance Guarantees
   4. Value Based Care Arrangement
   5. Formulary Update

IV. LEGISLATION / ADMINISTRATIVE RULES

A. Proposed Legislation – Rebecca (Board Action)
B. Proposed Administrative Rules – Rebecca (Board Action)

V. OPERATIONS / ADMINISTRATIVE

A. Budget Status – Derrick (Information)
B. Quarterly Consultant Fees – Derrick (Information)
C. Strategic Planning Update – Rebecca (Information)
D. Contracts Under $15,000 – Rebecca (Information)
E. Office Updates – Rebecca (Information)
F. Everbridge Emergency Notification Test – Katheryne (Information)
G. Next Meeting Date: Tuesday, March 10, 2026 at 8:30 A.M.

North Dakota
Public Employees Retirement System
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Bismarck, North Dakota 58502-1657

Rebecca Fricke
Executive Director
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Memorandum

TO: NDPERS Board

FROM: Rebecca Fricke

DATE: February 10, 2026

SUBJECT: Sanford Health Plan Updates

Sanford Health Plan (SHP) will review a few updates with the Board. They include:

1) Notification of a change in leadership at SHP (Attachment 1).
2) An overview of the Executive Summary 2025 Quarter 3 (Attachment 2). Representatives from Humana are also available to discuss any questions related to the Medicare Part D Plan information, labeled as NDPERS EGWP, found on page 17 of the summary.
3) A reporting (Attachment 3) on Performance Guarantees not met during the reporting period.
4) An update (Attachment 4) on the Value Based Care Arrangement that SHP has with various large providers across the state.
5) Information regarding a change in the SHP formulary effective April 1, 2026 related to the high-cost biologic medication, Prolia. Attachment 5 is a memo from SHP regarding the change and Attachment 6 is the notice going to the 69 NDPERS members impacted by the change.

This item is informational and does not require any action by the Board.

Attachment 1

SANFORD HEALTH PLAN

Memo

To: Rebecca Fricke

From: Sanford Health Plan

Date: Tuesday, January 6, 2026

Re: Sanford Health executive leadership appointments

Sanford Health announced new executive leadership appointments designed to accelerate system-wide transformation, reinforcing the organization's commitment to improve access, affordability, quality and long-term sustainability across the communities it serves in the upper rural Midwest.

Tommy Ibrahim, M.D., MBA, MHA, is transitioning from his role as executive vice president and president and CEO of Sanford Health Plan to executive vice president and chief transformation officer. In this new enterprise-wide role, Dr. Ibrahim will oversee technology, digital strategy, AI, enterprise data analytics, innovation and Sanford Research to drive system-wide transformation.

Matt Hocks, executive vice president and chief operating officer, will assume accountability for Sanford Health Plan and Security Health Plan. Matt joined Sanford Health in 2004 and has served in key leadership roles during a period of transformational growth for the organization. Over the past year, Matt and Tommy have worked closely with the health plan leadership team to enhance quality and experience while improving health outcomes across all the communities we serve.

Tommy's new role will allow him to focus specifically on how technology and emerging innovations can help us realize our mission to be here for all – especially our NDPERS members and the rural communities we serve. Matt's deep experience leading operations positions him well to bring new perspectives on how we can better serve our members while maintaining consistency in the leadership team that serves you, your employees and their families every day.

Thank you for your partnership and collaboration. Please reach out with any questions.

Attachment 2

NDPERS Executive Summary

Quarter 3 | 2025

Presented February 2026

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM

SANFORD HEALTH PLAN

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Page 26

Section 7: Performance Guarantees

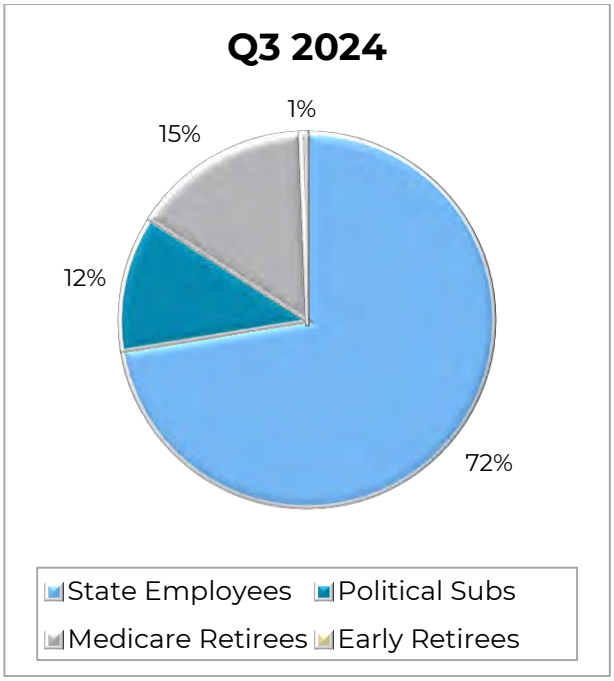
SECTION 1: MEMBERSHIP

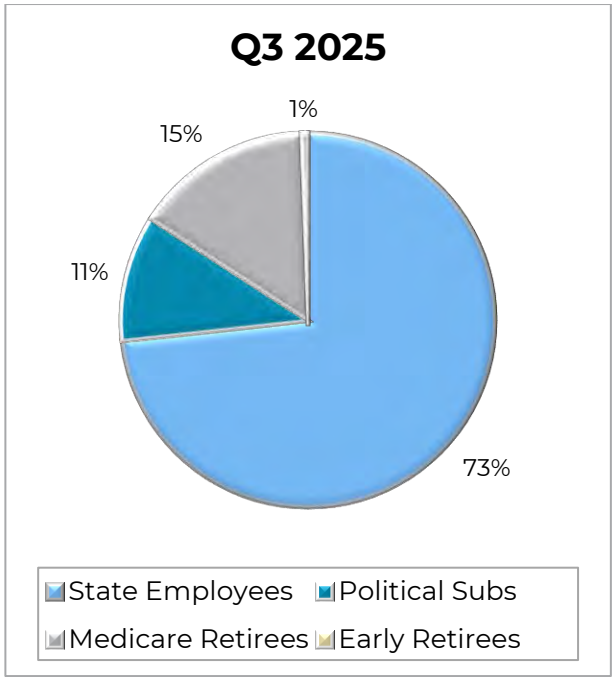
ANNUAL MEMBERSHIP SUMMARY

Exhibit 1.1

MEASURE	Q3 2024	Q3 2025	PERCENT CHANGE
State Employees	42,750	43,276	1.2%
Political Subs	6,905	6,405	-7.2%
Medicare Retirees	9,041	9,050	0.1%
Early Retirees	349	320	-8.5%
TOTAL	**59,045**	**59,051**	**0%**

Exhibit 1.2





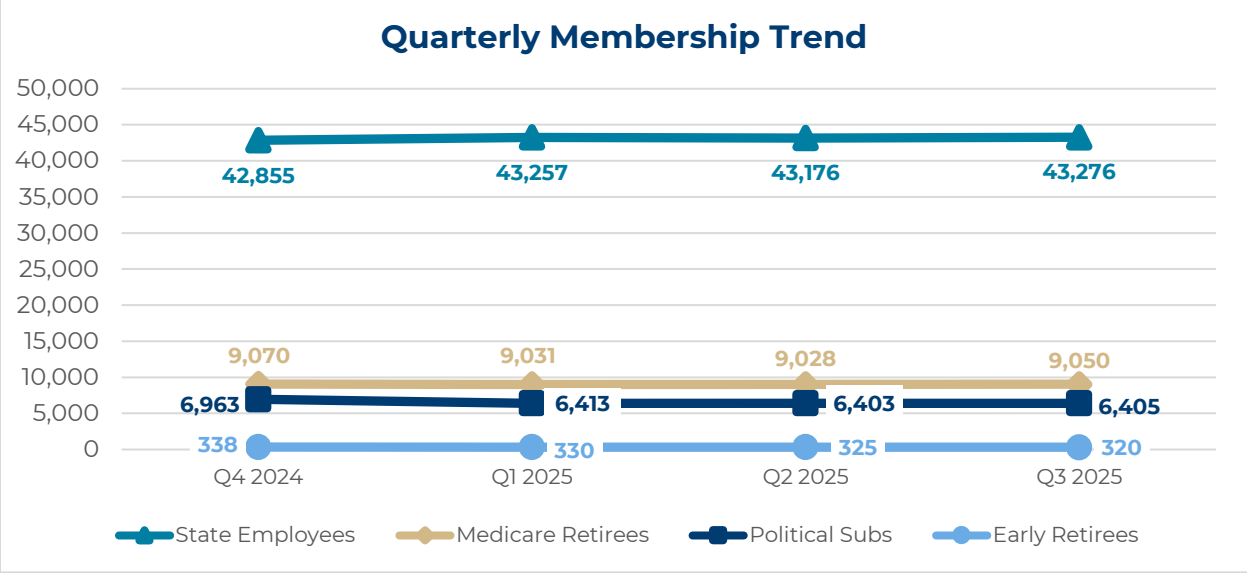
MEMBERSHIP TREND

Exhibit 1.3

MEASURE	Q3 2024	Q3 2025	% CHANGE	BENCHMARK	% VARIANCE
Average Employees	18,551	18,618	0.4%		
Average Members	49,662	50,006	0.7%		
Average Contract Size	2.68	2.69	0.3%		
Average Age	33	32.8	-0.6%		
% Female	50.8%	50.7%	-0.3%	50.7%	0%
HCCs (% of Members)	0.9%	1.1%	16.4%	1.0%	11.8%

*Includes State Employees, Early Retirees & Political Subs.

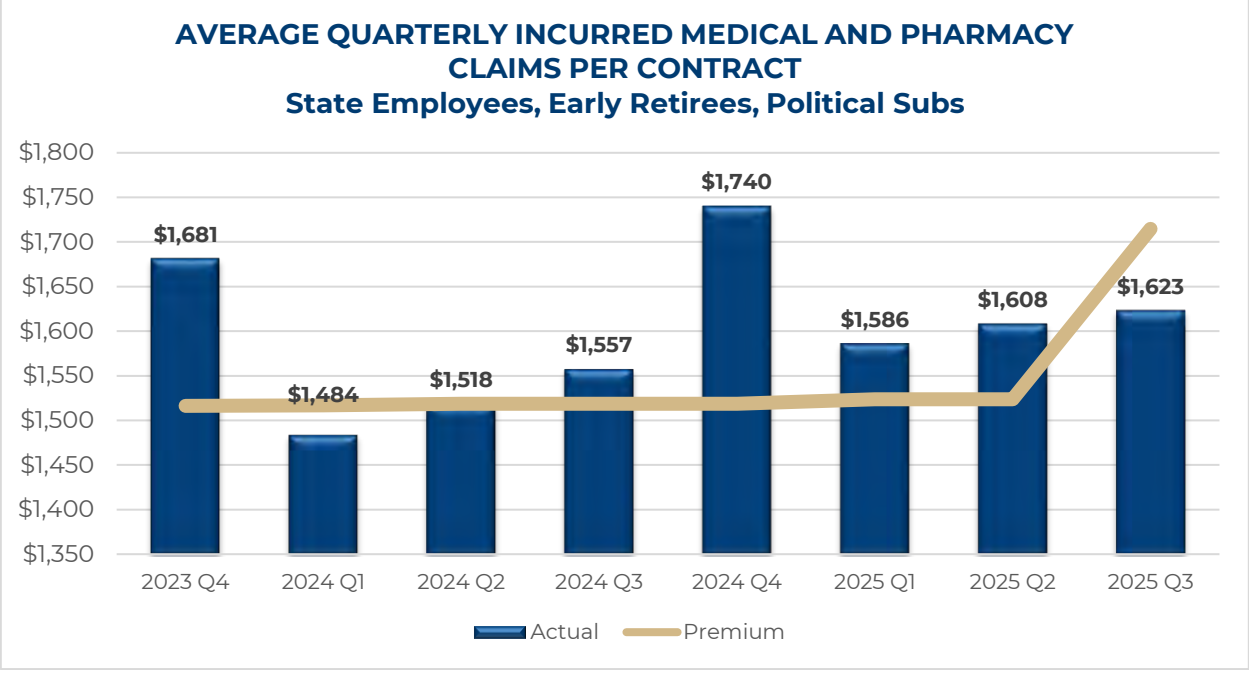
Exhibit 1.4



SECTION 2: CLAIMS ANALYSIS

PAID CLAIMS PER CONTRACT PER MONTH

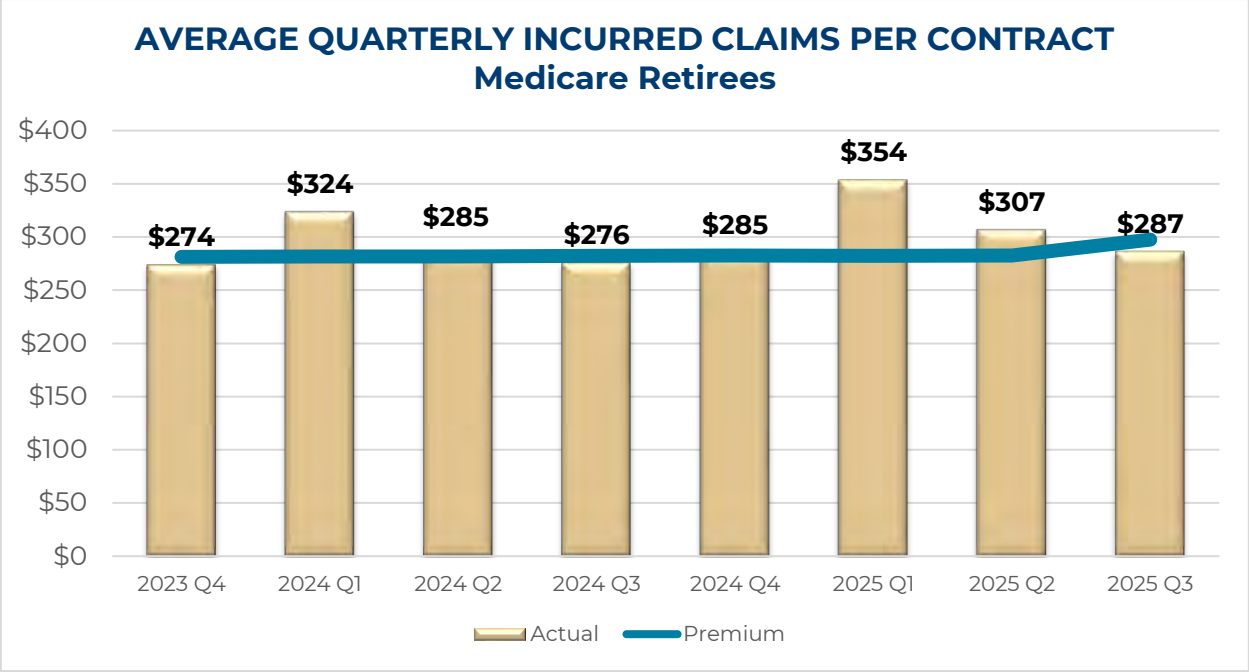
Exhibit 2.1



*Incurred between Oct 1, 2024 and Sept 30, 2025 with paid date as of Dec 31, 2025. Final Adjusted Claims.
*NDPERS Active contracts have approximately 2.69 members per contract.
*Includes medical claims and prescriptions without IBNR.
*Additional medical claims may be received.

PAID CLAIMS PER CONTRACT PER MONTH

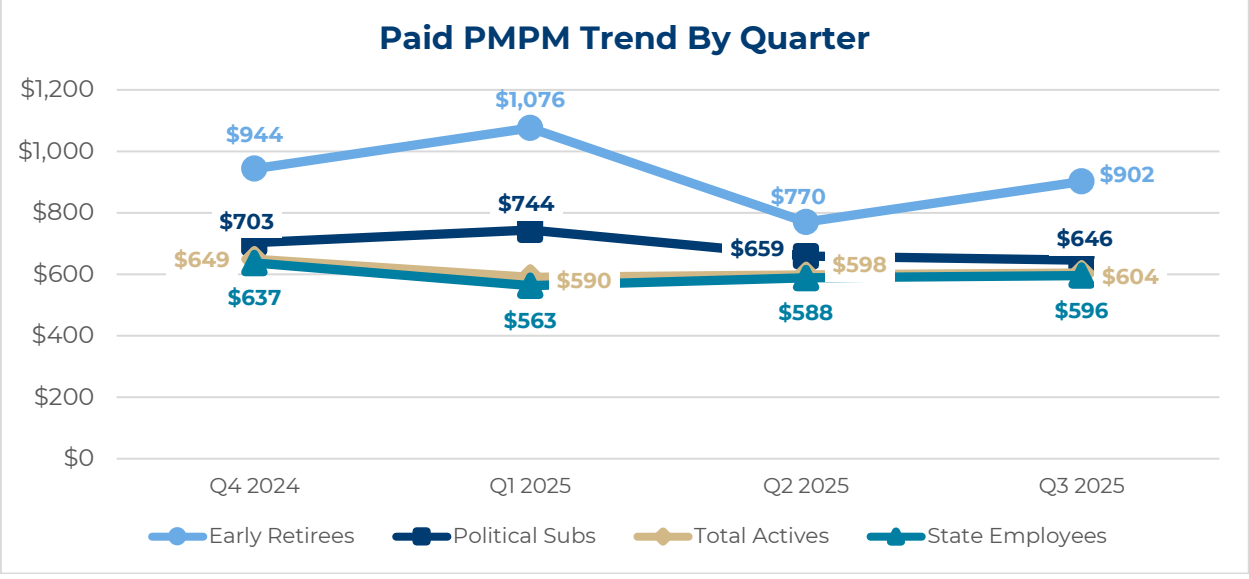
Exhibit 2.2



*Incurred between Oct 1, 2024 and Sept 30, 2025 with paid date as of Dec 31, 2025. Final Adjusted Claims.
*Includes medical claims only - excludes prescription drug coverage (Medicare Part D).
*Additional medical claims may be received.
*Medicare Retirees contracts have approximately 1.37 members per contract.

PAID PER MEMBER PER MONTH (PMPM) TREND BY QUARTER

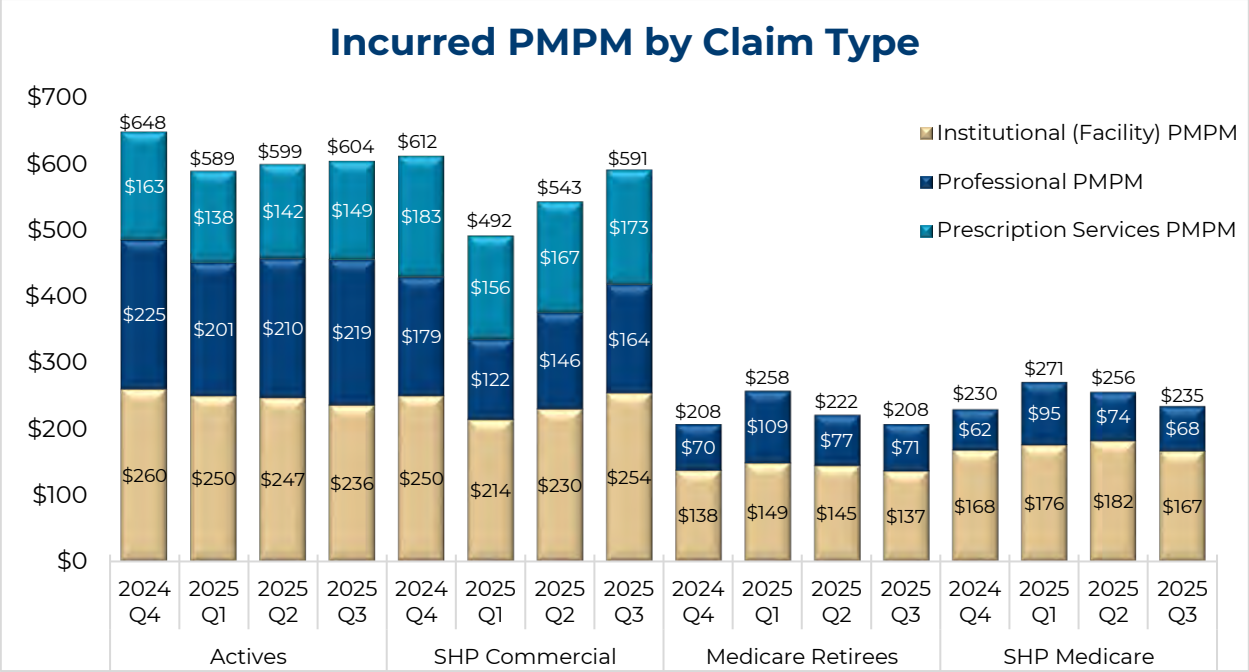
Exhibit 2.3



*Incurred between Oct 1, 2024 and Sept 30, 2025 with paid date as of Dec 31, 2025. Final Adjusted Claims.
*Total Actives = State Employees + Early Retirees + Political Subs
*Medical claims and Prescription services without IBNR.
*Additional medical claims may be received.

INCURRED PMPM BY CLAIM TYPE

Exhibit 2.4



*Incurred between Oct 1, 2024 and Sept 30, 2025 with paid date as of Dec 31, 2025. Final Adjusted Claims.
*Medical claims and prescription services without IBNR.
*Additional medical claims may be received.

SECTION 3: UTILIZATION

MEDICAL COST DRIVERS: ACTIVES

Exhibit 3.1

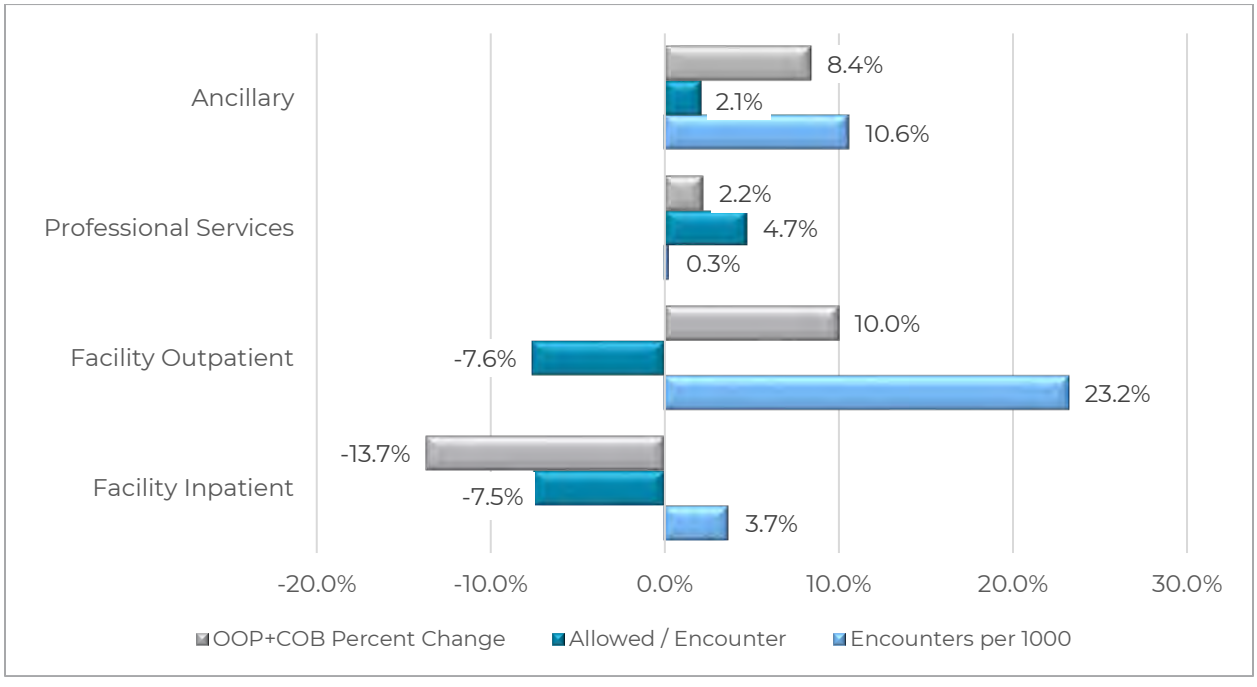


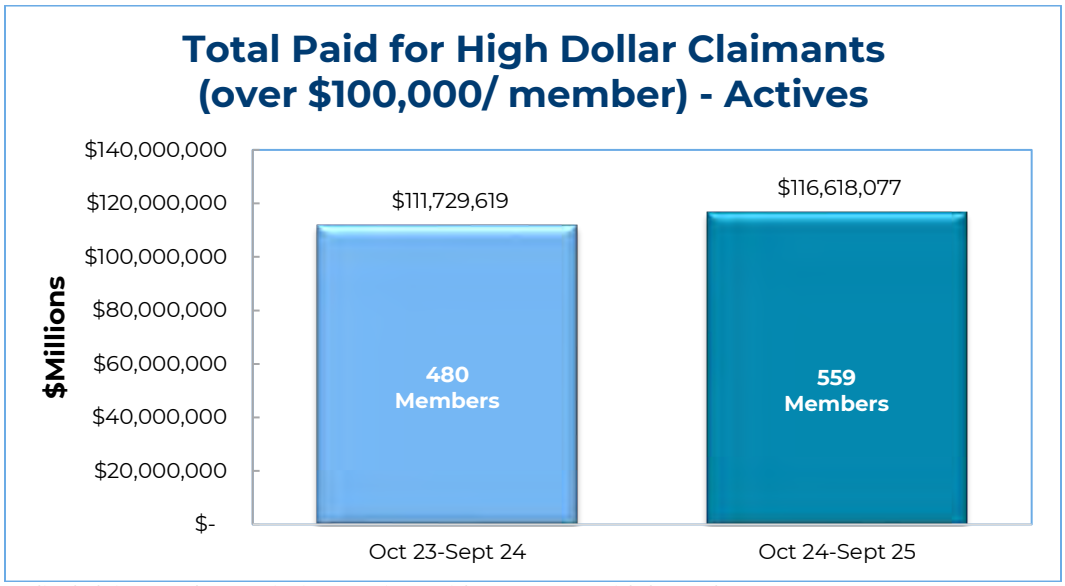
Exhibit 3.2

MEASURE	FACILITY INPATIENT	FACILITY OUTPATIENT	PROFESSIONAL SERVICES	ANCILLARY
Encounters per 1000 Prior Period	48	2,814	12,882	1,765
Encounters per 1000 Current Period	50	3,468	12,924	1,951
% Change	3.7%	23.2%	0.3%	10.6%
Amount Allowed per Encounter Prior Period	$26,095	$591	$190	$376
Amount Allowed per Encounter Current Period	$24,128	$546	$199	$384
% Change	-7.5%	-7.6%	4.7%	2.1%
OOP+COB PMPM Prior Period	$0.33	$18.71	$38.18	$3.20
OOP+COB PMPM Current Period	$0.28	$20.58	$38.03	$3.47
% Change	-13.7%	10.0%	2.2%	8.4%

*Prior Period: Oct 2023- Sept 2024. Current period: Oct 2024 – Sept 2025. Paid through Dec 31, 2025.

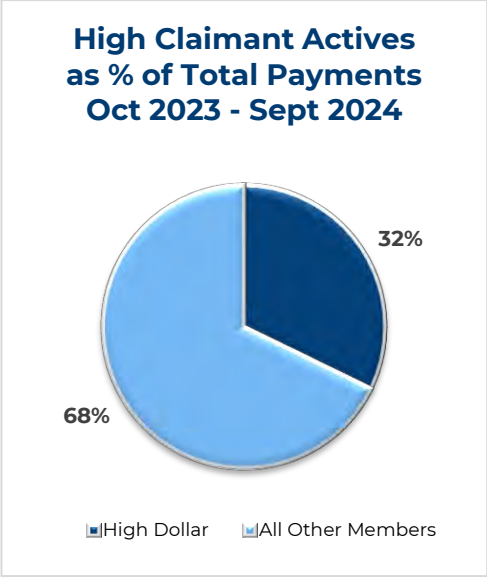
SECTION 4: HIGH DOLLAR CASES: ACTIVES

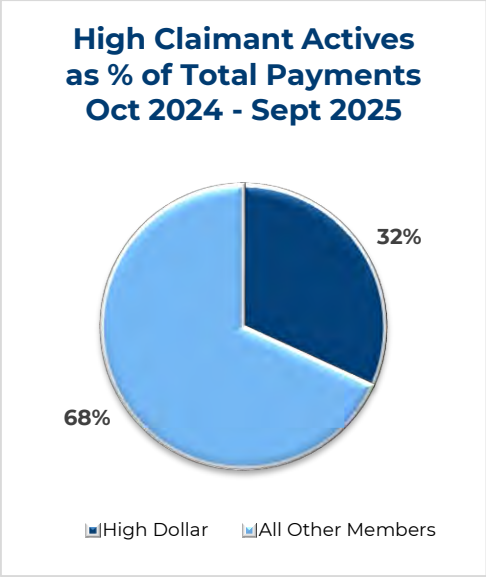
Exhibit 4.1



*Medical claims and prescription services without IBNR. Paid through Dec 2025.
*Additional medical claims may be received for Oct 2024-Sept 2025 services.

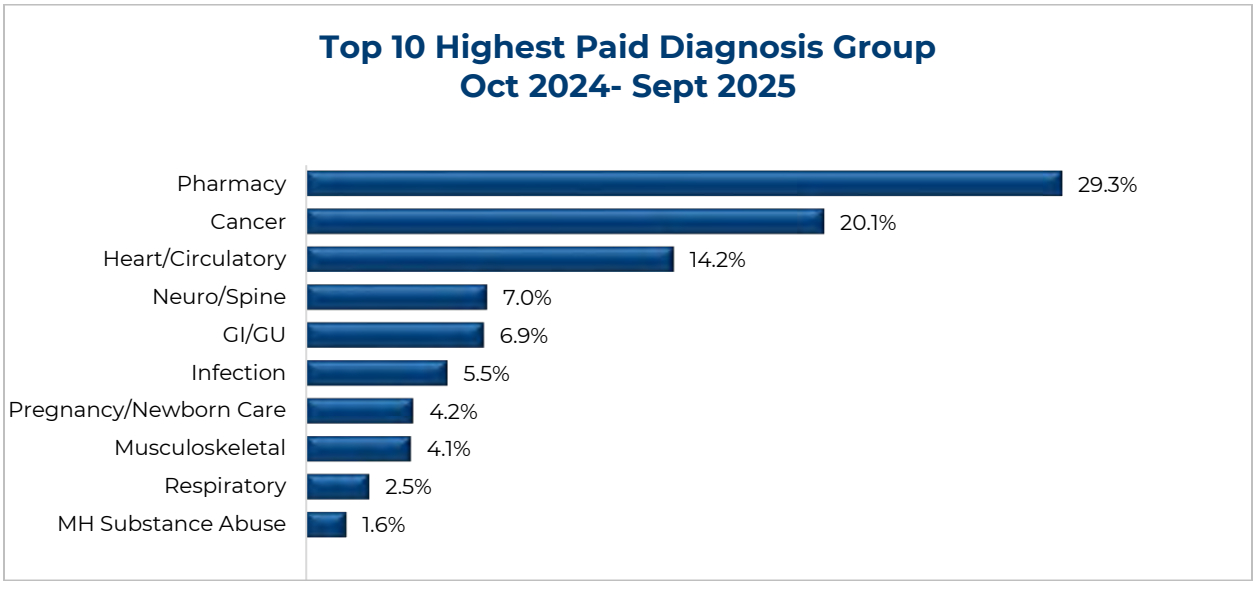
Exhibit 4.2





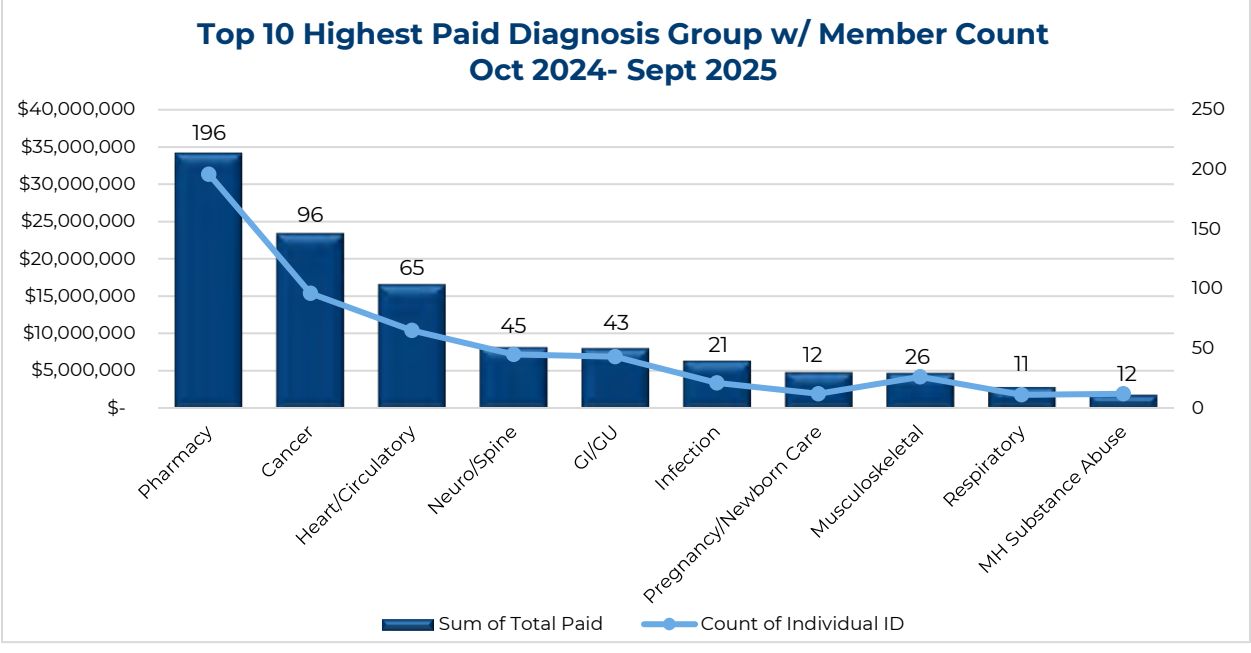
ACTIVE MEMBERS		
	Oct 2023-Sept 2024	Oct 2024-Sept 2025
Avg. Paid/High Claimant	$232,770	$208,619
% of Total Payments	32%	32%

Exhibit 4.3



*The remaining 5% represents 10 diagnosis groups.
*High dollar cases consist of combined medical claims and prescriptions with a total of $100K or greater.
*Includes Medical claims and Prescription services without IBNR.
*Additional medical claims may be received.

Exhibit 4.4



*The remaining 5% represents 10 diagnosis groups.
*High dollar cases consist of combined medical claims and prescriptions with a total of $100K or greater.
*Includes Medical claims and Prescription services without IBNR.
*Additional medical claims may be received.

SECTION 5: PHARMACY

Exhibit 5.1

SUMMARY OF YOUR PLAN

NDPERS – 2025 YTD thru Q3
Jan 24- Sept 24 vs. Jan 25-Sept 25

PLAN PAID PMPM

- NDPERS YTD 2025 PMPM is trending at 6.1% versus the previous period
- Rebates provided a 23% offset resulting in net plan paid of $110.37 PMPM
- Inflammatory Conditions, Diabetes, and Oncology disease states accounted for 60.1% of overall plan paid and increased $2.99 PMPM in total plan paid. The benchmark increased $5.15 PMPM in these categories

YOUR OUTCOMES

- Strategic Solutions have resulted in a total of $99.67 PMPM plan savings
- Strategic Solutions have resulted in a total of $1,041,047 total healthcare (medical + pharmacy) savings

Exhibit 5.2

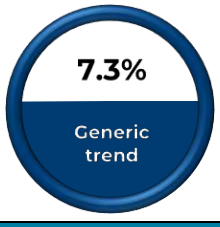
PLAN PERFORMANCE – PLAN PAID

NDPERS – 2025 YTD thru Q2
Jan 24- Sept 24 vs. Jan 25-Sept 25

TOTAL PLAN PAID PMPM: $143.33

TREND

- Plan paid PMPM has increased 6.1% over the previous period driven primarily by drug mix in brand and specialty.
- Specialty represents 1.5% of claims.



PLAN PAID PMPM

Current period PMPM of $143.33 equates to $64.4M in pharmacy spend. 60% of the spend is attributed to specialty medications.

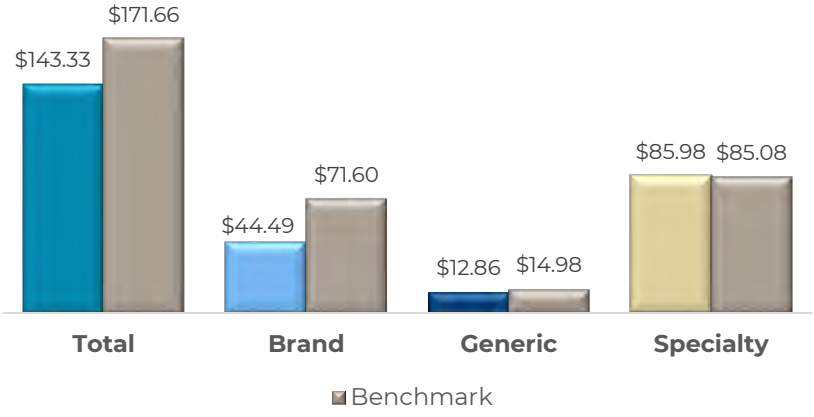


Exhibit 5.3

KEY STATISTICS

NDPERS – 2025 YTD thru Q3
Jan 24- Sept 24 vs. Jan 25-Sept 25

PLAN PAID PMPM: $143.33

49,937
Avg. eligible members

The key metrics here help highlight the changes NDPERS YTD 2025 has experienced period over period.

- Eligibility has increased by 186.
- Number of utilizers has increased by 627.

TOTAL RXS	TOTAL PLAN PAID	UTILIZERS
CURRENT 347,949	**CURRENT** $64,416,406	**CURRENT** 35,925
PREVIOUS 339,615	**PREVIOUS** $60,459,615	**PREVIOUS** 35,298
PREVIOUS CHANGE 2.5%	**PREVIOUS CHANGE** 6.5%	**PREVIOUS CHANGE** 1.8%

KEY STATISTICS	NDPERS			COMMERCIAL BENCHMARK	
	CURRENT	PREVIOUS	% CHANGE	CURRENT	% CHANGE
Average Age	33.0	33.2	-0.5%	35.8	-0.1%
Plan Paid PMPM	$143.33	$135.03	6.1%	$171.66	10.1%
Plan Paid Per Rx	$185.13	$178.02	4.0%	$212.20	8.2%
Rx PMPM	0.77	0.76	2.1%	0.81	1.8%
Average Days Supply	45.7	45.9	-0.5%	41.0	0.5%
Days Supply PMPM	35.4	34.8	1.6%	33.2	2.3%
Member Paid Share	12.8%	13.3%	-3.1%	10.4%	0.4%
Member Paid per Rx	$27.28	$27.22	0.2%	$24.53	8.7%
Brand Dispensing Rate	11.8%	12.3%			
Generic Dispensing Rate (GDR)	88.2%	87.7%	0.5%	86.6%	-0.7%
GDR- Without Vaccines	88.7%	88.2%	0.5%	87.6%	-0.8%
Home Delivery Rate	0.5%	0.6%	-22.0%	5.4%	-4.6%
Retail 90 Rate	33.1%	33.1%	-0.1%	21.5%	1.9%
% of Specialty Plan Paid	60.0%	60.8%	-1.4%	49.6%	-2.9%

Exhibit 5.4

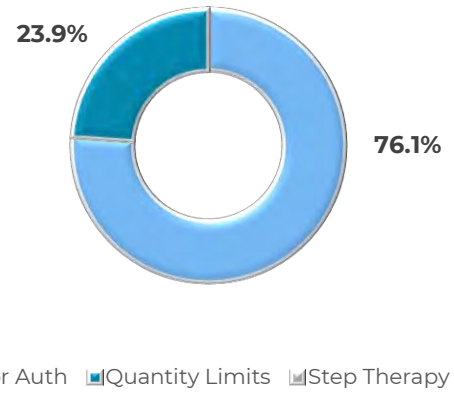
UM OUTCOMES

NDPERS – 2025 YTD thru Q3
Jan 25- Sept 25

UTILIZATION MANAGEMENT SAVINGS: $29.49 PMPM

Your Program Savings: $17.7M

Ensuring patients meet appropriate clinical criteria when initiating medication therapy not only helps to ensure that the patient is being treated safely according to guidelines but also drives significant savings for both Sanford NDPERS – YTD 2025 Q3 and for members. Sanford NDPERS – YTD 2025 Q3 has realized over $17.7M in savings. Based on a study by OptumRx, leveraging UM strategies that drive members to appropriate and often lower cost medications for treatment can save a member up to $620 annually in out-of-pocket copayments.

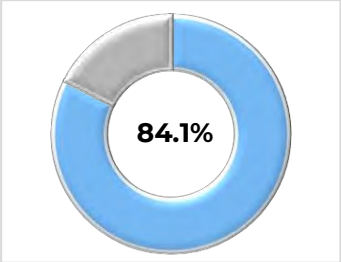


PRIOR AUTHORIZATION	QUANTITY LIMITS
PMPM SAVINGS $22.44	**PMPM SAVINGS** $7.05
# OF MEMBERS IMPACTED 2,771	**# OF MEMBERS IMPACTED** 1,125
# OF INTERVENTIONS 3,537	**# OF INTERVENTIONS** 1,337

Exhibit 5.5

TOP 5 THERAPY CLASSES

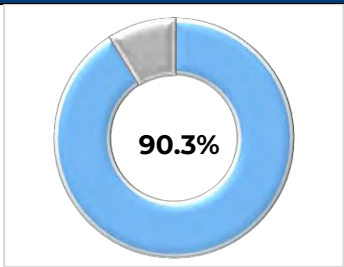
PRIOR AUTHORIZATION



Prior authorization savings from top 5 therapeutic class interventions

GPI-4 Description	Number of Cases	Plan Paid Savings
Chronic Inflammatory Disease	437	$6,666,222
GLP-1 Receptor Agonists	1,008	$3,047,962
Oncology	60	$699,522
Migraine Products	268	$523,734
Atypical Antipsychotics	113	$386,165

QUANTITY LIMITS



Quality limits savings from top 5 therapeutic class interventions

GPI-4 Description	Number of Cases	Plan Paid Savings
Chronic Inflammatory Disease	89	$2,966,862
Multiple Sclerosis	4	$264,442
Pulmonary Arterial Hypertension	16	$247,897
Migraine Products	134	$182,108
GLP-1 Receptor Agonists	26	$156,935

NDPERS EGWP: HUMANA

Exhibit 5.6

DESCRIPTION	Q3 2024	Q3 2025	CHANGE
Avg. Members per Month	9,014	9,032	0.2%
Average Member Age	77.1	77.3	0.3%
Members Utilizing Benefit	8,545	8,562	0.2%
% Members Utilizing Benefit	94.8%	94.8%	0%
Total Rx	364,245	370,391	1.7%
Total Rx PMPM	2.58	2.59	0.4%
Generic Fill Rate	89.6%	89.1%	-0.6%
Maintenance 90 Day Utilization (by days supplied)	79.4%	77.7%	-2.1%
Retail – Maintenance 90 Day Utilization	77.6%	75.7%	-2.4%
Home Delivery – Maintenance 90 Day Utilization	1.8%	2.0%	11.1%
Total Specialty Rx	560	1,204	115%
Specialty % of Plan Paid	29.4%	45.9%	56.1%

SECTION 6: WELLNESS CONTINUUM

An integrated approach to health management

+Wellness is a family of services that identifies and delivers personalized, whole-person care to members based upon where they are on the wellness continuum. It helps ensure appropriate intervention, diagnoses and treatment plans while navigating members to appropriate resources and high-value specialty care when needed.

DAKOTA WELLNESS PROGRAM

FITNESS CENTER REIMBURSEMENT

Exhibit 6.1

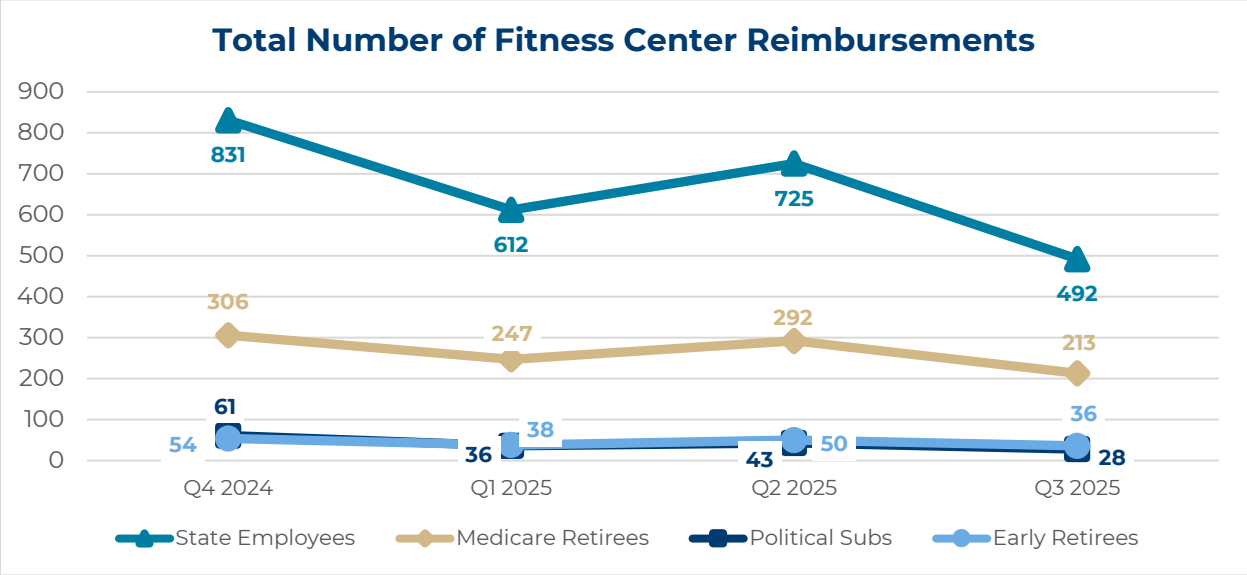
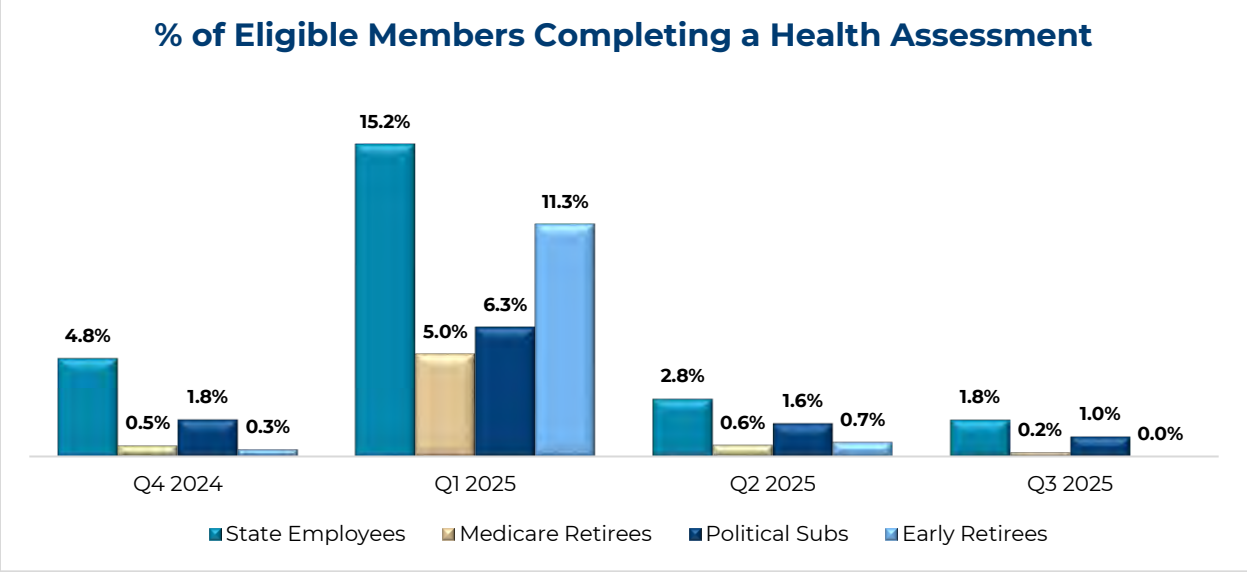


*Chart values are number per quarter and not accumulated.

HEALTH ASSESSMENT

Exhibit 6.2



*Percentages are based on numbers per quarter and are not accumulated.

MONTHLY WELLNESS THEMES

Exhibit 6.3

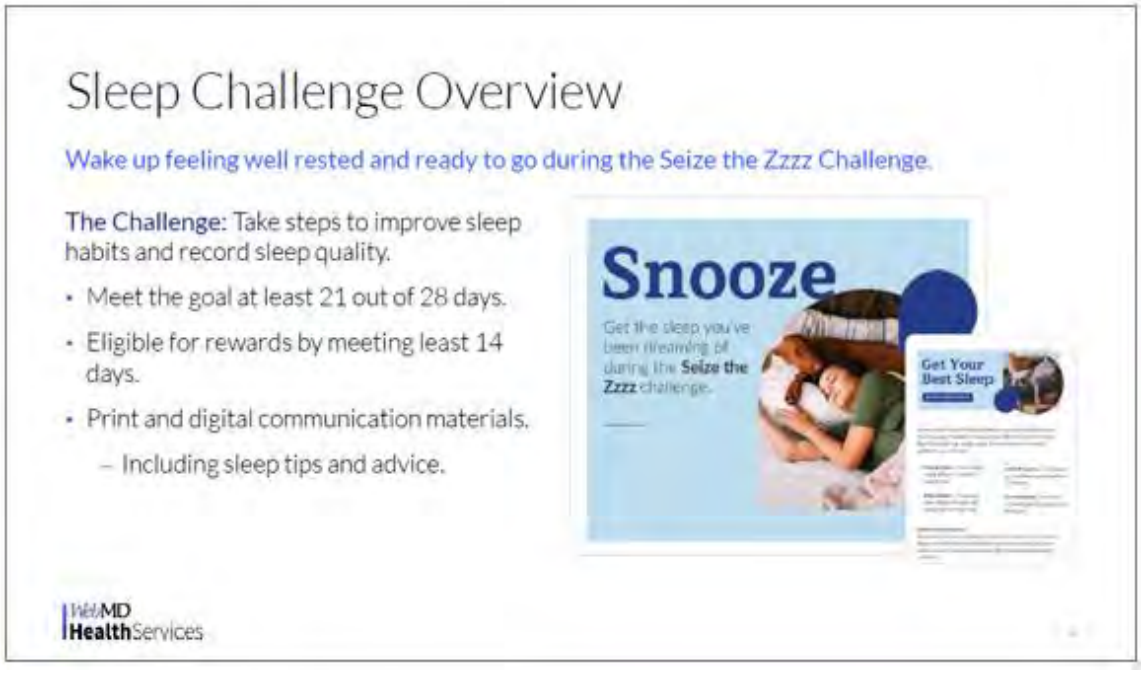
Monthly themes keep the wellness program fresh throughout the year and keep members engaged in their individual wellness pursuit. Newsletter, e-blasts and worksite posters are used to introduce themes.

Q3 QUARTERLY WELLNESS CHALLENGE

Sleep Challenge Overview

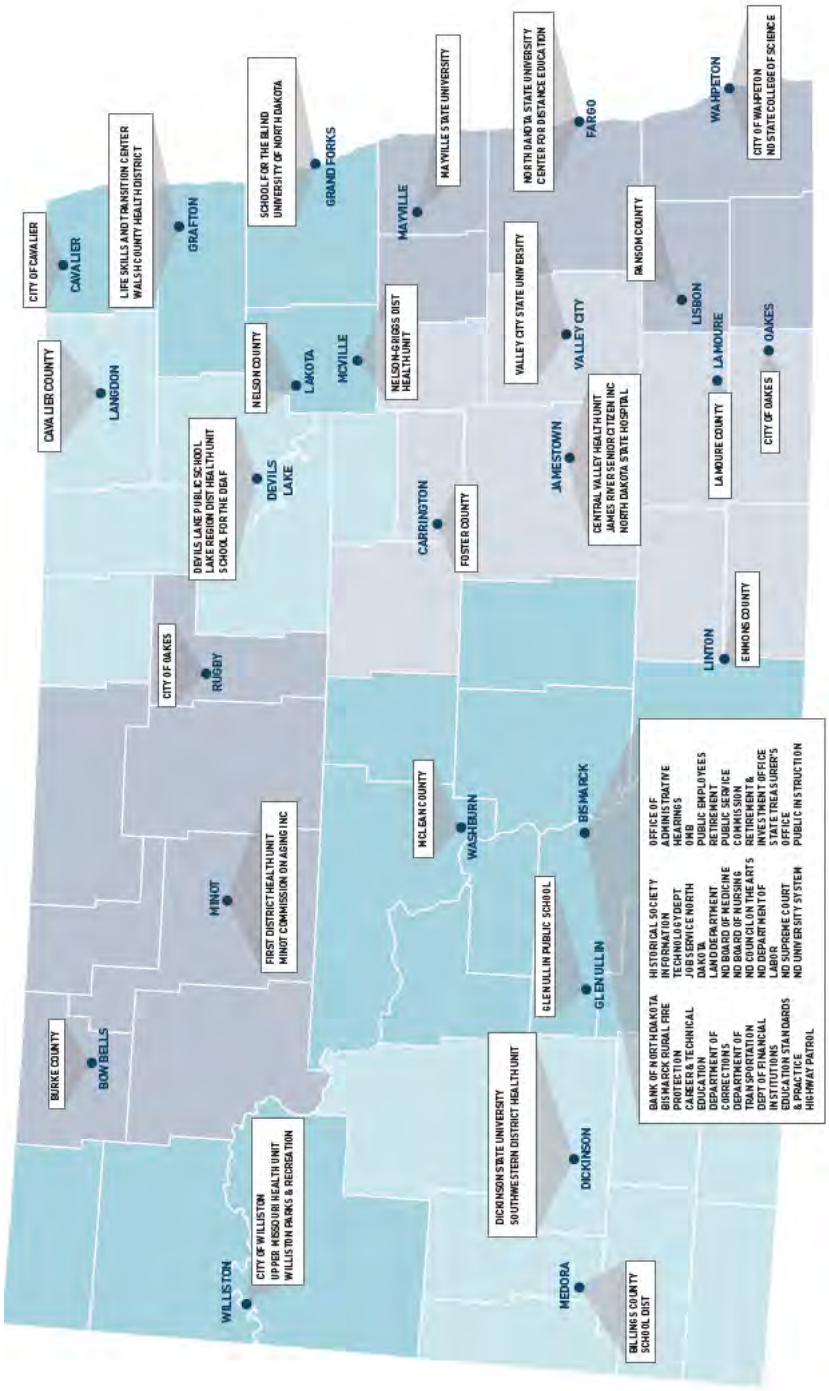
- The Seize the Zzzz challenge ran on the WebMD Wellness portal, available to all Sanford Health Plan NDPERS employees/members and spouses.
- Participants who met the goals/complete the challenge earned 3000 points in the 2025 Dakota Wellness Rewards program.
- To successfully complete the challenge, a participant must register for the challenge, manually track their participation for at least 21 days, and answer "Yes" to getting a good night's sleep for at least 14 of those days.

- **Participation**:
    - **Unique Users**: 1,192
    - **Percentage of Challenge-eligible Users**: 11.4%
    - **Total Visits**: 29,425 visits
    - **Average Visits per Unique User**: 25



EVENT ATTENDANCE BY AGENCY

The Sanford Health Plan NDPERS wellness team continues to engage members across the state, despite pandemic-related in-person restrictions. Wellness educators support agency wellness coordinators and provide worksite education and activities in a virtual format. This map shows where participants are from.



TOTAL MEMBER ATTENDANCE THIS QUARTER: 2,073

WEBINARS/ PRESENTATIONS/ EVENTS:

From Critic to Caretaker
The 7 Benefits of Volunteering
Live a life of Purpose
Healthy Meals in a Hurry

Mindful Eating
Promoting Healthy Behaviors with Positivity
Nutrition and Hydration
Healthy meals in a hurry

TOTAL NUMBER OF AGENCIES VISITED (UNDUPLICATED) 104

Preventive Screening Rates

Exhibit 6.4

MEASURE	GOAL by 6/30/27	OUTCOME DATE	CURRENT
FOCUS AREAS			
Breast cancer screening rates	80%	Sept 30, 2025	81%
Cervical cancer screening rates	85%	Sept 30, 2025	71%
Colorectal cancer screening rates	60%	Sept 30, 2025	72%

WELLNESS CONTINUUM

Well-being Resources | Preventive Care | **Managing A Population** | Care Management | Disease Management

POPULATION HEALTH TARGETED COHORTS

Exhibit 6.5

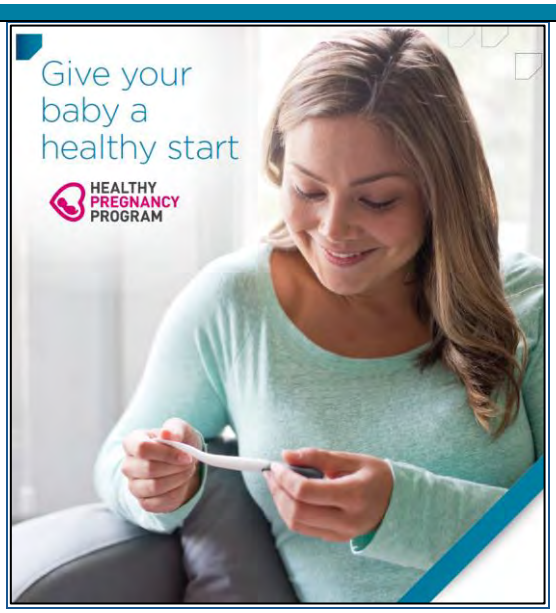
Pregnancy and Newborn Care

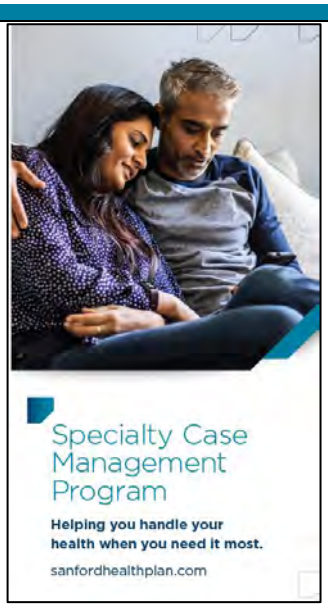
PROGRAM OVERVIEW

Pregnancy/Newborn Care has been on the **Top 10 Highest Paid Diagnosis Group** every quarter over the past biennium (July 2023-June 2025). Sanford Health Plan's Medical Management team administers the following programs to help curb the increasing costs:

- **Healthy Pregnancy Program**
  - Offers free help to expectant mothers ensuring they have the tools and support needed to give their babies the healthiest start possible
  - Existing performance goal will continue into the next biennium

- **High-Risk OB (HROB) Specialty Case Management Program**
  - Designated Case Manager assists expecting mothers who are carrying multiples or have medical conditions as well as newborns with complications requiring neonatal intensive care
    - Case Manager reaches out to eligible members based on claims data
  - Starting July 1, 2025, Sanford Health Plan increased their focus on enrollment in HROB Specialty Case Management
    - Enrollment goal of at least 25% of eligible high-risk pregnant members

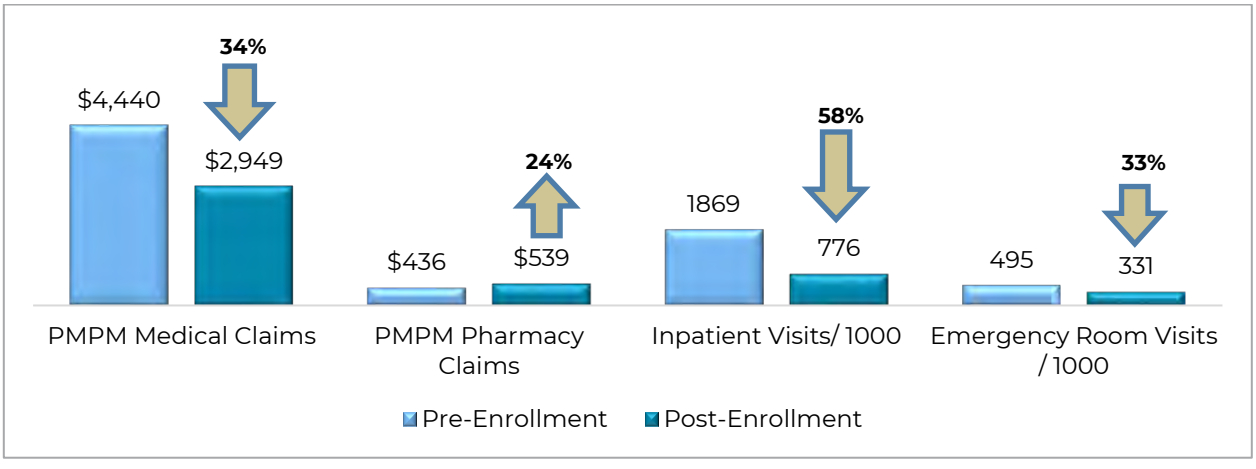




CARE MANAGEMENT ENGAGEMENT

Exhibit 6.6

CARE MANAGEMENT PERFORMANCE METRICS Oct 2024 – Sept 2025				
OFFERED	RESPONDED		ENGAGED	
3,180	1,865	59%	716	38%



SURVEY SCORE

Exhibit 6.7

SECTION 7: PERFORMANCE GUARANTEES

Exhibit 7.1

MEASURE	GOAL	MEASUREMENT PERIOD	Q3 2025 REPORTING PERIOD	CURRENT
WELLNESS				
Health risk assessment completion	18%	7/1/25 – 6/30/27	7/1/25 – 9/30/25	1.32%
Worksite interventions agency participation	75%	7/1/25 – 6/30/27	7/1/25 – 9/30/25	62%
Fitness reimbursement participation	5%	1/1/25 – 12/31/25	1/1/25 – 9/30/25	2.78%
Wellness redemption center payments	$850,000	1/1/25 – 12/31/25	1/1/25 – 9/30/25	$470,105
Wellness redemption center rate	9%	1/1/25 – 12/31/25	1/1/25 – 9/30/25	5.19%
HEALTH OUTCOMES				
Healthy Pregnancy Participation High-Risk OB (HROB) enrolled in Case Management	25% (HP) 25% (HROB)	7/1/25 – 6/30/27	7/1/25 – 9/30/25	HP=43% HROB=21%
Diabetes Prevention Program	5%	1/1/25 – 12/31/25	1/1/25 – 9/30/25	6.6%
Breast cancer screening rates	80%	7/1/25 – 6/30/27	7/1/25 – 9/30/25	81%
Cervical cancer screening rates	85%	7/1/25 – 6/30/27	7/1/25 – 9/30/25	71%
Colorectal cancer screening rates	60%	7/1/25 – 6/30/27	7/1/25 – 9/30/25	72%
PROVIDER NETWORK / CONTRACTING				
PPO network participation rate	Hospital, MDs & DOs: 92%	7/1/25 – 6/30/27	7/1/25 – 9/30/25	100% Hospital 96% MD/DO
Provider network minimum discount	30%	7/1/25 – 6/30/27	7/1/25 – 9/30/25	45.6%
CUSTOMER SERVICE & CLAIMS				
Claims financial accuracy	99%	7/1/25 – 6/30/26	7/1/25 – 9/30/25	99.96%
Claims payment accuracy	98%	7/1/25 – 6/30/26	7/1/25 – 9/30/25	99.87%
Claim timeliness	95%	7/1/25 – 6/30/26	7/1/25 – 9/30/25	99.72%
Claims processing accuracy	95%	7/1/25 – 6/30/26	7/1/25 – 9/30/25	99.71%
Average speed of answer	30 seconds	7/1/25 – 6/30/26	7/1/25 – 9/30/25	16 seconds
Call abandoned rate	5% or less	7/1/25 – 6/30/26	7/1/25 – 9/30/25	0.6%
First call resolution	95%	7/1/25 – 6/30/26	7/1/25 – 9/30/25	96.7%
Written inquiry response time	95%	7/1/25 – 6/30/26	7/1/25 – 9/30/25	98.6%
PHARMACY & FINANCIAL				
Prescription drug turnaround times	98%	7/1/25 – 6/30/27	7/1/25 – 9/30/25	99.9%
Network Pharmacy Access	<5%	7/1/25 – 6/30/26	7/1/25 – 9/30/25	MET
About the Patient program payment	5 days	7/1/25 – 6/30/26	7/1/25 – 9/30/25	MET
Interest Rate determined by PERS/SHP	Quarterly	7/1/25 – 6/30/27	7/1/25 – 9/30/25	MET

Attachment 3

SANFORD HEALTH PLAN

Memo

To: Rebecca Fricke

From: Kim Haug

Date: January 22, 2026

Re: 2025 Performance Guarantee Settlement

The contract between NDPERS and Sanford Health Plan (SHP) contains 38 Performance Guarantees as stated in Exhibit B. Sanford Health Plan met or exceeded the performance for 34 of the 38 goals. Goal #2 was reconciled in CY 2024. NDPERS and SHP have reconciled the Performance Goals for CY 2025 referenced in the Exhibit B of the July 2023-June 2025 and July 2025-June 2027 contracts. This will result in a payout of $16,500 into NDPERS cash reserves by January 31, 2026 for not meeting the full performance expectation of the following 3 goals:

Goal #	Requirement	Performance	Forfeiture
5	Eligibility files will be uploaded within eight (8) hours when received before 1:00 PM CST. All transactions within the file will be completed by SHP within eighteen (18) business hours from the time the NDPERS file has been received, excluding errors requiring corrective action taken by NDPERS before the data can be uploaded and completed. Files received after 1:00 PM CST will be considered off-schedule and completed within 24 hours of receipt.	1 weekly file exceeded 8 hours to be loaded	$500
16	Cervical cancer screening rates will be at least 85% for the biennium	72%	$15,000
33	98% of clean prescriptions are processed within 2 business days for the biennium (if no intervention required)	97%	$1,000
TOTAL PAYOUT			**$16,500**

Attachment 4

North Dakota Public Employees Retirement System

Value Based Arrangement Overview

NDPERS Board Meeting – February 2026

What is a Value-Based Arrangement?

TRADITIONAL FEE FOR SERVICE MODEL

Health care providers are paid for each service performed

VALUE-BASED CARE (VBC) ARRANGEMENTS

Aligned arrangement, with associated incentives, aimed at managing the quality, cost, and equity of a defined population.

- CMS has announced the federal government's goal is for all of its Medicare and Medicaid beneficiaries be in an accountable care program for cost and quality by 2030
- In 2019, SHP introduced the **NDPERS Value Based Arrangement** model known as the **Total Cost of Care Model**

Where is NDPERS on the VBC Spectrum?

HIGHER PAYOR RISK → **HIGHER PROVIDER RISK**

Pay-for-Performance (P4P)

- FFS baseline + bonuses for quality
- *Upside only; minimal provider risk*

Shared Savings (Upside Only)

- **Providers rewarded if costs fall below benchmarks**
- *Still no downside risk*

Bundled Payments (Episodes of Care)

- One payment covers all services for an episode
- *Some accountability for overspending*

Shared Risk (Upside + Downside ACOs)

- **Providers share both savings and losses**
- *Moderate provider risk*

Capitation / Global Budget

- Fixed per-member and per-month or population budget
- *High provider risk, like acting as the insurer*

Two Types of TCOC Risk Arrangements

Upside Only
Shared Savings

- 10% - 30% shared savings
- Driven by performance under target
- Quality thresholds

Altru

TRINITY HEALTH

Essentia Health

Heartland Healthcare Network

Upside & (Downside)
Shared Risk

- 50% shared savings or losses
- Capped at 5% of total annual allowed
- Quality thresholds

Bismarck

SANFORD HEALTH

Fargo

SANFORD HEALTH

How does the TCOC Model work?

EQUITY

- Attribute members to a Provider Group
- Compute a Target risk adjusted cost PMPM

COST

- Determine risk adjusted PMPM target
- Compare actual TCOC PMPM to Target PMPM

QUALITY

- Measure Quality Performance to a threshold
- Compute Shared Savings/Loss Settlement

Risk Arrangement Example

	TWO-SIDED RISK ARRANGEMENT	VALUE
1.	Attributed Members	8,113
2.	Base Period TCOC PMPM --- (YE 12/31/2023)	$ 538.06
3.	Apply Target PMPM adjustment factor --- 3.0%	$ 554.20
4.	Risk Adjusted Target PMPM -- (change in illness burden)	$ 581.25
5.	Performance Period TCOC --- (YE 06/30/2025)	$ 593.52
6.	PMPM (over)/under target	($12.28)
7.	Quality Metrics Points (5 pts are need to meet threshold)	7
8.	Performance Period Attributed Member Month	96,365
9.	Total Amount over Target	($ 1,183,362)
10.	Shared Loss	50%
11.	Shared Loss due from Provider to Health Plan/(NDPERS)	($ 591,681)

Annual Settlements by Provider

PROVIDER	2020	2021	2022	2023	2024	2025	TOTAL
Sanford Fargo	551,000	(895,000)	2,092,000	(592,000)	(1,458,000)	501,000	**199,000**
Sanford Bismarck	(931,000)	(563,000)	0	(30,000)	507,000	(108,000)	**(1,125,000)**
Altru	129,000	0	0	57,000	0	0	**186,000**
Essentia	35,000	0	301,000	0	0	522,000	**858,000**
Trinity	0	0	132,000	0	0	121,000	**253,000**
Heartland Health	137,000	0	0	0	0	0	**137,000**
TOTAL	**(79,000)**	**(1,458,000)**	**2,525,000**	**(565,000)**	**(951,000)**	**1,036,000**	**508,000**

- Performance Periods run 7/1 – 6/30, with payout 12/31
- Upside/ (downside) provider earnings
- Quality performance: **Low** **Mid** **High**

Looking Ahead

EVALUATING THE TCOC ARRANGEMENT

- Is the current structure driving cost and quality change?
- Do the current quality metrics align to current provider initiatives?

LEANING INTO THE FUTURE

- Explore alternative value-based arrangements
- Enhance provider and plan alignment
- Engage NDPERS members in their care journey

Attachment 5

SANFORD HEALTH PLAN

Memo

To: Rebecca Fricke

From: Kim Haug

Date: 2/10/2026

Re: Formulary change for Prolia

Sanford Health Plan continues efforts to contain the cost of pharmacy services without impacting patient experience. On April 1, 2026 Sanford Health Plan will be removing a high-cost biologic medication, Prolia, from the Formulary due to the availability of less expensive Biosimilar medications used to treat the same conditions. This change will incentivize the use of a Biosimilar medication to help reduce medical pharmacy expenses for NDPERS.

Prolia requires a medical provider to administer the medication so is billed by the provider as a medical service. Therefore, this change will impact all lines of business for NDPERS including Medicare Retirees. Sanford Health Plan is notifying providers of the change as well as the members.

On January 30, 2026 the attached letter was mailed to **69** NDPERS members that have received Prolia from a provider.

Attachment 6

February 2, 2026

«Member_First_Name» «Member_Last_Name»
« Member_Address_1» « Member_Address_2»
«Member_City», «Member_State» «Member_ZIP»

Dear «Member_First_Name»,

Sanford Health Plan's covered drug list (formulary) is changing April 1, 2026. The drug below will be changing to non-formulary as of that date. If you no longer take this drug, please disregard this letter.

We encourage you to discuss this change with your doctor if you have any questions or concerns. The preferred drug Stoboclo or Jubbonti is the same as Prolia, producing the same clinical outcomes with no additional side effects.

Current Non-Preferred Drug	Preferred Drug Option(s)
Prolia	Stoboclo or Jubbonti

If you or your doctor feel you should not stop taking the current drug or change to the new preferred drug option, please have your doctor complete and submit a request for prior authorization through our provider portal.

We apologize for any inconvenience this change may have caused. If you have questions about this change, your prescription drug benefits, or would like a free copy of your formulary, please call us toll-free at (855) 305-5062 [TTY:711]. You can also contact us through your secure member portal at sanfordhealthplan.com/memberlogin.

Sincerely,

Pharmacy Management Dept
Sanford Health Plan

Enc: Appeal Rights & Form
Non-discrimination Notice, Biosimlars Flyer

*The penalty is the difference in cost between the non-preferred drug and the preferred alternative as defined in your plan documents. Penalties are not applied to deductible or maximum out of pocket

North Dakota
Public Employees Retirement System
1600 East Century Avenue, Suite 2 ● PO Box 1657
Bismarck, North Dakota 58502-1657

Rebecca Fricke
Executive Director
(701) 328-3900
1-800-803-7377

Fax (701) 328-3920 Email ndpers-info@nd.gov Website www.ndpers.nd.gov

Memorandum

TO: NDPERS Board

FROM: Rebecca Fricke

DATE: February 10, 2026

SUBJECT: Proposed Legislation

At the November 2025 Board Planning Meeting, the Board decided to submit several pieces of legislation for the Employee Benefits Programs Committee's consideration prior to the April 1 bill submission deadline.

The following are the various bill drafts prepared by legal counsel and reviewed by staff:

Attachment 1	Highway Patrol Cash Infusion	Provides for a cash infusion for the Highway Patrol Retirement Plan based upon board action taken at the January 2026 meeting
Attachment 2	457 Plan - New Enrollee Restriction of Provider	Provides authority for NDPERS to restrict new enrollees of the 457 plan to specific provider
Attachment 3	Final Average Salary Calculation	Revises the Final Average Salary calculation for the Highway Patrol and Defined Benefit Plan to remove the higher of component within the calculation
Attachment 4	Elected County Officials	Codifies language currently in administrative rules to clarify participation of elected county officials and ability in limited

		circumstances to have an in-service distribution
Attachment 5	Technical Corrections	- Add DC plan & 457 plan citations (54-52.6 and 54-52.2-03.3) to exemptions under 28-22-03.1(5) and (7) & 28-22-19(1) exemptions as public retirement funds - Update 39-03.1-11.2 & 54-52.6-21(2) due to changes in required minimum distributions under federal law to mirror changes made under 54-52-28(2) - Correct citation under 54-52-01(15) from subsection 14 to subsection 16 - Add DC plan to chapters Board administers under NDCC 54-52-04(7) and clarify administrative expenses under NDCC 54-52-04(11) - Revise language in NDCC 54-52-05 to change state to employer and contribution to combination - Clarify 54-52.1-03.2(1)(a) due to RHIC portability, any insurance plan, not just NDPERS - Clarify 54-52.1-03.3(3) that combined spouse RHIC can only be applied to NDPERS health insurance - Modify 54-52-04(11) to change “and” to “or” regarding funding of administrative fees for 457 plan - Change 5 months to 20 weeks in NDCC 54-52.2-04 for plan consistency - Include “subject to federal contribution limitations” to NDCC 54-52.2-09 in two places when it talks about the employer match

		- Update definitions under 54-52.6-01(4), (5), (6), (7) & (8) passed in HB 1040 that were not included or modified in SS 1548 - Clarify language to NDCC 54-52.6-09(3) to indicate an employer may pick up all or a portion of the employee contributions under the DC plan (mirrors language in DB plan) - Correct citation under 54-52.6-14 due to changes in 54-52.6-13 references

Staff will be available to discuss the proposed legislation bill drafts and answer any questions you may have. In addition, staff have requested Ice Miller review the drafts for compliance with federal law.

At this time, we are providing to the Board for review should there be any changes you'd like made to any of the drafts. We will bring the bill drafts back, including any items that Ice Miller identifies, for discussion at the March meeting so we can seek final approval. This timeline is necessary so bill drafts can be submitted to the Employee Benefits Programs Committee prior to the April 1 bill submission deadline.

Board Action Requested:

Provide input on the bill drafts, including any changes the Board would like to see to them that can be brought back for final approval at the March meeting.

Attachment 1

Seventieth
Legislative Assembly
of North Dakota

BILL NO.

Introduced by

(North Dakota Public Employees Retirement System)

A BILL for an Act to provide for a transfer to the highway patrol trooper's retirement system fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND TO HIGHWAY PATROL TROOPERS' RETIREMENT SYSTEM FUND. The office of management and budget shall transfer the sum of $_____ from the strategic investment and improvements fund to the highway patrol troopers' retirement system fund, for the purpose of increasing the funded liability of the highway patrol troopers' retirement plan to a level sufficient to be one hundred percent funded based on a 20-year amortization period during the biennium beginning July 1, 2027 and ending June 30, 2029.

NOTE: This bill draft contains blanks that must be filled in before introduction.

Attachment 2

Seventieth
Legislative Assembly
of North Dakota

BILL NO.

Introduced by

(North Dakota Public Employees Retirement System)

A BILL for an Act to create to amend and reenact section 54-52.2-03.2 of the North Dakota Century Code, relating to North Dakota Public Employees Retirement System Board authority to administer the deferred compensation program for public employees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52.2-03.2 of the North Dakota Century Code is amended and reenacted as follows:

1. The board shall adopt rules necessary to implement this chapter and to manage the deferred compensation plan subject to the limitations of this chapter.
2. The board shall do all things necessary to preserve the tax-exempt status of the plan.
3. All providers must be authorized to do business in this state and all agents of providers must be licensed by the appropriate licensing authority or authorities in this state.
4. To continue to participate in the program, each provider must report annually, in a form and manner specified by the board, information related to their products, administrative and management fees, contract and maintenance charges, withdrawal penalties, market rating, and such other information the board may require.
5. The board may suspend participation of any provider that does not meet the requirements of this chapter or the rules adopted by the board.
6. The board has the authority to establish a deferred compensation advisory committee which shall include active providers who have signed a provider administrative agreement with the state of North Dakota deferred compensation plan.
7. <u>The board may limit new enrollees to one or more providers as designated by the board for purposes of enrollment and certain administrative duties of the deferred compensation plan.</u>

Attachment 3

Seventieth
Legislative Assembly
of North Dakota

BILL NO.

Introduced by

(North Dakota Public Employees Retirement System)

A BILL for an Act to amend and reenact subsection 2 of section 39-03.1-11 and subsection 2 of section 54-52-17 of the North Dakota Century Code, relating to the computation of final average salary.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-03.1-11 of the North Dakota Century Code is amended and reenacted as follows:

2. Retirement benefits are based on the contributor's final average salary. Final average salary is the average of the highest salary received by the contributor for any thirty-six months employed during the last one hundred twenty months of employment. For contributors who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the contributor for any thirty-six months employed during the last one hundred eighty months of employment. For contributors who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the board has appropriate and accurate salary records on its electronic database, but that period may not be more than the last one hundred eighty months of employment. For members who terminate employment after December 31, 2019, final average salary is ~~the higher of the final average salary calculated on December 31, 2019, or~~ the average salary earned in the three highest periods of twelve consecutive months employed during the last one hundred eighty months of employment. Months without earnings are excluded for the purpose of computing an average. If the contributor has worked for less than thirty-six months at the postponed retirement date, the final average salary is the average salary for all months of employment.

SECTION 2. AMENDMENT. Subsection 2 of section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

2. Retirement benefits are calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment. For members who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred eighty months of employment. For members who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the board has appropriate and accurate salary records on the board's electronic database, but that period may not be more than the last one hundred eighty months of employment. For members who terminate employment after December 31, 2019, final average salary is ~~the higher of the final average salary calculated on December 31, 2019, or~~ the average salary earned in the three highest periods of twelve consecutive months employed during the last one hundred eighty months of employment. Months without earnings are excluded for the purpose of computing an average. If the participating member has worked for less than thirty-six months at the normal retirement date, the final average salary is the average salary for the total months of employment.

Attachment 4

Seventieth
Legislative Assembly
of North Dakota

BILL NO.

Introduced by

(North Dakota Public Employees Retirement System)

A BILL for an Act to create and enact a new section to chapter 54-52 and a new section to chapter 54-52.6 of the North Dakota Century Code, relating to in-service benefit distributions to county elected officials; to amend and reenact section 54-52-02.11 and section 54-52.6-02.1 of the North Dakota Century Code, relating to county elected officials' participation in retirement plans administered by the North Dakota Public Employees Retirement System; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52-02.11 of the North Dakota Century Code is amended and reenacted as follows:

54-52-02.11. Participation requirements for nonstate elected officials.

1. ~~Before January 1, 2025, eligible elected officials of participating counties, at their individual option, may enroll in the defined benefit plan within the first six months of their term.~~

~~2. After December 31, 2024, eligible~~Eligible elected officials of participating counties, ~~at their individual option~~ from and after the date of first taking office, ~~may enroll~~shall participate in the defined contribution retirement plan under chapter 54-52.6, ~~within the first six months of their term.~~unless at the time of taking office the eligible elected official is:

a. Eligible to participate in the public safety retirement plan created by this chapter, in which case the eligible elected official shall participate in the public safety retirement plan; or

b. A participating or deferred member under this chapter, in which case the eligible elected official shall participate in the defined benefit plan.

2. Elected officials of participating counties who are not eligible employees shall have the same participation options as temporary employees.

SECTION 2. A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

Nonstate elected officials – in-service benefit distributions.

The board shall approve a request to receive in-service benefit distributions while serving as an elected official of the county of prior employment made before August 1, 2027, by a participating member who has reached the member's normal retirement date, returned to service or continued employment as an elected official of the same participating county with which the member was employed at the time the member retired, and is not contributing to the public safety plan, the defined benefit plan, or the defined contribution retirement plan.

SECTION 3. AMENDMENT. Section 54-52.6-02.1 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-02.1. Participation in defined contribution retirement plan.

1. Except as otherwise provided under section 54-52-02.5 or 54-52-02.15 or this chapter, effective January 1, 2025, an eligible employee who is first enrolled shall participate in the defined contribution retirement plan under this chapter.

2. A temporary employee may elect to participate in the defined contribution retirement plan as provided under section 54-52.6-09.6.

3. A county elected official ~~may elect to~~shall participate in the defined contribution retirement plan as provided under section 54-52-02.11.

4. A nonstate appointed official shall participate in the defined contribution retirement plan as provided under section 54-52-02.12.

SECTION 4. A new section to chapter 54-52.6 of the North Dakota Century Code is created and enacted as follows:

Nonstate elected officials – in-service benefit distributions.

The board shall approve a request to receive in-service benefit distributions while serving as an elected official of the county of prior employment made before August 1, 2027, by a participating member who has reached the member's normal retirement date, returned to service or continued employment as an elected official of the same participating county with which the member was employed at the time the member retired, and is not contributing to the public safety plan, the defined benefit plan, or the defined contribution retirement plan.

SECTION 5. RETROACTIVE APPLICATION. Sections 2 and 4 of this Act have a retroactive effective date of July 1, 2007.

Attachment 5

Seventieth
Legislative Assembly
of North Dakota

BILL NO.

Introduced by

(North Dakota Public Employees Retirement System)

A BILL for an Act to amend and reenact subsections 5 and 7 of section 28-22-03.1 and section 28-22-19 of the North Dakota Century Code relating to the exemption of retirement benefits from legal process and to amend and reenact subsection 2 of section 39-03.1-11.2, subsection 15 of section 54-52-01, subsections 7 and 11 of section 54-52-04, subsection 3 of section 54-52-05, subsection 1 of section 54-52.1-03.2, subsection 3 of section 54-52.1-03.3, section 54-52.2-04, section 54-52.2-09, section 54-52.6-01, subsection 3 of section 54-52.6-09, section 54-52.6-14, and subsection 2 of section 54-52.6-21 of the North Dakota Century Code relating to administering the public employees retirement system

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 5 and 7 of section 28-22-03.1 of the North Dakota Century Code are amended and reenacted as follows:

5. The debtor's aggregate interest, not to exceed in value one hundred thousand dollars less any amount of property transferred in the manner specified in 11 U.S.C. 542(d), in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent. Any cash deposit not previously scheduled to be made into a life insurance policy or nonqualified annuity over the previous twelve months is not exempt. Benefits are not exempt from enforcement of any order to pay spousal support, child support, or a qualified domestic order under sections 15-39.1-12.2, 39-03.1-14.2, ~~and~~ 54-52-17.6, 54-52.2-03.3, and 54-52.6-12.

7. Retirement funds that have been in effect for at least one year, to the extent those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986. The value of those assets exempted may not exceed two hundred thousand dollars for any

one account or four hundred thousand dollars in aggregate for all accounts. The dollar limit does not apply to the extent this property is reasonably necessary for the support of the resident and that resident's dependents. Retirement funds are not exempt from enforcement of any order to pay spousal support or child support, or a qualified domestic relations order under sections 15-39.1-12.2, 39-03.1-14.2, ~~and~~ 54-52-17.6, 54-52.2-03.3, and 54-52.6-12. As used in this subsection, "reasonably necessary for the support" means required to meet present and future needs, as determined by the court after consideration of the resident's responsibilities and all the present and anticipated property and income of the resident, including that which is exempt.

SECTION 2. AMENDMENT. Section 28-22-19 of the North Dakota Century Code is amended and reenacted as follows:

The following amounts are exempt from liability for debts of the person to or on account of whom the amounts are paid, and are not subject to seizure upon execution or other process:

1. All pensions or annuities or retirement, disability, death, or other benefits paid or payable by, or amounts received as a return of contributions and interest from, a retirement system established pursuant to state law by the state except as provided by sections 15-39.1-12.2, 39-03.1-14.2, 54-52-17.6, ~~and~~ 54-52.2-03.3, and 54-52.6-12, a state agency, a political subdivision of the state, or a firefighters relief association for retirement, annuity, pension, disability benefit, or death benefit purposes. The exemption in this subsection does not apply to the collection of child support unless federal law requires an exemption or if complying with an execution or other process would require an actuarial analysis to determine the current value of the amounts that are payable to the debtor.
2. All awards made pursuant to chapter 54-23.4 as compensation for victims of crimes.
3. All payments of assistance as aid to dependent children pursuant to chapter 50-09.

SECTION 3. AMENDMENT. Subsection 2 of section 39-03.1-11.2 of the North Dakota Century Code is amended and reenacted as follows:

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, as amended. 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. ~~For a member who attains age seventy and one-half before January 1, 2020, the 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. For a member who attains age seventy and one-half after December 31, 2019, the 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-two or terminates employment.~~

SECTION 4. AMENDMENT. Subsection 15 of section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

15. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the state, except by the highway patrol for members of the retirement plan created under chapter 39-03.1, or is employed by a political subdivision and, notwithstanding subsection ~~14~~16, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. A peace officer who is a participating member of the public safety retirement plan created by this chapter who begins employment after August 1, 2005, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.

SECTION 5. AMENDMENT. Subsections 7 and 11 of section 54-52-04 of the North Dakota Century Code are amended and reenacted as follows:

7. The board shall administer chapters 39-03.1, 54-52.1, ~~and~~ 54-52.2, and 54-52.6 and may administer other optional employee benefit programs, including a flexible benefits plan, an optional employee short-term disability plan, a long-term care plan, or other optional employee benefit programs as the board deems appropriate. The board shall also administer the retirement plan established in 1961 and frozen to new entrants in 1980 for employees of job service North Dakota under chapter 52-11.

11. The board shall fund the administrative expenses of chapter 54-52.2 from funds collected under chapters 54-52, 54-52.1, ~~and~~ 54-52.3, or any combination thereof, and from fines and fees collected from deferred compensation services providers,

including any fees paid for by participant funds, subject to appropriation by the legislative assembly.

SECTION 6. AMENDMENT. Subsection 3 of section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52-06.4 or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. The amount paid must be paid by the employer in lieu of contributions by the employee. If the ~~state~~employer determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a ~~contribution~~combination of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the board in writing.

SECTION 7. AMENDMENT. Subsection 1 of section 54-52.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

1. a. The board shall establish a retiree health benefits fund account with the Bank of North Dakota for the purpose of prefunding and providing hospital benefits coverage, medical benefits coverage, and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under any insurance program, ~~including coverage under the~~

~~uniform group insurance program for retired eligible employees or surviving spouses of retired eligible employees and their dependents as provided in this chapter~~.

b. The state shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries and wages of all participating members of the highway patrol troopers' retirement system under chapter 39-03.1, and one and fourteen hundredths percent of the monthly salaries of all supreme or district court judges who are participating members of the public employees retirement system under chapter 54-52.

c. Each governmental unit that contributes to the public employees retirement system fund under section 54-52-06 or the retirement plan under chapter 54-52.6 shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen-hundredths percent of the monthly salaries or wages of all participating members of the public employees retirement system under chapter 54-52 or chapter 54-52.6, except for:

(1) Members first enrolled after December 31, 2019, for which a governmental unit contributes to the public employees retirement system fund under section 54-52-06 or the retirement plan under chapter 54-52.6; and

(2) Nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13 and employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 54-52-02.14.

d. For nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13, the superintendent of public instruction shall contribute monthly to the retiree health benefits fund an amount equal to three and twenty-four hundredths percent of the monthly salaries or wages of those nonteaching employee members, beginning on the first of the month following the transfer under section 54-52-02.13 and continuing thereafter for a period of eight years, after which time the superintendent of public

instruction shall contribute one and fourteen-hundredths percent of the monthly salary or wages of those nonteaching employee members.

e. For employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 54-52-02.14, the state board for career and technical education shall contribute monthly to the retiree health benefits fund an amount equal to two and ninety-nine hundredths percent of the monthly salary or wages of those employee members, beginning on the first of the month following the transfer under section 54-52-02.14 and continuing thereafter for a period of eight years, after which time the state board for career and technical education shall contribute one and fourteen-hundredths percent of the monthly salary or wages of those employee members.

f. The employer of a national guard security officer or firefighter shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen-hundredths percent of the monthly salaries or wages of all national guard security officers or firefighters participating in the public employees retirement system under chapter 54-52.

g. Job service North Dakota shall reimburse monthly the retiree health benefits fund for credit received under section 54-52.1-03.3 by members of the retirement program established by job service North Dakota under section 52-11-01.

h. The board, as trustee of the fund and in exclusive control of its administration, shall:

(1) Provide for the investment and disbursement of moneys of the retiree health benefits fund and administrative expenditures in the same manner as moneys of the public employees retirement system are invested, disbursed, or expended.

(2) Adopt rules necessary for the proper administration of the retiree health benefits fund, including enrollment procedures.

SECTION 8. AMENDMENT. Subsection 3 of section 54-52.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The board shall apply the credit allowable under subsection 2 as elected by the eligible participant to the payment of monthly premiums required of each individual eligible under subsection 1 for hospital benefits coverage, medical benefits coverage, and

prescription drug coverage under any health insurance program and for dental, vision, and long-term care benefits coverage under any insurance program. If one spouse takes a family health plan under the uniform group health insurance program, ~~T~~the board shall allow spouses who each have credit under subsection 2 to combine the spouses' credits ~~and shall apply the combined credit to the required~~ for reimbursement of the family health plan monthly premiums as elected pursuant to this subsection. However, if the allowable credit under any circumstance exceeds the monthly premium in effect for selected coverage, that amount of the credit which exceeds the premium is forfeited and may not be used for any other purpose.

SECTION 9. AMENDMENT. Section 54-52.2-04 of the North Dakota Century Code is amended and reenacted as follows:

For the purpose of this chapter, “employee” means any person, whether appointed, elected, or under contract, employed by the state or a political subdivision, who is at least eighteen years of age and employed in an approved and regularly funded position of unlimited duration for twenty hours or more per week and at least ~~five months~~twenty weeks each year. For purposes of this chapter, “employee” also means a member of the legislative assembly.

SECTION 10. AMENDMENT. Section 54-52.2-09 of the North Dakota Century Code is amended and reenacted as follows:

An employee who first participated in the defined contribution retirement plan under chapter 54-52.6 after December 31, 2024, who elects to contribute less than the optional three percent of wages or salary under subdivision b of subsection 1 of section 54-52.6-09, who participates in the deferred compensation program under this chapter, qualifies for employer matching of contributions made under this section, subject to federal contribution limitations . The employee may elect to contribute an amount of wages or salary which does not exceed any remaining balance of the optional three percent contribution and the employer shall match this contribution, subject to federal contribution limitations. This section does not limit the ability of an employee to contribute unmatched wages or salary under this chapter, subject to federal contribution limitations.

SECTION 11. AMENDMENT. Section 54-52.6-01 of the North Dakota Century Code is amended and reenacted as follows:

As used in this chapter, unless the context otherwise requires:

1. "Board" means the public employees retirement system board.
2. "Deferred member" means an individual who elected to receive deferred vested retirement benefits under chapter 54-52.

3. "Eligible employee", for employees who become participating members after December 31, 2024, has the same meaning as provided under section 54-52-02.15. For employees who elected to join the defined contribution retirement plan under this chapter before January 1, 2025, the term includes a permanent state employee, except an employee of the judicial branch or an employee of the board of higher education and state institutions under the jurisdiction of the board of higher education, who is at least eighteen years of age and who is in a position not classified by the North Dakota human resource management services.

4. "Employee" means an individual employed by ~~the state~~a governmental unit, whose compensation is paid out of ~~state~~the governmental unit's funds, or funds controlled or administered by ~~the state~~a governmental unit or paid by the federal government through any of its executive or administrative officials.

5. "Employer" means ~~the state of North Dakota~~a governmental unit~~, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision of the state~~.

6. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision of the state.

~~6~~7. "Participating member" means an eligible employee who ~~elects to participate~~participates in the defined contribution retirement plan established under this chapter.

~~7~~8. "Permanent employee" means ~~a state~~an employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least ~~five months each year~~twenty weeks each year of employment.

9. "Temporary employee" means an employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored retirement fund, and, if employed by a school district, occupies a noncertified teacher's position.

~~8~~10. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing

allowances, transportation expenses, early retirement~~,~~ incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported pursuant to rules adopted by the board.

SECTION 12. AMENDMENT. Subsection 3 of section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 13. AMENDMENT. Section 54-52.6-14 of the North Dakota Century Code is amended and reenacted as follows:

The board shall allow distribution of the participating member's vested account balance if the board determines that the participating member has become totally and permanently disabled. If approved, the disabled member has the same distribution options as provided in subdivisions a(1) and ~~c~~(a)(3) of subsection 3 of section 54-52.6-13. However, if the member chooses the

periodic distribution option, the member may only receive distributions for as long as the disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. If the board determines that a member no longer meets the eligibility definition, the board shall discontinue the disability retirement benefit.

SECTION 14. AMENDMENT. Subsection 2 of section 54-52.6-21 of the North Dakota Century Code is amended and reenacted as follows:

The board shall administer the plan in compliance with the following sections of the Internal Revenue Code, as amended, as they apply to governmental plans:

2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code and the regulations issued under that provision to the extent applicable to governmental plans, as amended. 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. ~~For a member who attains age seventy and one-half before January 1, 2020, the 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. For a member who attains age seventy and one-half after December 31, 2019, the 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-two or terminates employment.~~

North Dakota
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Memorandum

TO: NDPERS Board

FROM: Rebecca

DATE: February 10, 2026

SUBJECT: Proposed Administrative Rules

Required notices of the proposed administrative rules were provided to legislators, Legislative Council, the various newspapers across the State, and employers participating in the various NDPERS plans. The Public Hearing was held on January 20th at 11:00 a.m. in the NDPERS Conference Room. There were not any comments received during the hearing.

Following the hearing, the comment period was opened. Written or oral comments were to be received by NDPERS by 5:00 p.m. on February 2nd. There were not any comments received during the comment period.

The following is the remaining timeline for the rule-making process:

February 10	Board review of comments. Final approval of proposed rules.
February 13	Send to Attorney General's office for review.
April 29	After receipt of AG review, send to Legislative Council.
May 1	Deadline to submit proposed rules to Legislative Council.
June TBD	Administrative Rules Committee Meeting held.
July 1	New rules take effect, provided there are no holds placed on them by the Committee.

At this time, I am seeking final Board approval of the proposed administrative rules (Attachment 1), contingent upon the Attorney General's approval.

Board Action Requested

Provide final approval of the proposed administrative rules, as provided as Attachment 1, contingent upon the Attorney General's approval.

Attachment

Title 71
Retirement Board

Article	
71-01	General Administration
71-02	Public Employees Retirement System
71-03	Uniform Group Insurance Program
71-04	Deferred Compensation Plan for Public Employees
71-05	Highway Patrol Retirement System
71-06	Retiree Health Insurance Credit
71-07	Pretax Benefits Program
71-08	Defined Contribution Plan

ARTICLE 71-02
PUBLIC EMPLOYEES RETIREMENT SYSTEM

Chapter	
71-02-01	Definitions
71-02-02	Membership
71-02-03	Service Credit
71-02-04	Retirement Benefits
71-02-05	Disability
71-02-06	Contributions
71-02-07	Return to Service
71-02-08	Participation by Governmental Units
71-02-09	Review Procedure
71-02-10	Qualified Domestic Relations Orders
71-02-11	Uniformed Services Employment and Reemployment Rights Act

CHAPTER 71-02-01
DEFINITIONS

71-02-01-01. Definitions.

As used in North Dakota Century Code chapter 54-52 and this article:

1. "Accumulated contributions" means the total of all of the following:

   a. The employee account fund balance accumulated under the prior plan as of June 30, 1977.

   b. The vested portion of the employee's "vesting fund" accumulated under the prior plan as of June 30, 1977.

   c. The member's mandatory contributions made after July 1, 1977.

d. The member's vested employer contributions made after January 1, 2000, pursuant to North Dakota Century Code section 54-52-11.1.

e. The interest on the sums determined under subdivisions a, b, c, and d, compounded annually at the rate of five percent from July 1, 1977, to June 30, 1981, six percent from July 1, 1981, through June 30, 1986, and one-half of one percent less than the actuarial interest assumption from July 1, 1986, to the member's withdrawal from the plan or retirement.

f. The sum of any employee purchase or repurchase payments.

2. "Actuarial equivalent" means a benefit calculated to be of equal value to the benefit otherwise payable when computed on the basis of assumptions and methods adopted for this purpose by the board in a way that precludes employer discretion pursuant to Internal Revenue Code section 401(a)(25). Such assumptions and methods adopted by the board, and any table of adjustment factors established in accordance with the assumptions and methods, shall be incorporated herein by reference.

3. "Alternative retirement system" means the teachers' fund for retirement, the highway patrolmen's retirement system, and the teachers' insurance and annuity association of America.

4. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.

5. "Board" means the board of trustees for the public employees retirement system.

6. "Bonus" means cash compensation for services performed in addition to base salary excluding commission and shift differentials. Bonus does not include lump sum payments of sick leave provided under North Dakota Century Code section 54-06-14 or lump sum payments of annual leave or vacation pay.

7. "Claim" means the right to receive a monthly retirement allowance, the receiving of a retirement allowance, or the receiving of a disability benefit.

8. "Continuously employed" means any period of employment uninterrupted by voluntary or involuntary termination or discharge. A member who has taken a leave of absence approved by the member's employer, not to exceed a year unless approved by the executive director, and returns to employment shall be regarded as continuously employed for the period.

9. "Contribution" means the payment into the fund as a percentage of the salary of a member.

~~10. "Correctional officer" means a person who has completed a correctional officer course approved or certified by the North Dakota department of corrections and rehabilitation~~

~~and is employed by a correctional facility as defined in North Dakota Century Code chapter 12-44.1~~.

~~11.~~ 10. "County judge" means a judge who was elected pursuant to North Dakota Century Code section 27-07.1-01 or an individual holding the position of county judge, county justice, or judge of county court prior to the general election in 1982, who meets all the eligibility requirements established under North Dakota Century Code chapter 54-52.

~~12.~~11. "Interruption of employment" is when an individual is inducted (enlists or is ordered or called to active duty into the armed forces of the United States) and leaves an employment position with a state agency or political subdivision, other than a temporary position. The individual must have left employment to enter active duty and must make application in accordance with the Uniformed Services Employment and Reemployment Rights Act.

~~13.~~ 12. "Leave of absence" means the period of time up to one year for which an individual may be absent from covered employment without being terminated. At the executive director's discretion, the leave of absence may be extended not to exceed two years, or indefinitely if the leave of absence is due to interruption of employment.

~~14.~~ 13. "Medical consultant" means a person or committee appointed by the board of the North Dakota public employees retirement system to evaluate medical information submitted in relation to disability applications, recertifications, and rehabilitation programs or other such duties as assigned by the board.

~~15.~~ 14. "Normal retirement age", except for members of the national guard plan, the bureau of criminal investigation plan, and ~~law enforcement~~ the public safety plans, means age sixty-five unless otherwise provided. For members of the national guard plan, the ~~plan~~ bureau of criminal investigation plan, and the ~~law enforcement~~ public safety plans, normal retirement age means age fifty-five, unless otherwise provided.

~~16.~~ 15. "Office" means the administrative office of the public employees retirement system.

~~17.~~ 16. "Overtime" as used in ~~subsection 23 of~~ North Dakota Century Code section 54-52-01 means, for employees other than firefighters and peace officers, any hours worked over the regularly scheduled work week and not to exceed forty hours in a week which are paid either at the regular hourly rate or time and one-half. For firefighters and peace officers, overtime means hours worked over the regularly scheduled work period which are paid either at the regular hourly rate or time and one-half.

~~18.~~ 17. "Participating employer" means an employer who contributes to the North Dakota public employees retirement system. For confidentiality purposes, "participating employer" means the person or group of persons with the ultimate authority over personnel decisions within the agency or political subdivision with which the member is employed or the person's or group's official designee.

~~19.~~ 18. "Pay status" means a member is receiving a retirement allowance from the fund.

~~20.~~ 19. "Permanent and total disability" for members of the main retirement system, ~~and~~ the national guard~~/law enforcement retirement~~ plan, the bureau of criminal investigation plan, and the public safety plans means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve months. For members of the judge's retirement plan, "permanent and total disability" is determined pursuant to ~~subdivision e of~~ subsection 3 of section 54-52-17 of the North Dakota Century Code.

~~21.~~ 20. "Plan administrator" means the executive director of the North Dakota public employees retirement system or such other person or committee as may be appointed by the board of the North Dakota public employees retirement system from time to time.

~~22.~~ 21. "Plan year" means the twelve consecutive months commencing July first of the calendar year and ending June thirtieth of the subsequent calendar year.

~~23.~~ 22. "Prior plan" means the state employees' retirement system which existed from July 1, 1966, to June 30, 1977.

~~24.~~ 23. "Regularly funded" means a legislatively authorized full-time equivalent (FTE) position for state agencies. For all governmental units other than state agencies, regularly funded means a similar designation by the unit's governing board which is created through the regular budgeting process and receives traditional employee benefits such as sick leave and annual leave.

~~25.~~ 24. "Retiree" means an individual receiving a monthly retirement allowance pursuant to chapter 54-52.

~~26.~~ 25. "Retirement allowance" means a reoccurring, periodic benefit from an eligible employer-sponsored retirement plan as approved by the board.

~~27.~~ 26. "Service credit" means increments of time to be used in the calculation of retirement benefits. Service credit may be earned as stated in section 71-02-03-01 or may be purchased or repurchased according to section 71-02-03-02.1.

~~28.~~ 27. "Substantial gainful activity" is to be based upon the totality of the circumstances including consideration of an individual's training, education, and experience; an individual's potential for earning at least seventy percent of the individual's predisability earnings; and other items deemed significant on a case-by-case basis. Eligibility is based on an individual's employability and not actual employment status.

~~29.~~ 28. "Termination of employment" for the purposes of determination for eligibility for benefit payments means a severance of employment by not being on the payroll of a

covered employer for a minimum of one month. Approved leave of absence or if reemployed by any covered employer prior to receiving a lump sum distribution of the member's account balance does not constitute termination of employment.

~~30.~~ 29. "Termination of participation" means termination of eligibility to participate in the retirement plan.

History: Amended effective September 1, 1982; November 1, 1990; September 1, 1991; January 1, 1992; September 1, 1992; June 1, 1993; July 1, 1994; June 1, 1996; July 1, 2000; April 1, 2002; May 1, 2004; July 1, 2006; July 1, 2010; April 1, 2014; April 1, 2016; July 1, 2018; April 1, 2020; _____, 2026.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 54-52

CHAPTER 71-02-03
SERVICE CREDIT

71-02-03-02.2. Payment.

The total dollar amount for the purchase or repurchase may be paid in a lump sum or on a monthly, quarterly, semiannual, or annual basis. Payments may be subject to contribution limitations established under 26 U.S.C. 415. Payments must begin within ninety days of the date the written cost confirmation is prepared. If the installment method is used, the following conditions apply:

1. Simple interest at the actuarial rate of return must accrue monthly on the unpaid balance. Interest is calculated from the fifteenth of each month.

2. The installment schedule may extend while the employee is employed by a participating employer but for no longer than a fifteen-year time period.

3. Installment payments may be made by a payroll deduction where available. However, it is the responsibility of the member to initiate and terminate the payroll deduction.

4. Payments may only be received until the fifteenth of the month following the month of the member's termination of employment ~~date~~ or the month of member's termination of participation in an eligible plan with a participating employer.

5. Payments are due by the fifteenth of the month to be credited for the month.

6. Payments must be greater or equal to fifty dollars per month, large enough to pay the current interest plus a portion of principal, and an amount necessary to complete the payment contract within the fifteen-year time period.

History: Effective November 1, 1990; amended effective July 1, 1994; June 1, 1996; May 1, 2004; July 1, 2006; July 1, 2010; _____, 2026.
General Authority: NDCC 54-52-02.6, 54-52-04, 54-52-17, 54-52-17.2, 54-52-17.4
Law Implemented: NDCC 54-52-02.6, 54-52-17, 54-52-17.2, 54-52-17.4

71-02-03-06. Conversion of sick leave.

To convert unused sick leave to service credit, the member must submit an application to the office, no later than the end of the month in which the member is no longer eligible to accrue the sick leave hours, unless otherwise approved by the executive director. The member's employer must confirm the member's unused balance of accumulated sick leave as of the date the member is no longer eligible to accrue sick leave hours. For a member transferring from one participating employer to another participating employer without terminating eligible employment, the public employees retirement system shall record unused sick leave of a participating member if the new employer certifies that it will not transfer that leave. The certification must include documentation from the previous employer detailing the number of hours of sick leave. The public employees retirement system must receive the certification within sixty days after the member leaves employment with the former employer. One month of service credit must be awarded for each one hundred seventy-three and three-tenths hours of unused accumulated sick leave. The employer and employee contributions rates used to calculate the cost must be the rate of the retirement program of the member at termination.

1. Aftertax payments may be accepted from the member as early as six months prior to when the member is no longer eligible to accrue sick leave hours, if the following requirements are met:

    a. A notice of employment change has been provided to the public employees retirement system.

    b. A written certification by the member's employer, as to the member's unused balance of accumulated sick leave as of the date the member wishes to begin payment, is on file with the public employees retirement system.

    c. The sick leave conversion payment must be ~~re~~calculated using the member's unused balance of accumulated sick leave confirmed by the member's employer, and the member's final average salary as of the date of calculation. If there is a difference between the sick leave conversion payment amount and the amount the member has paid, any overpayment must be refunded to the member and any underpayment must be collected from the member by the fifteenth of the month following the month the member is no longer eligible to accrue sick leave hours.

~~2. The member's record must be updated with the additional service credit once payment is made in full.~~

~~3.~~ 2. Pretax rollover or transfer payments may be accepted from the member as early as sixty days prior to when the member is no longer eligible to accrue sick leave hours, if the following requirements are met:

a. A notice of employment change has been provided to the public employees retirement system.

b. A written certification by the member's employer, as to the member's projected unused balance of accumulated sick leave no sooner than sixty days prior to the date the member is no longer eligible to accrue sick leave hours, is on file with the public employees retirement system. This certification must also include a certification by the employer of the projected salaries to be reported to the public employees retirement system during the final months of employment.

c. The sick leave conversion payment must be recalculated using the member's unused balance of accumulated sick leave confirmed by the member's employer and the member's final average salary as of the date of calculation. If there is a difference between the sick leave balance or conversion payment amount and the amount the member has paid, then only the amount of sick leave available as of the date the member is no longer eligible to accrue sick leave hours must be added to the member's record. The member account balance must be credited with the full amount of funds from the rollover or transfer.

d. If an underpayment has occurred, then the remaining amount must be collected from the member by the fifteenth of the month following the month the member is no longer eligible to accrue sick leave hours. e. The retiree health credit portion must be paid as a personal aftertax payment.

~~4.~~ 3. The member's record must be updated with the additional service credit once payment is made in full.

History: Effective June 1, 1996; amended effective April 1, 2002; May 1, 2004; July 1, 2006; April 1, 2008; July 1, 2018; January 1, 2025; _____, 2026.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 54-52-27

CHAPTER 71-02-04
RETIREMENT BENEFITS

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

1. ~~Except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, t~~The early retirement benefit for members of the main plan first enrolled prior to ~~December 31, 2015~~January 1, 2016, and members of the national guard plan, the bureau of criminal investigation plan, the public safety plans, and the judge's retirement plan shall be an amount actuarially reduced from the single life retirement benefit by one-half of one percent for each month (six percent per year) that the member is younger than the age at which the member would be at the member's normal retirement date~~ on the date of the member's early retirement benefit effective date~~ to account for benefit payments beginning before the normal retirement date.

2. ~~For a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, the early retirement benefit must be an amount actuarially reduced from the single life retirement benefit by one-half of one percent for each month (six percent per year) that the member is younger than age fifty-five on the date of the member's early retirement benefit effective date.~~

History: Amended effective September 1, 1982; June 1, 1996; April 1, 2002; May 1, 2004; July 1, 2006; July 1, 2010; April 1, 2016; _____, 2026.
General Authority: NDCC 54-52-04, 54-52-17
Law Implemented: NDCC 54-52-17

71-02-04-09.1. Dual membership limitations.

The following limitations apply when a member elects an option under subsection 1 of section 71-02-04-09.

1. Eligible service credit may be used for vesting purposes and determining when the dual member may begin drawing normal retirement benefits. A member may begin drawing retirement benefits from one fund and use the same years, and any additional years, for reaching retirement from the alternate fund if the service credit is earned at different times.

2. If a dual member elects to receive retirement benefits as provided in subsection 1 of section 71-02-04-09, the final average salary, service credit, and member's age used to calculate the benefit that is applicable at the time retirement benefits begin may not be adjusted after the benefit effective date.

3. The salary used in calculating the retirement benefit must be provided in writing by the alternate retirement system. Months not employed are excluded for the purpose of computing the final average salary. If a dual member works less than thirty-six months at retirement, the final average salary is the average salary for total months of employment.

4. Any defined contribution plan membership under section 54-52.6 is not eligible for dual membership service and vesting rights in the defined benefit plan under section 54-52.

History: Effective June 1, 1996; amended effective May 1, 2004; April 1, 2012; April 1, 2016; _____, 2026.
General Authority: NDCC 54-52-04, 54-52-17, 54-52-17.2
Law Implemented: NDCC 54-52-17, 54-52-17.2

CHAPTER 71-02-05
DISABILITY

71-02-05-06. Determination of disability - Procedures.

1. **Application.**

   a. If the member is unable or unwilling to file a public employees retirement system application for disability retirement, the member's legal representative may file the member's disability application.

   b. For ~~the main system and the national guard and law enforcement system~~ all members except members of the judge's retirement plan, the application must explain the cause of the disability, the limitations caused by the disability, the treatment being followed, and the effect of the disability on the ~~individual~~ member's ability to be engaged in any gainful occupation for which the ~~person~~ member is, or could become, reasonably fitted by education, training, or experience. For the judges' retirement plan, the application must explain the cause of the disability, the limitations caused by the disability, the treatment being followed, and the effect of the disability on the ~~individual~~ judge's ability to mentally or physically fulfill the duties and responsibilities of being a judge. A judge who is determined to be disabled pursuant to subdivision a of subsection 3 of North Dakota Century Code section 27-23-03 shall file an application documenting this determination and the effective date of the disability.

   c. The application must be filed with the public employees retirement system and may not be filed earlier than one hundred twenty days before the expected termination date.

2. **Medical consultant.**

   a. The board may retain a medical consultant to evaluate and make recommendations on disability retirement applications.

   b. The medical consultant shall review all medical information provided by the applicant.

   c. The medical consultant is responsible to determine eligibility for disability benefits for applicants not approved for social security disability benefits or for judges not approved pursuant to subsection 3 of North Dakota Century Code section 27-23-03 and shall advise the executive director of the decision in writing. Applicants who become eligible for disability benefits under the Social Security Act and who meet the requirements of subdivision h of subsection 3 of North Dakota Century Code section 54-52-17 are eligible for benefits under ~~subdivision e of~~ subsection 4 of North Dakota Century Code section 54-52-17 without submitting further medical information to the medical ~~adviser~~ consultant, but are subject to recertification requirements specified in this chapter. The social security disability award must provide proof that the member's disability was determined during the member's period of eligible employment. In determining eligibility for judges not approved pursuant to the above, the medical ~~director~~ consultant shall work with a review committee composed of one supreme court judge and a district court judge to review the ~~proposed~~ application. In order for the application to be approved, it must have the concurrence of the medical ~~director~~ consultant and at least one judge. The executive director shall appoint two judges to serve on the review committee.

3. **Medical examination.**

   a. The applicant for disability retirement shall provide the medical examination reports as requested by the medical consultant.

   b. The member is liable for any costs incurred by the member in undergoing medical examinations and completing and submitting the necessary medical examination reports, medical reports, and hospital reports necessary for initial determination of eligibility for benefits.

   c. If determined to be eligible for disability benefits, the member must be reimbursed for the cost of medical examinations specifically requested by the medical ~~adviser~~ consultant and the executive director.

4. **Appeal.**

a. If the applicant has terminated employment, the public employees retirement system shall notify the applicant in writing of the decision. If the applicant is determined not to be eligible for disability benefits, the public employees retirement system shall advise the applicant of the appeal procedure. If the applicant is determined eligible for disability benefits, benefits must be paid pursuant to subsection 5.

b. If the applicant has not terminated employment, the applicant must be provided with a preliminary notification of the decision in writing. The preliminary notification remains in effect for a period not to exceed two hundred seventy days. If an applicant does not terminate employment within two hundred seventy days of the date of termination provided on the disability application, the application must be considered to be vacated but the applicant may reapply as provided in subsection 1.

c. The applicant may appeal an adverse determination to the board by providing a written notice of appeal within thirty days of the date that the public employees retirement system mailed the decision.

d. The board shall consider all appeals at regularly scheduled board meetings. The applicant must be notified of the time and date of the meeting and may attend and be represented by legal counsel. The executive director shall provide to the board for its consideration a case history brief that includes membership history, medical examination summary, and the plan administrator's conclusions and recommendations. The board shall make the determination for eligibility at the meeting unless additional evidence or information is needed. The discussion concerning disability applications must be confidential and closed to the general public.

e. If the initial board decision is adverse to the applicant after exhausting the administrative procedure under subdivisions ~~a~~ c and ~~b~~ d, the applicant may file a request for a formal hearing to be conducted under North Dakota Century Code chapter 28-32. The request for a formal hearing must be filed within thirty days after notice of the initial decision has been mailed ~~or delivered~~. If an appeal is not filed within the thirty-day period, the initial decision of the board is final. If a request for a formal hearing is timely filed, notice of the hearing must be served at least thirty days prior to the date set for the hearing. The board shall request appointment of an administrative law judge from the office of administrative hearings to conduct the hearing and make recommended findings of fact, conclusions of law, and order. The board shall either accept the administrative law judge's recommended findings of fact, conclusions of law, and order or adopt its own findings of fact,

conclusions of law, and order. The applicant may under North Dakota Century Code section 28-32-~~15~~42 appeal the final decision resulting from this procedure to the district court.

5. **Payment of annuity.** If awarded, the disability annuity is payable on, or retroactive to, the first day of the month following the member's termination from covered employment minus any early retirement benefits that have been paid.

6. **Redetermination and recertification.**

   a. A disabled annuitant's eligibility must be recertified eighteen months after the date the first check is issued and thereafter as specified by the medical consultant unless proof of receipt of ongoing social security disability benefits is received. The executive director may waive the necessity for a recertification, based on the recommendation of the medical consultant or upon proof of receipt of ongoing social security disability benefits.

   b. The public employees retirement system will send a recertification application and request for a statement of annual earnings by certified mail with return receipt to the disabled annuitant to be completed and sent back to the office. If a completed recertification application has not been received by the recertification date set in the recertification request, benefits will be suspended effective the first of the month following that date. If ~~the~~ a completed recertification application is not received within six months of the recertification date set in the recertification request unless an alternative date has been approved by the executive director, the member will no longer be eligible to receive disability benefits. Benefits suspended within six months of the recertification date set in the recertification request will be reinstated the first of the month following recertification by the medical consultant, or upon proof of receipt of ongoing social security disability benefits, unless an alternative date has been approved by the executive director. The regular accrued disability benefits will commence with a lump sum equal to the amount of missed payments, without interest, retroactive to the first day of the month benefits were suspended, unless otherwise approved by the board.

   c. The medical consultant may require the disabled annuitant to be reexamined by a doctor. The submission of medical reports by the disabled annuitant, and the review of those reports by the ~~board's~~ medical consultant, may satisfy the reexamination requirement. Upon recertification, the disabled annuitant must be reimbursed for the cost of the required reexamination if deemed necessary by the medical consultant and the executive director.

d. When the ~~member~~ disabled annuitant has not provided proof of receipt of ongoing social security disability benefits, the medical consultant will make the recertification decision. The executive director may require additional recertifications, if the facts warrant this action. The decision may be appealed to the board within ninety days of receiving the written recertification decision.

e. Benefit payments must be suspended immediately upon notice received from the medical consultant that the disabled annuitant does not meet recertification requirements. The executive director shall notify the disabled annuitant of the suspension of benefits by certified mail and shall reinstate benefits back to date of suspension if the annuitant is subsequently found to meet recertification requirements.

f. If it is determined that the ~~disability~~ disabled annuitant was not eligible for benefits during any time period when benefits were provided, the executive director may do all things necessary to recover the erroneously paid benefits.

History: Effective January 1, 1992; amended effective July 1, 1994; June 1, 1996; April 1, 2002; May 1, 2004; July 1, 2006; April 1, 2016; July 1, 2018; _____, 2026.
General Authority: NDCC 54-52-04, 54-52-17
Law Implemented: NDCC 54-52-17, 54-52-26

71-02-05-07. Optional benefits.

For the main system, ~~and~~ the national guard plan, the bureau of criminal investigation plan, and ~~/law enforcement retirement~~ the public safety plans, an individual deemed eligible for a disability benefit may elect, as provided in this section, to receive one of the following optional benefits in lieu of the regular disability benefit.

1. **One hundred percent joint and survivor benefit.** A member shall receive an actuarially reduced disability retirement benefit as long as the member remains eligible for benefits under ~~subdivision e of subsection 3 of~~ North Dakota Century Code section 54-52-17 and after the member's death the same amount will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Payments of benefits to a member's surviving spouse must be made on the first day of each month commencing on the first day of the month following the member's death, provided the beneficiary is still living and has supplied a marriage certificate and the member's death certificate. Benefits terminate in the month in which the death of the beneficiary occurs. In the event the designated beneficiary predeceases the member or, in the event of divorce, the option must be canceled and the member's benefit must be returned to the single life amount. Payment of the single life amount must commence on the first day of the month

following the spouse's death providing written notification of death and a death certificate has been submitted or, in the event of divorce, a photocopy of the divorce decree.

2. **Fifty percent joint and survivor benefit.** A member shall receive an actuarially reduced disability retirement benefit as long as the member remains eligible for benefits under ~~subdivision e of subsection 3 of~~ North Dakota Century Code section 54-52-17 and after the member's death one-half the rate of the reduced benefit will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Payments of benefits to a member's surviving spouse must be made on the first day of each month commencing on the first day of the month following the member's death, providing the beneficiary has supplied a marriage certificate and death certificate and is still living. Benefits terminate in the month in which the death of the beneficiary occurs. In the event the designated beneficiary predeceases the member or, in the event of divorce, the option must be canceled and the member's benefit must be returned to the single life amount. Payment of the single life amount must commence on the first day of the month following the spouse's death providing written notification of death and a death certificate has been submitted or, in the event of divorce, a photocopy of the divorce decree.

3. **Twenty-year or ten-year certain option.** A member may elect an option which is the actuarial equivalent of the member's normal, early, or deferred vested retirement pension payable for life with a twenty-year or ten-year certain feature, as designated by the member.

History: Effective January 1, 1992; amended effective July 1, 1994; May 1, 2004; July 1, 2006; April 1, 2008; April 1, 2012; April 1, 2016; _____, 2026.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 54-52-06.4, 54-52-17

71-02-05-07.1. Judges' retirement plan optional benefits.

For the judges' retirement plan, an individual deemed eligible for a disability benefit may elect, as provided in this section, to receive one of the following optional benefits in lieu of the regular disability benefit.

1. **One hundred percent joint survivor benefit.** A member shall receive an actuarially reduced disability retirement benefit as long as the member remains eligible for benefits under ~~subdivision e of subsection 3 of~~ North Dakota Century Code section 54-52-17 and after the member's death the same amount will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Payments of benefits to a member's surviving spouse must be made on the first day of each month commencing on the first day of the month following the member's death,

provided the beneficiary is still living and has supplied a marriage certificate and the member's death certificate. Benefits terminate in the month in which the death of the beneficiary occurs. In the event the designated beneficiary predeceases the member or, in the event of divorce, the option must be canceled and the member's benefit must be returned to the normal retirement amount. Payment of the normal retirement amount must commence on the first day of the month following the spouse's death providing written notification of death and a death certificate has been submitted or, in the event of divorce, a photocopy of the divorce decree.

2. **Twenty-year or ten-year certain option.** A member may elect an option which is the actuarial equivalent of the member's normal, early, or deferred vested retirement pension payable for life with a twenty-year or ten-year certain feature, as designated by the member.

History: Effective May 1, 2004; amended effective July 1, 2006; April 1, 2008; July 1, 2010; April 1, 2012; _____, 2026.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 54-52-17

CHAPTER 71-02-06
CONTRIBUTIONS

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

The accumulated contributions of a member who terminates permanent employment prior to retirement:

1. ~~Before accumulating three years of service credit and whose account balance is less than one thousand dollars~~ ~~s~~Shall be automatically refunded as follows unless the member elects to remain in an inactive status within thirty days after the termination date:

    a. For all members except members of the judge's retirement plan and members of the bureau of criminal investigation plan hired after July 31, 2023, if the member has less than three years of service credit and an account balance less than one thousand dollars;

    b. For members of the judge's retirement plan, if the member has less than five years of service credit and an account balance less than one thousand dollars; and

    c. For members of the bureau of criminal investigation plan hired after July 31, 2023, if the member has less than ten years of service credit and an account balance less than one thousand dollars.

2. For members not eligible for an automatic refund, ~~After accumulating three years of service credit~~ shall be refunded upon application filed with the executive director.

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

History: Amended effective November 1, 1990; June 1, 1996; July 1, 1998; July 1, 2000; May 1, 2004; July 1, 2010; July 1, 2018; _____, 2026.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 54-52-06, 54-52-17

71-02-06-06. Employer payment of employee contributions.

1. A written election submitted under subsection 3 of North Dakota Century Code section 54-52-05 shall be reported to the board a minimum of thirty-one days prior to the effective date.

2. An employer electing to pay employee monthly salary contributions under North Dakota Century Code section 54-52-05 or 54-52.6-09 may not discriminate in its contributions to eligible participating employees within the same class of employees for plan enrollment ~~plan under North Dakota Century Code section 54-52-05~~.

History: Effective July 1, 1994; amended effective May 1, 2004; April 1, 2022; ___ 2026.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 54-52-05

CHAPTER 71-02-08
PARTICIPATION BY GOVERNMENTAL UNITS

71-02-08-02. Withdrawal.

Any political subdivision may discontinue participation in the fund if the following requirements are met:

1. The political subdivision must provide the board with a copy of a resolution adopted by the governing authority authorizing the termination of participation in the fund.

2. Upon receiving a copy of the written resolution, an actuarial study must be done by the plan's actuary to determine the accrued benefit of all ~~vested~~ employees minus allocated assets from the date of participation. The interest assumption used must be two hundred basis points less than the plan's interest assumption used for funding purposes. The withdrawal liability must include an administrative expense assessment of five percent.

3. Any costs incurred by the fund, resulting from a political subdivision ceasing participation, including the actuarial fee study and the withdrawal liability, must be assessed against the political subdivision and paid in full before a political subdivision terminates its participation.

4. All employees of a political subdivision that has terminated participation in the fund must not be eligible for future benefit accruals or improvements granted to employees or former employees of participating governmental units after the date the employer's participation ceases.

5. As of the date the employer's participation ceases, all members, including members who are not otherwise vested in accordance with subsection 5 of North Dakota Century Code 54-52-17, shall be fully vested in benefits accrued up to the date the employer's participation ceases to the extent funded.

6. Notwithstanding the vesting requirements of North Dakota Century Code sections 54-52-11.1 or 54-52-17, all members have ~~an employee who is not vested at the time an employer ceases participation has~~ the option of taking a refund or rollover of the ~~employee's~~ member's accumulated contributions, including vested employer contributions, plus interest or deferred retirement.

History: Effective September 1, 1982; amended effective June 1, 1996; April 1, 2019; _____, 2026.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 54-52-02.1

71-02-08-05. Merger of eligible employer groups.

If a merger between two or more eligible employer groups occurs, the following requirements apply:

1. Written notification must be provided to the office no later than sixty days before the merger is final.

2. When two or more employer groups merge into one, and all do not presently participate in the public employees retirement system, the units merging must decide upon one of the following:

a. The participating employer or employers may elect to cease participation as of the date of the merger, subject to payment of any actuarial liabilities accrued. An actuarial study must be conducted at the cost of the exiting employer upon providing the public employees retirement system with written notice of the employer's election to cease participation.

b. Subject to executing a revised participation agreement, eligible employees who have not previously ~~participated~~ been eligible for participation in any retirement plan of the employer shall be given the ~~opportunity~~ choice to participate based upon provisions of North Dakota Century Code section 54-52-02.15 or waive participation effective the date of the merger. Any person hired in an eligible position after the consolidation date must participate or any other employee mandated by the employer must participate.

History: Effective June 1, 1996; amended effective _____, 2026.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 15-10-17, 54-52-02.1

ARTICLE 71-03
UNIFORM GROUP INSURANCE PROGRAM

Chapter	
71-03-01	Bid Process
71-03-02	Health Maintenance Organization [Repealed]
71-03-03	Employee Responsibilities
71-03-04	Employer Responsibilities
71-03-05	Board Responsibilities
71-03-06	Participating Political Subdivisions Employee Responsibilities
71-03-07	Participation of Political Subdivisions Employer Responsibilities

CHAPTER 71-03-03
EMPLOYEE RESPONSIBILITIES

71-03-03-05. Special enrollment for certain qualifying events.

An eligible employee, retiree, or surviving spouse who ~~elects to take~~ has accepted a periodic distribution from the defined contribution retirement plan or a monthly retirement benefit from the North Dakota public employees retirement system, North Dakota highway patrol~~men~~'s retirement system, the retirement system established by job service North Dakota, the judges' retirement system, the teachers' fund for retirement, or teachers' insurance and annuity association of America - college retirement equities fund, or retirees who have accepted a retirement allowance from a participating political subdivision's retirement plan and provide verification of distribution are eligible for coverage with the health, dental, vision, or prescription drug insurance program.

1. The employee, retiree, or surviving spouse must submit application for coverage within thirty-one days from one of the following qualifying events:

   a.~~The month in which~~ When the ~~eligible employee or~~ retiree turns age sixty-five or becomes eligible for Medicare.

   b. ~~The month in which~~ When the ~~eligible employee's or~~ retiree's spouse turns age sixty-five or becomes eligible for Medicare.

   c. ~~The month in which~~ When the eligible employee terminates employment.

   d. ~~The month in which~~ When the eligible retiree or surviving spouse receives the first monthly retirement benefit from one of the eligible retirement systems outlined above.

e. ~~The month in which~~ When an eligible employee or retiree who is covered through another ~~spouse's~~ employer sponsored plan becomes ineligible for the ~~spouse's~~ plan due to divorce, death, loss of employment, reduction in hours or other events which may cause loss of coverage as determined by the board.

f. ~~The month in which~~ When the eligible employee or retiree is no longer eligible for employer-sponsored group insurance, including continuation coverage provided under the Consolidated Omnibus Budget Reconciliation Act of 1985.

g. When the eligible employee, retiree, or surviving spouse gets married (in such case, an employee, retiree, or surviving spouse who previously waived coverage shall enroll for coverage at the time the employee's, retiree's, or surviving spouse's spouse is enrolled).

h. When the eligible employee, retiree, or surviving spouse obtains a new dependent as a result of receiving legal guardianship or receiving a court order to provide health coverage (in such case, an employee, retiree, or surviving spouse who previously waived coverage shall enroll for coverage at the same time that the employee, retiree, or surviving spouse's eligible dependent is enrolled).

i. When the eligible employee, retiree, or surviving spouse obtains a new dependent as a result of birth, adoption, or placement for adoption (in such case, an employee, retiree, or surviving spouse who previously waived coverage shall enroll for coverage at the same time that the employee, retiree, or surviving spouse's eligible dependent is enrolled).

2. Coverage will become effective on the first day of the month following the month in which the qualifying event occurred ~~or~~ except that under subdivision a or b of subsection 1 coverage may become effective the month in which eligibility for Medicare occurs and that under subdivision i of subsection 1 coverage will become effective on the first of the month in which the event occurred. If an application is not submitted within thirty-one days of a qualifying event, the eligible individual must be considered to have waived coverage and may not be enrolled unless the individual meets the criteria of another qualifying event. Upon a showing of good cause, the executive director may waive the thirty-one day application requirement.

3. Other individuals eligible for the health, dental, vision, or prescription drug insurance plan include a surviving spouse who is not receiving a qualified monthly retirement benefit from one of the eligible retirement systems outlined above, but who was a covered dependent on the eligible retiree's health, dental, vision, or prescription drug insurance plan at the time of the eligible retiree's death, if there is no lapse in coverage.

4. Individuals not eligible for the health, dental, vision, or prescription drug insurance plan include:

a. A former employee who received a refund of the employee's retirement account, including individuals in the defined contribution plan who take a cash withdrawal of the employee's account, roll their account into another qualified plan, or use the moneys in their account to purchase an annuity.

b. A nonspouse beneficiary (eligible for continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985).

c. A deferred retiree or surviving spouse between the time in which the retiree or surviving spouse's eligibility for continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (if eligible) ends and the month in which the eligible retiree or surviving spouse receives the first monthly retirement benefit from one of the eligible retirement systems.

d. A formerly deferred retiree who received a refund of the retiree's retirement account.

e. A surviving spouse of a nonvested employee eligible for continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985.

f. A surviving spouse of a former employee who received a refund of the employee's retirement account.

g. A former participating member of the defined contribution retirement program who would not qualify for one of the retirement dates set forth in subsection 3 of North Dakota Century Code section 54-52-17 if that employee was a member of the defined benefit retirement plan, unless eligible for continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, and then only for the required duration of eligibility under the Act.

h. For the purposes of the medical and prescription drug plan, employees who first retire after July 1, 2015, and are not eligible for Medicare upon their retirement and completion of any period of eligibility for continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, until such time as they or their spouse become eligible for Medicare.

History: Effective October 1, 1986; amended effective November 1, 1990; July 1, 1994; June 1, 1996; July 1, 1998; July 1, 2000; May 1, 2004; April 1, 2012; April 1, 2016; July 1, 2018; _____, 2026.
General Authority: NDCC 54-52.1-08
Law Implemented: NDCC 54-52.1-02, 54-52.1-03, 54-52.1-03.1; Pub. L. 99-272; 100 Stat. 222; 26 USC 162 et seq.

CHAPTER 71-03-04
EMPLOYER RESPONSIBILITIES

71-03-04-01. Employer contribution.

1. Each agency shall pay to the board the full amount of the employer contribution by the fifteenth of each month. The agency will verify the number of eligible employees and the level of coverage for each. An employee is eligible for an employer contribution for the month following the month of employment. If an eligible employee terminates employment prior to the effective date of coverage, no employer contribution is required. The employer contribution ends the month following the month of termination of employment. When an employee transfers from a permanent employee position to a temporary employee position without a termination of employment, the employer contribution ends the month in which the permanent employment ends. When an employee transfers from one state agency to another, the new agency is responsible for the payment of the premium for the first of the month following employment.

2. As used in this section, "termination of employment" means a severance of employment by not being on the payroll of a participating employer for a minimum of one month. Approved leave of absence does not constitute termination of employment.

History: Effective October 1, 1986; amended effective November 1, 1990; July 1, 2010; _____, 2026.
General Authority: NDCC 54-52.1-08
Law Implemented: NDCC 54-52.1-06

CHAPTER 71-03-05
BOARD RESPONSIBILITIES

71-03-05-10. Determining amount of premium overpayments and underpayments.

1. The amount of the health premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred, or July of the earliest contract period still open, whichever is more recent.

2. The amount of the life premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred, or the first day of the first month of the earliest contract period still open, whichever is more recent.

3. The amount of the dental premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred, or the first day of the first month of the earliest contract period still open, whichever is more recent.

4. The amount of the vision premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred, or the first day of the first month of the earliest contract period still open, whichever is more recent.

5. The amount of the employee assistance premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred, or the first day of the first month of the earliest contract period still open, whichever is more recent.

History: Effective April 1, 2002; amended effective April 1, 2008; April 1, 2014; _____, 2026.
General Authority: NDCC 54-52.1-08
Law Implemented: NDCC 54-52.1-08

CHAPTER 71-03-07
PARTICIPATION OF POLITICAL SUBDIVISIONS EMPLOYER RESPONSIBILITIES

71-03-07-01. Employer contribution.

1. Each employer shall pay to the board the full monthly premium amount for each eligible employee enrolled in the group insurance plan by the fifteenth of each month. The employer must verify the number of eligible employees and the level of coverage for each. An employee is eligible for an employer contribution for the month following the month of employment. If an eligible employee terminates employment prior to the effective date of coverage, no employer contribution is required. The employer contribution ends the month following the month of termination of employment. When an employee transfers from a permanent employee position to a temporary employee position without a termination of employment, the employer contribution ends the month in which the permanent employment ends. When an employee transfers from one participating employer to another, the new employer is responsible for the payment of the premium for the first of the month following employment.

2. As used in this section, "termination of employment" means a severance of employment by not being on the payroll of a participating employer for a minimum of one month. Approved leave of absence does not constitute termination of employment.

History: Effective June 1, 1996; amended effective July 1, 2010; April 1, 2022~~.~~ ; _____, 2026.
General Authority: NDCC ~~54-52-04, 54-52.1-03.1~~ NDCC 54-52.1-08
Law Implemented: NDCC 54-52.1-03

ARTICLE 71-04
DEFERRED COMPENSATION PLAN FOR PUBLIC EMPLOYEES

Chapter

71-04-01 Definitions
71-04-02 Plan Design
71-04-03 Employee Responsibilities
71-04-04 Retirement Board Responsibilities
71-04-05 Employer Responsibilities
71-04-06 Provider Responsibilities
71-04-07 Benefits [Repealed]
71-04-08 Qualified Domestic Relations Orders
71-04-09 Uniform Services Employment and Reemployment Rights Act

CHAPTER 71-04-05
EMPLOYER RESPONSIBILITIES

71-04-05-02. Payroll deductions.

The employer shall authorize employee payroll deductions only after receiving notification from the office. The participant agreement must indicate the date the payroll deduction is to start, the provider, and the contribution amount. Unless otherwise agreed, ~~P~~payroll deductions must be remitted to the office within ten days after each payroll period. Along with each payment, the employer must provide the office with a listing of deferred compensation deductions for all employees participating in the deferred compensation plan using the deferred compensation transmittal of deduction form or the approved electronic format.

History: Effective April 1, 1989; amended effective July 1, 2006; April 1, 2014; April 1, 2016~~.~~ ; _____, 2026.
General Authority: NDCC 28-32-02, 54-52-03.2
Law Implemented: NDCC 54-52.2-02

ARTICLE 71-05
HIGHWAY PATROL RETIREMENT SYSTEM

Chapter

71-05-01	Definitions
71-05-02	Disability
71-05-03	Membership
71-05-04	Service Credit
71-05-05	Normal and Early Retirement Benefits
71-05-06	Return of Contributions
71-05-07	Return to Service
71-05-08	Qualified Domestic Relations Orders
71-05-09	Indexing Final Average Salary for Vested Terminated Contributors

CHAPTER 71-05-01
DEFINITIONS

71-05-01-01. Definitions.

As used in North Dakota Century Code chapter 39-03.1 and this article:

1. "Actuarial equivalent" means a benefit calculated to be of equal value to the benefit otherwise payable when computed on the basis of assumptions and methods adopted for this purpose by the board in a way that precludes employer discretion pursuant to Internal Revenue Code section 401(a)(25). Such assumptions and methods adopted by the board, and any table of adjustment factors established in accordance with the assumptions and methods, shall be incorporated herein by reference.

2. "Covered employment" means employment with the North Dakota highway patrol.

3. "Medical examination" means an examination conducted by a doctor licensed to practice in North Dakota that includes a diagnosis of the disability, the treatment being provided for the disability, the prognosis and classification of the disability, and a statement indicating how the disability prevents the individual from performing the duties of a highway patrolman.

4. "Normal retirement age" means age fifty-five except as otherwise provided.

5. "Office" means the administrative office of the public employees retirement system.

6. "Overtime" as used in ~~subsection 23 of~~ North Dakota Century Code section 39-03.1-01 means any hours worked over an employee's regularly scheduled work period. Whether paid at the regular hourly rate or one and one-half times the regular rate, overtime is to be excluded as reportable retirement contributions.

7. "Permanent and total disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve months.

8. "Plan administrator" means the executive director of the North Dakota public employees retirement system or such other person or committee as may be appointed by the board of the North Dakota public employees retirement system from time to time.

9. "Substantial gainful activity" is to be based upon the totality of the circumstances, including consideration of an individual's training, education, and experience; an individual's potential for earning at least seventy percent of the individual's predisability earnings; and other items deemed significant on a case-by-case basis. Eligibility is based on an individual's employability and not actual employment status.

History: Effective November 1, 1990; amended effective October 1, 1991; June 1, 1992; July 1, 2006; April 1, 2016; April 1, 2020~~.~~ ; _____, 2026.
General Authority: NDCC 39-03.1-06
Law Implemented: NDCC 39-03.1

CHAPTER 71-05-02
DISABILITY

71-05-02-02. Determination of disability - Procedures.

1. **Application.**

   a. Application for disability benefits must be made within one year from the last date of covered employment on the form provided by the plan administrator.

   b. If the member is unable or unwilling to file an application, the member's employer or legal representative may file the member's disability application.

   c. The application must explain the cause of the disability, the limitations caused by the disability, the treatment being followed, and the effect of the disability on the individual's ability to be engaged in any gainful occupation for which the person is, or could become, reasonably fitted by education, training, or experience.

2. **Medical examination.**

   a. The applicant for disability retirement must provide the plan administrator with medical examination reports.

   b. An initial medical examination should be completed by the member's attending or family physician on the medical examination form provided by the plan administrator. If deemed necessary by the board's medical consultant, an additional examination must be completed by a specialist in the disability involved. Available medical or hospital reports may be accepted in lieu of a medical examination report if deemed acceptable by the medical consultant.

   c. The member is liable for any costs incurred by the member in undergoing medical examinations and completing and submitting the necessary medical examination reports, medical reports, and hospital reports.

3. **Medical consultant.**

   a. The board will retain a medical doctor to act as its consultant on disability retirement applications.

   b. The medical consultant shall review all medical information provided by the applicant.

   c. The medical consultant will be responsible to advise the plan administrator of the medical diagnosis and whether the condition is a permanent and total disability.

4. **Decision and appeal.**

   a. The plan administrator shall consider applications for disability benefits and shall make a written decision whether an applicant is entitled to benefits. The decision must be mailed to the applicant's address of record.

   b. The applicant may appeal an adverse determination to the board by providing a written notice of appeal within thirty days of the date that the plan administrator mailed the decision.

   c. The board shall consider all appeals at regularly scheduled board meetings. The applicant must be notified of the time and date of the meeting and may attend and be represented by legal counsel. The executive director shall provide to the board for its consideration a case history brief that includes membership history, medical examination

summary, and the plan administrator's conclusions and recommendations. The board shall make the determination for eligibility at the meeting unless additional evidence or information is needed. The discussion concerning disability applications must be confidential and closed to the general public.

d. If the applicant has terminated employment, the plan administrator shall notify the applicant in writing of the decision. If the applicant is determined not to be eligible for disability benefits, the plan administrator shall advise the applicant of the appeal procedure. If the applicant is determined eligible for disability benefits, benefits must be paid pursuant to subsection 5.

e. If the applicant has not terminated employment, the applicant must be provided with a preliminary notification of the decision in writing. The preliminary notification remains in effect for a period not to exceed two hundred seventy days. If an applicant does not terminate employment within two hundred seventy days of the date of termination provided on the disability application, the application must be considered to be vacated but the applicant may reapply as provided in subsection 1.

f. If the initial board decision is adverse to the applicant, after exhausting the administrative procedure under subdivisions b and c, the applicant may file a request for a formal hearing to be conducted under North Dakota Century Code chapter 28-32. The request for a formal hearing must be filed within thirty days after notice of the initial decision has been mailed~~ or delivered~~. If an appeal is not filed within the thirty-day period the initial decision of the board is final. If a request for a formal hearing is timely filed, notice of the hearing must be served at least thirty days prior to the date set for the hearing. The board shall request appointment of an administrative law judge from the office of administrative hearings to conduct the hearing and make recommended findings of fact, conclusions of law, and order or adopt its own findings of fact, conclusions of law and order. The applicant may under North Dakota Century Code section 28-32-~~15~~42 appeal the final decision resulting from this procedure to the district court.

5. Payment of annuity. If awarded, the disability annuity is payable on, or retroactive to, the first day of the month following the member's termination from covered employment, minus any early retirement benefits that have been paid. Redetermination and recertification. a. b. c. d. e. f. A disabled annuitant's eligibility must be recertified eighteen months after the date the first check is issued and thereafter as specified by the medical consultant. The plan administrator may waive the necessity for a recertification based on the recommendation of the medical consultant. The plan administrator will send a recertification form and request for a statement of annual earnings by certified

mail with return receipt to the disabled annuitant to be completed and sent back to the office. If completed recertification has not been received by the recertification date set in the recertification request, benefits will be suspended effective the first of the month following that date. Benefits will be reinstated the first of the month following recertification by the medical consultant. The regular accrued disability benefits will commence with a lump sum equal to the amount of missed payments, without interest, retroactive to the first of the month that benefits were suspended, unless otherwise approved by the North Dakota public employees retirement system board. The medical consultant may require the disabled annuitant to be reexamined by a doctor. The submission of medical reports by the annuitant, and the review of those reports by the board's medical consultant, may satisfy the reexamination requirement. Upon recertification, the disabled annuitant must be reimbursed up to four hundred dollars for the cost of the required reexamination if deemed necessary by the medical consultant and the plan administrator. The medical consultant will make the recertification decision. The executive director may require additional recertifications. The decision may be appealed to the board within ninety days of receiving the written recertification decision. Benefit payments must be suspended immediately upon notice received from the medical consultant that the annuitant does not meet recertification requirements. The plan administrator shall notify the annuitant of the suspension of benefits by certified mail and shall reinstate benefits back to the date of suspension if the annuitant is subsequently found to meet recertification requirements. If it is determined that the disability annuitant was not eligible for benefits during any time period when benefits were provided, the executive director may do all things necessary to recover the erroneously paid benefits.

History: Effective November 1, 1990; amended effective June 1, 1992; June 1, 1996; May 1, 2004.
General Authority: NDCC 39-03.1-06, 39-03.1-11
Law Implemented: NDCC 39-03.1-11

CHAPTER 71-05-04
SERVICE CREDIT

71-05-04-03. Repurchase of service credit and purchase of additional service credit.

To purchase additional credit or repurchase past service, a contributor must notify the public employees retirement system, in writing, of the service for which the person wishes to receive credit. In addition to the written request, the following information must be submitted, if applicable:

1. Documentation of military service by submitting a DD214 or NGB22.

2. Certification of approval by the member's employer of any leave of absence and length of that leave.

3. Verification by the former employer of previous North Dakota or out-of-state public service, or service with the federal government.

4. Statement from employee or former employer that service credit being applied for does not qualify for retirement benefits under another retirement system.

History: Effective October 1, 1991; amended effective June 1, 1996; April 1, 2002; May 1, 2004~~.~~ ; _____, 2026.
General Authority: NDCC 39-03.1-06, 39-03.1-10.1, 39-03.1-14.1
Law Implemented: NDCC 39-03.1-08.~~1~~2, 39-03.1-10.1, 39-03.1-14.1

71-05-04-04.1. Costs.

The cost to repurchase service credit must be calculated by applying actuarial factors to the amount of the retirement and retiree health insurance credit being purchased by the contributor or member of an alternative retirement system. The contributor's current age, average salary as calculated under subsection 2 of North Dakota Century Code section 39-03.1-11, and current credited service on record with the North Dakota public employees retirement system in the month in which the contributor's written request is ~~received~~ processed by the office must be used in the cost calculation. A member's written request must be processed by the office within sixty days of receipt. The amount of retirement and retiree health insurance credit benefits being purchased must be calculated using the benefit formulas in place at the time the written request ~~is received~~ from the contributor is processed by the office. When calculating the cost, enhancements to the benefit formula must be considered to be in place at the time the law is signed by the governor.

The member's average salary shall be calculated as follows:

1. For members working full time with more than twelve months of service credit, by using the calculation found in subsection 2 of North Dakota Century Code section 39-03.1-11.

2. For members working full time with less than twelve months of service credit, by using the calculation found in subsection 2 of North Dakota Century Code section 39-03.1-11, but disregarding any month in which the member was paid less than a full-month salary. A full-month salary is the compensation the member and the member's employer agreed the member would be paid for working a full month.

3. For members who have not yet received a full-month salary, the member's average salary shall equal the member's full-month salary, as defined in subsection 2.

4. For members working part time, by using the applicable calculations found in subsections 1 and 2, but using a monthly salary equal to the equivalent of the salary the member would have received if the member was working full time.

The retirement board must adopt actuarial assumptions necessary to determine the actuarial factors for the cost calculation. The assumptions must be reviewed concurrently with the assumptions for the retirement program.

Upon receipt of the written request from the contributor, a written cost confirmation must be prepared and mailed to the individual. The cost stated in the confirmation letter is valid for a period of ninety days from the date of the letter unless the contributor terminates employment with the employer. If the contributor terminates employment, then the cost stated in the confirmation letter is valid only until the earlier of the end of the ninety-day period or the fifteenth day of the month following the month of termination.

History: Effective June 1, 1996; amended effective May 1, 2004; July 1, 2006~~.~~ ; _____, 2026.
General Authority: NDCC 39-03.1-06, 39-03.1-10.1, 39-03.1-14.1
Law Implemented: NDCC 39-03.1-08.~~1~~2, 39-03.1-10.1, 39-03.1-14.1

71-05-04-06. Crediting purchased or repurchased service.

1. For each month the system receives a payment toward a purchase contract, the member will earn a proportion of service credit.

2. Member acceptance of a service purchase contract extinguishes all pending service purchase cost estimates, excluding purchase of unused sick leave.

3. Service purchase contracts set up on a payment plan and only partially paid will have the remaining unpaid portion of service credit included when preparing the new service purchase cost calculation.

History: Effective October 1, 1991; amended effective June 1, 1996; May 1, 2004; July 1, 2010~~.~~ ; _____, 2026.
General Authority: NDCC 39-03.1-06, 39-03.1-10.1, 39-03.1-14.1
Law Implemented: NDCC 39-03.1-08.~~1~~2, 39-03.1-10.1, 39-03.1-14.1

71-05-04-08. Conversion of sick leave.

To convert unused sick leave to service credit, the member shall submit an application to the office of the amount of unused sick leave to be converted no later than the end of the month in which the member terminates employment, unless otherwise approved by the executive director.~~, and t~~The member's employer must confirm the member's unused balance of accumulated sick leave as of the date the member

terminates employment. For a member transferring from one participating employer to another participating employer without terminating eligible employment, the public employees retirement system shall record unused sick leave of a participating member if the new employer certifies that it will not transfer that leave. The certification must include documentation from the previous employer detailing the number of hours of sick leave. The public employees retirement system must receive the certification within sixty days after the member leaves employment with the former employer.

One month of service credit must be awarded for each one hundred seventy-three and three-tenths hours of unused accumulated sick leave. ~~The cost to convert unused sick leave into service credit must be paid with after tax employee contributions.~~ The employer and employee contributions rates used to calculate the cost must be the rate of the retirement program of the member at termination.

1. Aftertax payments may be accepted from the member as early as six months prior to termination if the following requirements are met:

    a. A notice of termination or application for monthly benefits form is on file with the public employees retirement system.

    b. A written certification by the member's employer, as to the member's unused balance of accumulated sick leave as of the date the member wishes to begin payment, is on file with the public employees retirement system.

    c. At termination, the sick leave conversion payment must be ~~re~~calculated using the member's unused balance of accumulated sick leave, confirmed by the member's employer, and the member's final average salary as of the date of calculation.

    d. If there is a difference between the sick leave conversion payment amount and the amount the member has paid, any overpayment must be refunded to the member and confirmed with HP administration any underpayment must be collected from the member by the fifteenth of the month following the month of the member's date of termination.

    e. The member's record must be updated with the additional service credit once payment is made in full and the member has terminated employment.

2. Pretax rollover or transfer payments may be accepted from the member as early as sixty days prior to termination if the following requirements are met:

   a. A notice of termination or application for monthly benefits form is on file with the public employees retirement system.

   b. A written certification by the member's employer, as to the member's projected unused balance of accumulated sick leave no sooner than sixty days prior to the date of termination, is on file with the public employees retirement system. This certification must also include a certification by the employer of the projected salaries to be reported to the public employees retirement system during the final months of employment.

   c. At termination, the sick leave conversion payment must be recalculated using the member's unused balance of accumulated sick leave confirmed by the member's employer, and the member's final average salary as of the date of calculation. If there is a difference between the sick leave balance or conversion payment amount and the amount the member has paid, then only the amount of sick leave available as of the termination date will be added to the member's record. The member account balance will be credited with the full amount of funds from the rollover or transfer.

   d. If an underpayment has occurred, then the remaining amount must be collected from the member by the fifteenth of the month following the month of the member's date of termination.

   e. The retiree health credit portion must be paid as a personal aftertax payment.

~~3.~~ f. The member's record must be updated with the additional service credit once payment is made in full and the member has terminated employment.

History: Effective June 1, 1996; amended effective April 1, 2002; May 1, 2004; July 1, 2006; April 1, 2008; January 1, 2025; _____, 2026.
General Authority: NDCC 39-03.1-06
Law Implemented: NDCC 39-03.1-30

CHAPTER 71-05-05
NORMAL AND EARLY RETIREMENT BENEFITS

71-05-05-08. Retirement - Dual membership.

1. If a member elects to begin drawing monthly benefits while continuing to participate in the public employees retirement system, teachers' fund for retirement, or the teachers' insurance and annuity association college retirement equities fund, the provisions of section 71-02-04-09 must apply.

2. Any defined contribution plan membership under section 54-52.6 is not eligible for dual membership service and vesting rights in the highway patrol retirement plan under 39-03.1.

History: Effective October 1, 1991; amended effective June 1, 1996; May 1, 2004; _____, 2026.
General Authority: NDCC 39-03.1-14.1(1)(c)
Law Implemented: NDCC 39-03.1-14.1

ARTICLE 71-06
RETIREE HEALTH INSURANCE CREDIT

Chapter
71-06-01 Retiree Health Insurance Credit

CHAPTER 71-06-01
RETIREE HEALTH INSURANCE CREDIT

71-06-01-11. Erroneous payment of benefits – Overpayments, Underpayments, and Appeals.

1. Section 71-02-04-10 applies to overpayments of the retiree health insurance credit.

2. Section 71-02-04-11 applies to underpayments of the retiree health insurance credit.

3. A person not satisfied with repayment arrangements related to the retiree health insurance credit may appeal as provided in section 71-02-04-12.

History: Effective , 2026.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 54-52.1-03.3

ARTICLE 71-08
DEFINED CONTRIBUTION RETIREMENT PLAN

Chapter	
71-08-01	Election and Transfer
71-08-02	Membership in Defined Contribution Retirement Plan
71-08-03	Disability
71-08-04	Qualified Domestic Relations Orders
71-08-05	Review Procedure
71-08-06	Uniformed Services Employment and Reemployment Rights Act
71-08-07	Additional Contributions
71-08-08	Temporary Employee Participation
71-08-09	Return to Service - Retired Member
71-08-10	Permanent Employee Participation
71-08-11	Contributions
71-08-12	Participation by Political Subdivisions

CHAPTER 71-08-02
MEMBERSHIP IN DEFINED CONTRIBUTION RETIREMENT PLAN

71-08-02-01. Membership of individuals who become employees covered under the judges' retirement plan, the highway patrol retirement plan, the teachers' fund for retirement plan, or the alternate retirement plan of the state board of higher education.

1. If a member of the defined contribution retirement plan begins employment in a position covered under the judges' retirement plan, the national guard plan, the bureau of criminal investigation plan, the public safety plans, the highway patrol retirement plan, the teachers' fund for retirement plan, or the alternate retirement plan of the state board of higher education, the member's status as a member of the defined contribution retirement plan is suspended and the member becomes a new member of the retirement plan for which that member's new position is eligible. The member's account balance remains in the defined contribution retirement plan, but no new contributions may be made to that account. The member's service credit and salary history that were forfeited as a result of the member's transfer to the defined contribution retirement plan remain forfeited, and service credit accumulation in the new retirement plan begins from the first day of employment in the new position. If the member later returns to employment that is eligible for the defined contribution plan, the member's suspension is terminated, the member again becomes a member of the defined contribution plan, and the member's account shall resume accepting contributions. The contributions to the alternate retirement plan shall remain with that plan unless at the member's option, the member elects to transfer any available balance as determined by the provisions of the alternate retirement plan into the member's account in the defined contribution retirement plan.

2. Any membership service and vesting obtained the judges' retirement plan, the main plan, the national guard plan, the bureau of criminal investigation plan, the public safety plans, the highway patrol retirement plan, the teachers' fund for retirement plan, or the alternate retirement plan of the state board of higher education, may not be used toward credited service and vesting in the defined contribution plan under section 54-52.6.

History: Effective July 1, 2000; amended effective April 1, 2002; July 1, 2006; April 1, 2020; _____, 2026.
General Authority: NDCC 28-32-02(1)
Law Implemented: NDCC 54-52.6-01(3)

CHAPTER 71-08-03
DISABILITY

71-08-03-01. Disability distribution.

The board will allow distribution of the participating member's vested account balance if the board determines the participating member has become totally and permanently disabled using the procedure provided in section 71-02-05-06. If approved, the disabled member has the same distribution options as provided in subdivisions a(1) and ~~c~~ (a)(3) of subsection 3 of North Dakota Century Code section 54-52.6-13. However, if the member chooses the periodic distribution option, the member will only be allowed to receive distributions for as long as the disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. The board shall use the redetermination and recertification procedures provided in section 71-02-05-06 to determine whether the member remains disabled. If the board determines that a member no longer meets the eligibility definition, the board shall discontinue the disability retirement benefit.

History: Effective July 1, 2000; amended effective _____, 2026.
General Authority: NDCC 28-32-02(1)
Law Implemented: NDCC 54-52.6-14

CHAPTER 71-08-10
PERMANENT EMPLOYEE PARTICIPATION

71-08-10-01. Permanent employee participation.

1. Under this chapter "eligible employee" means a permanent employee who:

   a. Meets all the eligibility requirements set by North Dakota Century Code chapter 54-52;

b. Is at least eighteen years of age;

c. Becomes a participating member after December 31, 2024; and

d. Is not eligible to participate in the ~~law enforcement~~ public safety plans, judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative retirement program established under subsection 6 of North Dakota Century Code chapter 15-10-17 for employees of the board of higher education or state institutions under the jurisdiction of the board of higher education.

2. Effective January 1, 2025, the public employees retirement system defined benefit main plan maintained for employees is closed to new eligible employees. However, an employee who first becomes a participating or deferred member under North Dakota Century Code chapter 54-52 before January 1, 2025, remains in the defined benefit retirement plan under North Dakota Century Code chapter 54-52, regardless of being rehired after December 31, 2024.

3. Except as otherwise provided under this section and section 71-08-02-03, effective January 1, 2025, an eligible employee who begins employment with an employer as defined under subsection 6 of North Dakota Century Code chapter 54-52-01 shall participate in the defined contribution retirement plan under North Dakota Century Code chapter 54-52.6 as provided under North Dakota Century Code chapter 54-52.6-02.1.

4. This section does not impact an employee to the extent the employee is a participating member in one or more of the following enumerated plans: ~~law enforcement~~ public safety plans, judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative retirement program established under subsection 6 of North Dakota Century Code chapter 15-10-17 for employees of the board of higher education or state institutions under the jurisdiction of the board of higher education.

a. A participating or deferred member in the defined contribution retirement plan under North Dakota Century Code chapter 54-52.6 who becomes eligible to participate in a plan enumerated under subsection 4 shall cease participation in the defined contribution retirement plan under North Dakota Century Code chapter 54-52.6 and commence participation in the retirement plan enumerated under subsection 4.

b. Unless subsection 2 applies, a participating member of a retirement plan enumerated under subsection 4 who ceases participation in that plan and becomes an eligible employee under the defined contribution retirement plan under North Dakota Century Code chapter 54-52.6 shall participate in

the defined contribution retirement plan under North Dakota Century Code chapter 54-52.6.

5. An eligible employee must be enrolled in the plan within the first thirty days of employment.

History: Effective January 1, 2025; amended effective July 31, 2025; _____, 2026.
General Authority: NDCC 54-52-02.15, 54-52-04
Law Implemented: NDCC 54-52-02.15, 54-52.6-02, 54-52.6-09

CHAPTER 71-08-11
CONTRIBUTIONS

71-08-11-03. Employer payment of employee contributions.

1. A written election submitted under subsection 3 of North Dakota Century Code section 54-52.6-09 must be reported to the board a minimum of thirty-one days prior to the effective date.

2. An employer electing to pay employee monthly salary contributions under North Dakota Century Code section 54-52-05 or 54-52.6-09 may not discriminate in its contributions to eligible employees within the same class of employees for plan enrollment ~~plan under North Dakota Century Code section 54-52.6-09~~.

History: Effective January 1, 2025; amended effective _____,2026.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 54-52.6-09

71-08-11-08. Forfeiture of rights upon distribution.

Distribution of accumulated account balance shall cancel all vesting service credit accumulated prior to the distribution and shall extinguish the right to any retiree benefits provided by North Dakota Century Code chapter 54-52.6.

History: Effective _____, 2026.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 54-52.6-13

CHAPTER 71-08-12
PARTICIPATION BY POLITICAL SUBDIVISIONS

71-08-12-01. Participation.

A political subdivision may choose to extend the benefits of the defined contribution plan to its employees by agreeing to abide by the defined contribution plan and rules developed by the retirement board, executing an administrative agreement, and

submitting a copy of a signed resolution adopted by the governing authority electing to appoint the retirement board to administer its defined contribution retirement plan.

History: Effective _____, 2026.
General Authority: 54-52-04
Law Implemented: NDCC 54-52-02.1

71-08-12-02. Withdrawal.

1. A political subdivision may discontinue participation in the defined contribution retirement plan by providing the board a written resolution adopted by the governing authority authorizing the termination of participation in the defined contribution retirement plan. The resolution must be provided to the board at least 60 days prior to the effective date of discontinuation and discontinuation must always occur on the first working day of a month.

2. The employees in the defined contribution retirement plan must be considered to have terminated from the plan as of the date the employer terminates participation in the plan. Employee deferrals and employer contributions must stop, and benefits must be made payable. All employees shall be 100% vested in the employee and employer contributions as of the effective date of discontinuation.

History: Effective _____, 2026.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 54-52-02.1, 54-52-02.15

71-08-12-03. Merger of eligible employer groups.

If a merger between two or more eligible employer groups occurs, the following requirements apply:

1. Written notification must be provided to the office no later than sixty days before the merger is final.

2. When two or more employer groups merge into one, and all do not presently participate in the public employees retirement system, the units merging must decide upon one of the following:

    a. The participating employer or employers may elect to cease participation in the defined contribution plan as of the date of the merger.

    b. Subject to executing a revised participation agreement, eligible employees who have not previously been eligible for participation in any retirement plan of the employer shall be given the choice to participate

or waive participation effective the date of the merger. Any person hired in an eligible position after the consolidation date must participate or any other employee mandated by the employer must participate.

History: Effective _____, 2026.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 54-52-02.1

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Memorandum

TO: NDPERS Board

FROM: Derrick Hohbein

DATE: February 10, 2026

SUBJECT: Budget Status

Twice a year staff provides the Board with an update on the status of the current budget and answers any questions or concerns the Board may have. The expenses for the biennium through December 31, 2025, as well as our total appropriation, are summarized in the table below:

	2025-2027 Appropriation	Expenditures to Date	Remaining Appropriation	% Remaining
Salaries & Wages	10,540,889	2,483,849	8,057,040	76%
Operating	3,274,163	684,269	2,589,894	79%
Contingency	250,000	-	250,000	100%
Total	14,065,052	3,168,118	10,896,934	77%

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

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Memorandum

TO: NDPERS Board

FROM: Derrick Hohbein

DATE: February 10, 2025

SUBJECT: Consultant Fees for the Quarter Ended December 2025

Attached is a quarterly report showing the consulting, investment, and administrative fees paid during the quarter ended December 2025.

This is informational only.

Attachment

Attachment

North Dakota Public Employees Retirement System
Consulting/Investment/Administrative Fees
For the Quarter ended December 31, 2025

	Program/Project	Fee Type	Oct-25	Nov-25	Dec-25	Fees Paid During The Quarter	Fees Paid Year-To-Date	Last Calendar Year-to-Date
Actuary/Consulting Fees:								
Insurance Plans:								
Deloitte	Insurance Legislative Analysis	Time Charges				-	$ 105,919	$ 93,083
Deloitte	Health & Part D Claims Projections	Time Charges				-	$ -	$ 120,000
Deloitte	Health & Part D RFP Preparation	Time Charges		20,000		20,000	$ 40,000	$ -
Deloitte	Insurance Consulting	Time Charges				-	$ -	$ 115,229
Buck Consulting	Life/Dental/Vision RFP	Fixed Fee				-	$ -	$ 35,000
Deferred Compensation/Defined Contribution:								
Callan & Associates	Investment Consultant Expenses	Fixed Fee	13,605			13,605	$ 54,022	$ 52,448
Defined Benefit:								
RVK	Asset Allocation & Liability Study	Fixed Fee				-	$ 45,857	$ -
Gabriel Roeder Smith & Company	Retirement Actuarial Valuation	Fixed Fee	21,000	45,300		66,300	$ 79,000	$ 77,000
Gabriel Roeder Smith & Company	GASB Valuation	Fixed Fee		3,000	24,000	27,000	$ 27,000	$ 42,000
Gabriel Roeder Smith & Company	Projections	Fixed Fee		20,000		20,000	$ 20,000	$ -
Gabriel Roeder Smith & Company	Experience Study	Fixed Fee				-	$ 45,000	$ -
Gabriel Roeder Smith & Company	Retirement Legislation	Time Charges				-	$ 24,675	$ 51,850
Gabriel Roeder Smith & Company	Retirement Consulting/Actuarial Analysis	Time Charges	1,235	855	855	2,945	$ 30,613	$ 88,086
Mid Dakota Clinic	Retirement Disability Consultant	Time charges				-	$ -	$ -
RHIC:								
RVK	Asset Allocation & Liability Study	Fixed Fee				-	$ 19,143	$ -
Gabriel Roeder Smith & Company	RHIC Actuarial Valuation	Fixed Fee	4,000	10,800		14,800	$ 14,800	$ 14,400
Audit Fees:								
Clifton Larson Allen	Annual Audit Fee	Fixed Fee				-	$ -	$ 24,348
UHY	Annual Audit Fee	Fixed Fee			78,500	78,500	$ 115,000	$ 103,600
Legal Fees:								
ND Attorney General	Legal Fees on All Plans	Time charges	5,892	6,953	5,628	18,473	$ 68,893	$ 65,585
Ice Miller - Federal Tax Consultant	Legal Fees on All Plans	Time charges	3,507	8,979	16,923	29,409	$ 108,112	$ 101,125
Investment Fees:								
SIB - Investment Fees	Retirement (DB)	% Allocation	1,803,656	2,618,017	428,886	4,850,559	$ 9,876,094	$ 8,211,808
SIB - Investment Fees	Ret Health Credit	% Allocation	294,110	165,191	5,269	464,570	$ 810,787	$ 353,732
SIB - Investment Fees	Insurance	% Allocation	12,162	26,962	1,454	40,578	$ 94,207	$ 74,350
SIB - Investment Fees	Job Service	% Allocation	135,619	71,215	2,060	208,894	$ 365,821	$ 215,164
SIB - Administrative Fees	Retirement (DB)	% Allocation	139,210	133,885	126,480	399,575	$ 1,582,102	$ 1,096,862
Administrative Fee:								
Sanford Health Plan	Health Plan	Fixed fee	1,981,752	1,980,716	1,981,059	5,943,527	$ 19,496,019	$ 15,243,298

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Memorandum

TO: NDPERS Board

FROM: Rebecca Fricke

DATE: February 10, 2026

SUBJECT: Strategic Planning Update

During the recent Board Planning meeting, the Board requested that staff develop a roadmap to illustrate the Strategic Planning initiatives for distribution to interested stakeholders. Over the past several months, staff have prepared the attached document, which consolidates our strategic initiatives into a concise, one-page graphic intended for sharing with relevant parties.

This item is informational and does not require any action by the Board.

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM

STRATEGIC ROADMAP – 2026

Attachment

Our mission is to champion the health and financial security of our members by providing comprehensive, innovative retirement and insurance benefit solutions through collaboration and personalized support.

Initiative Completed | Initiative in Progress | Initiative Not Yet Started

Strategic Perspectives	Organizational Strategic Map	Performance Measures	Strategic Initiatives
Financial	Ensure Retirement Stability Control NDPERS Admin Fees High Quality Benefit Offerings	1. Actuarial valuations performed every year. 2. Reports to Employee Benefits Programs Committee. 3. Board strategic planning meeting	1. Legislative Education 2. Educational videos 3. FlexComp administration for Higher Ed 4. Secure 2.0 implementation 5. Robust RFP process
Customer	Improve Customer Communication Enhance Customer Experience	1. Customer satisfaction surveys 2. HRMS surveys 3. Legislative feedback	1. Legislative Education 2. Educational videos 3. Comprehensive wizards 4. BPM redesign 5. Dashboard 6. Correspondence embedding
Learning & Growth	Develop Staff Capabilities Strengthen Leadership Pipeline Retain Institutional Knowledge	1. Director & manager surveys 2. Gallup surveys 3. SWOT analysis 4. Risk assessments 5. HRMS surveys	1. Lifecycle trainings 2. Junior management program 3. LinkedIn learning 4. Mentorship program opportunities
Internal Process	Automate Manual Processes Improve Data Accuracy Enhance Governance	1. Director & manager surveys 2. Gallup surveys 3. SWOT analysis 4. Risk assessments 5. HRMS surveys 6. Board operating guidelines	1. Procedure manual updates 2. Dashboard 3. BPM 4. System enhancement backlog 5. Electronic records cleanup 6. Board governance manual 7. OCR

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Memorandum

TO: NDPERS Board

FROM: Rebecca Fricke

DATE: February 10, 2026

SUBJECT: Contracts under $15,000

There have not been any contracts under $15,000 that have been signed since the last update.

This topic is informational only.

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Memorandum

TO: NDPERS Board

FROM: Rebecca Fricke

DATE: February 10, 2026

SUBJECT: Office Updates

We wanted to provide two updates as informational so you are aware.

First, the WSI building is undergoing a carpet replacement project. Our floor and office location is expected to be impacted from March 2 to March 20. During this time, it is likely that the majority of staff will work remotely to ensure that the project can be completed timely. There will be a period of time when the physical office will be closed, but notices will be posted as has been done previously when we've had an office closure. Staff have necessary resources to be able to work remotely during this time so that services to our members and employers is not interrupted. In addition, we will notify you if we need to hold the March Board meeting virtually if the WSI Board Room is not available when the meeting is to be held.

Second, the Governor has requested that HRMS initiate a voluntary separation incentive program, commonly referred to as a VSIP. The State has not offered this type of program since 2018. The purpose of the VSIP is to:

1) To provide a financial incentive to state employees under the provisions of a Voluntary Separation Incentive Program (VSIP), as authorized by NDCC 54-14-04.3.

2) To provide long-term financial savings to the state by decreasing staffing levels or costs.

We have already been told by OMB to anticipate that the upcoming biennium 2027-2029 will be difficult from a State budget standpoint. It is our understanding that the Governor is offering this initiative so that state agencies can find budgetary efficiencies or reductions in staffing to meet budget deficits ahead of the next biennium.

Given NDPERS has worked hard over the past 2 biennia to increase our FTEs to meet the needs of our agency for providing our mission and service to our employers and members, we have determined that we will not be participating in the VSIP. We feel that our current staffing levels are what is necessary for us to maintain the services for the plans we administer. The potential impact of reducing staff to achieve agency savings would not be in our best interests.

Once we receive the budget directive from the Governor's Office, we will begin discussions with the Board regarding the next biennium budget cycle.

This item is informational only and does not require any action of the Board.

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Memorandum

TO: NDPERS Board

FROM: Katheryne Korom

DATE: February 10, 2026

SUBJECT: Everbridge Emergency Notification Test

Everbridge is the State's emergency communication software which allows our office to update all necessary parties of critical events without making individual contacts. We test this process twice a year to ensure all Board members receive the critical event messages we may send.

You will receive a test message during our meeting on all phone numbers and email addresses you have listed in PeopleSoft.

No Board Action is necessary, other than letting us know if you do NOT receive the communication.