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: 583 671 182#
Date: **Tuesday, November 10, 2026**
Time: 8:30 A.M. **Join the meeting now**

I. MINUTES
A. October 27, 2026

II. CONFLICT OF INTEREST DISCLOSURE CONSIDERATION

III. MEMBER EXECUTIVE SESSION
A. Retirement Benefit Appeal Case #1071 – MaryJo (Board Action) *** EXECUTIVE SESSION**
B. Attorney Consultation regarding Retirement Benefit Appeal Case # 1071 – **** EXECUTIVE SESSION**

IV. PRESENTATIONS
A. Annual Investment Performance Update – Scott Anderson, Retirement & Investment Office (Information)

V. DEFERRED COMPENSATION / DEFINED CONTRIBUTION
A. 457(b) Deferred Compensation Plan Provider Reporting - Lincoln Financial Group - Rebecca (Board Action)

VI. DEFINED BENEFIT
A. Public Safety Plans Employer Contribution Rates – MaryJo (Board Action)

VII. LEGISLATION / ADMINISTRATIVE RULES
A. Legislation – Rebecca (Board Action)

VIII. OPERATIONS / ADMINISTRATIVE
A. Contracts Under $15,000 – Rebecca (Information)
B. Next Meeting Date Tuesday, December 8, 2026

* Executive Session pursuant to N.D.C.C. §§ 44-04-19.2, 44-04-19.2(1), and 54-52-26 to discuss confidential records or confidential member information.

**Executive Session pursuant to N.D.C.C. §§ 44-04-19.1 and 44-04-19.1(5) to receive attorney advice regarding and in anticipation of reasonably predictable or pending civil litigation or adversarial administrative proceedings and receive its attorney's advice and guidance on the legal risks, strengths, and weaknesses of an action of a public entity which, if held in public, would have an adverse fiscal effect on the entity regarding retirement benefit case #1071.

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
(800) 803-7377

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

Retirement Benefit Appeal Case # 1071

TO: NDPERS Board

FROM: MaryJo Anderson

DATE: November 10, 2026

The member requests that "the board review, reverse, and set aside the benefit determination contained in NDPERS' August 26, 2026 correspondence and direct that his retirement benefits be calculated and paid notwithstanding NDPERS' error."

The letter and documents provided with the request for Board review are *Attachment 1*.

Monthly Benefit Calculation

NDPERS monthly retirement benefits in the Defined Benefit Retirement Plan are calculated based upon requirements in state law [N.D.C.C. § 54-52-17(2) and N.D.C.C. § 54-52-17(4)]. The calculation for a member at Normal Retirement, such as this member, is as follows:

Final Average Salary (FAS) x Benefit Multiplier (2%) x Years of Service = Normal Benefit

Normal Retirement means the member meets the applicable rule, in this case Rule of 85, or is age 65 or older.

A member can opt to have a reduction in their benefits applied to provide for a continuing benefit to the spouse in the event that the member passes away. If this option is selected, it results in a Joint &Survivor (J&S) Payable Factor reduction being applied to the Normal Benefit, which reduces the monthly lifetime benefit. This member opted for the 50% J&S benefit option.

The member's first check letter which illustrates the member's final monthly benefit calculation is provided as *Attachment 2*.

Salary Reporting

The component of the member's benefit calculation in question is the salaries used in calculating the member's Final Average Salary. The compensation reported by the employer for this member is subject to a federal limitation under Internal Revenue Code (IRC) § 401(a)(17). The regulation limits the amount of annual compensation that can be reported to the NDPERS retirement plan given the plan is a qualified IRC § 401 (a) plan.

The IRC § 401(a)(17) Annual Compensation Limits are shown below:

Year	Compensation Limit	Year	Compensation Limit	Year	Compensation Limit
2026	$360,000.00	2017	$270,000.00	2008	$230,000.00
2025	$350,000.00	2016	$265,000.00	2007	$225,000.00
2024	$345,000.00	2015	$265,000.00	2006	$220,000.00
2023	$330,000.00	2014	$260,000.00	2005	$210,000.00
2022	$305,000.00	2013	$255,000.00	2004	$205,000.00
2021	$290,000.00	2012	$250,000.00	2003	$200,000.00
2020	$285,000.00	2011	$245,000.00	2002	$200,000.00
2019	$280,000.00	2010	$245,000.00	2001	$170,000.00
2018	$275,000.00	2009	$245,000.00	2000	$160,000.00

To maintain compliance with IRC § 401(a)(17) requirements and preserve the plan's qualified status, NDPERS does not use compensation in excess of the federal limit when determining a member's retirement benefit. This member's account was identified as having compensation and contributions reported in excess of the applicable IRC § 401(a)(17) limit because the employer (prior to 2023 per the employer) did not apply the federal compensation limitation within its payroll reporting process. As a result, compensation and contributions on compensation exceeding the federal limit were reported to NDPERS by the employer and subsequently identified during NDPERS' compliance review and retirement audit process.

It is the responsibility of participating employers to apply the IRC § 401(a)(17) compensation limits correctly within their payroll systems and in the wage and contribution data they report to NDPERS. As an added safeguard, NDPERS conducts a full audit of each member's account at the time of retirement, making any necessary adjustments to ensure compliance with all federal and state laws and plan provisions.

Because the employer did not apply the annual IRC § 401(a)(17) limits to the contributions and reported compensation in excess of the annual limits, NDPERS completed all necessary corrections to the member's account to ensure that the compensation used in determining the member's benefit calculation did not exceed the federal limitations. Excess retirement contributions were refunded with applicable interest, and excess service-purchase contributions were likewise returned, including interest.

Therefore, any adjustment to the member's account resulting from the application of the IRC § 401(a)(17) annual compensation limit was required by federal law and not subject to NDPERS' discretion. The payroll corrections did not reduce the member's monthly Defined Benefit retirement allowance as allowable under the plan because compensation in excess of the federal limit cannot be recognized for benefit calculation purposes.

Final Average Salary

State law defines how final average salary is to be calculated. N.D.C.C. § 54-52-17(2) states "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."

Consistent with N.D.C.C. § 54-52-17(2), the member's FAS was calculated using the higher of the applicable statutory FAS methodologies. In the member's case, the higher calculation was the average of the member's highest three consecutive 12-month periods within the last 180 months of employment. This member's highest three consecutive 12-month periods occurred during his final years of employment, excluding July 2026 as this month was a partial month due to the member's termination date.

Attachment 3 provides the IRC § 401(a)(17) capped monthly compensation used in the final FAS calculation for this member's monthly retirement benefit amount, resulting in the final FAS shown on the final row of the attachment.

Applicable Laws

Internal Revenue Code § 401(a)(17) establishes the annual compensation limit applicable to both the NDPERS Defined Benefit and Defined Contribution Plans, each of which is a qualified governmental plan under IRC § 401(a) and 414(d). As a result, NDPERS must apply this federal compensation limitation when determining both retirement contributions and calculating benefits.

Including compensation or contributions above the IRC § 401(a)(17) limit in a member's retirement benefit calculation would result in NDPERS recognizing amounts that federal law prohibits. Such treatment would be inconsistent with federal qualification requirements and jeopardizes the plan's tax-qualified status. A loss of the plan's qualified status would result in significant economic harm to the State, participating employers, and employees, as the plan would no longer be permitted to offer tax-favored benefits. Employer and employee contributions could become immediately taxable, earnings on plan assets would lose tax-deferred treatment and become immediately taxable, and neither the State nor its political subdivisions could continue administering the plan on a pretax basis. Furthermore, the plan may lose numerous favorable tax treatments which are only available to qualified, governmental plans.

When contributions are reported on compensation that exceeds the federal limit, NDPERS must identify, correct, and return those excess amounts in accordance with IRS qualification requirements. These excess amounts cannot be treated as eligible compensation or allowable contributions for purposes of calculating a member's monthly lifetime retirement benefit.

Internal Revenue Code § 415(b) – Governs the amount of annual benefit that can be paid from a Defined Benefit Plan.

N.D.C.C. § 54-52-28(3) Internal Revenue Code compliance.

Incorporates the federal IRC § 401(a)(17) compensation limitation by reference, stating:

> The board shall administer the plan in compliance with the following sections of the Internal Revenue Code, as amended, as it applies for governmental plans.
>
> 3. The annual compensation limitation under section § 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section § 401(a)(17)(B).

Additional Applicable State Law and Administrative Authority

- **N.D.C.C. § 54-52-22 Interpretation clause.** This chapter may not be construed so as to commit the state of North Dakota, or any county, city, or school district or the agency to any liability either moral or legal for any benefits to any beneficiary under the plan or plans resulting from enactment of this chapter, nor as exemption from any regulatory laws of the state of North Dakota.

- **N.D.C.C. § 54-52-17(2) Formulation of plan.** (emphasis added) 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.

- **N.D.C.C. § 54-52-17(4) Formulation of plan.** (emphasis added)
  The board shall calculate retirement benefits as follows:
  a. Normal retirement benefits for a retiree, except a supreme or district court judge and peace officer employed by the bureau of criminal investigation reaching normal retirement date equals an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:
  (1) For a member first enrolled:
  (a) Before January 1, 2020, service benefit equals two percent of final average salary
  multiplied by the number of years of service employment.
  (b) After December 31, 2019, service benefit equals one and seventy-five hundredths
  percent of final average salary multiplied by the number of years of service employment.

- **N.D. Admin Code ch. 71-02-06-04. Adjustment for bonuses, profit sharing, and contributions paid in a month other than month earned.**
  Adjustments for the following must be made for all members:
  1. Participating employers shall report bonuses or profit-sharing amounts paid when remitting the contribution associated with the bonus. Recruitment and retention bonuses under North Dakota Century Code section 54-06-31 are not eligible for

consideration as salary and no contributions associated with those types of bonuses shall be submitted.
2. Bonuses or profit-sharing amounts paid by a participating employer other than pursuant to North Dakota Century Code section 54-06-31 will be retroactively prorated over the applicable prior twelve month period. Bonuses or profit-sharing amounts may not be submitted to the public employees retirement system for future months.
3. Upon receiving notice of contributions received in a month other than the month earned, the office will assign contributions to the appropriate month

Representatives from Ice Miller and the Attorney General's Office will be attending to answer questions that the Board may have regarding the application of federal and state regulations.

Board Action Requested

Affirm or deny the member request that the "board reverse and set aside the benefit determination contained in NDPERS' August 26, 2026 correspondence [*Attachment 2*] and direct that his retirement benefits be calculated and paid notwithstanding NDPERS' error."

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
(800) 803-7377

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

ANNUAL INVESTMENT PERFORMANCE UPDATE

TO: NDPERS Board

FROM: Rebecca Fricke

DATE: November 10, 2026

Scott Anderson, the Chief Investment Officer for the Retirement and Investment Office, will provide the Board with an update on the investment performance for Fiscal Year 2025-2026. His presentation is attached.

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

Attachment

Investment Performance

Scott M. Anderson, CFA – Chief Investment Officer

Performance Summary- June 30, 2026

PERs (TE = 1.0%)	FYTD %	YTD %	1 Yr %	3 Yr %[1]	5 Yr %	10 Yr %	5 Yr Volatility%
Total Fund Return	15.9	8.4	15.9	12.2	7.3✓	9.3▲	8.5▲
Policy Benchmark Return	14.9	7.4	14.9	11.7	6.8	8.8	8.7
Total Relative return	1.0	1.0	1.0	0.5▲	0.5	0.5	

▲ Exceptional

✓ As Expected

▼ Caution

■ Alert

1. The actual active return was 0.53% or greater than 0.50%

Five-Year Performance Detail June 30, 2026

TFFR	10 Yr %	5 Yr Volatility%	5 Yr Tracking Error %	5 Yr Sharpe Ratio	5 Yr Information Ratio
	9.3	8.5	1.0	0.5	0.5
	▲	▲	✓	✓	✓

▲ Exceptional

✓ As Expected

▼ Caution

■ Alert

Performance Benchmark Indices – June 30, 2026

Benchmark Indices (% change, annualized)	YTD	1 Yr	5 Yr	10 Yr	10 Yr Volatility	
Russell 3000	10.9%	22.8%	12.3%	15.1%	18.4%	✓
Russell 1000	10.3%	22.0%	12.7%	15.3%	18.2%	✓
Russell 2000	22.6%	40.8%	7.0%	11.6%	23.4%	✓
S&P 500	10.2%	22.3%	13.4%	15.5%	18.1%	✓
MSCI ACWI IMI Net	11.8%	24.2%	10.6%	12.5%	14.3%	✓
MSCI World ex US	9.2%	21.0%	9.3%	9.8%	14.2%	✓
MSCI Emerging Markets	23.8%	43.5%	7.2%	10.1%	16.2%	✓
Bloomberg Aggregate	0.6% ▼	3.8%	0.1%	1.5%	4.8%	✓
Bloomberg Gov/Credit	0.5% ▼	3.3%	-0.1%	1.6%	5.1%	✓
Bloomberg US High Yield	2.0% ▼	5.9%	4.2%	5.8%	4.9%	✓
NCREIF Property Index (6/30/2026)	2.5%	5.0%	3.4%	4.8%	3.8%	✓

▲ Exceptional
✓ As Expected
▼ Caution
■ Alert

Source: Bloomberg

Performance Benchmark Indices – October 30, 2026

Benchmark Indices (% change, annualized)	YTD	1 Yr	5 Yr	10 Yr	10 Yr Volatility	
Russell 3000	13.7%	13.3%	11.4%	15.1%	18.4%	✓
Russell 1000	13.6%	13.1%	11.7%	15.4%	18.3%	✓
Russell 2000	16.3%	16.5%	5.9%	10.6%	23.4%	✓
S&P 500	13.8%	13.3%	12.5%	15.6%	18.1%	✓
MSCI ACWI IMI Net	12.9%	13.3%	10.0%	12.3%	14.3%	✓
MSCI World ex US	10.6%	13.9%	9.1%	9.5%	14.2%	✓
MSCI Emerging Markets	15.3%	14.7%	7.3%	8.3%	16.6%	✓
Bloomberg Aggregate	-0.8%	-0.6%	-0.2%	1.4%	4.9%	▼
Bloomberg Gov/Credit	-0.9%	-0.8%	-0.4%	1.5%	5.1%	▼
Bloomberg US High Yield	0.6%	1.5%	3.7%	5.0%	4.9%	▼
NCREIF Property Index (6/30/2026)	2.5%	5.0%	3.4%	4.8%	3.8%	▼

Source: Bloomberg

▲ Exceptional
✓ As Expected
▼ Caution
■ Alert

Capital Development Pacing – private markets deployment

Measure	How Calculated	PERS
Planned to Actual	% committed to % planned to date for year plan	✓
Adjusted Plan to Actual	% committed to % planned to date for year plan	✓
Unfunded Obligations	% of expected capital calls	▼
Net Asset Value to Paid In	Net Asset Value to Paid In	✓
Distributions to Paid In	Net Asset Value to Paid In	✓

▲ Exceptional

✓ As Expected

▼ Caution

■ Alert

	✓	▼	■
Planned to Actual	75% or More	50% to 75%	Less than 50%
Adjusted Plan to Actual	75% or More	50% to 75%	Less than 50%
Unfunded Obligations	More than 90%	70% to 90%	Less than 70%
Net Asset Value to Paid In	Greater than 1	75% to 1	Less than 75%
Distributions to Paid In	Greater than .75	.25 to .75	less than .25

Market Summary – November 2, 2026

Interest Rates

Fed Funds: 3.75–4.00%
2Y: ~4.6%
10Y: ~4.9%
10Y Real: ~2.6%
➢ **Curve positively sloped**

Equities

S&P 500 Fwd P/E: ~18.7x
2026 EPS growth: ~32.9%
Mag7 EPS growth: ~23% (Q3)
S&P 493 growth: ~33% (Q3)
➢ **Earnings strong and broadening**

Private Markets

Private credit: ~$4.1T (2025 global AUM)
PE dry powder: ~$2.4T (Q2)
Deal activity improving
Real estate stabilizing
➢ **Manager selection critical**

Inflation & Growth

CPI: ~3.7% (September)
Core PCE: ~3.1% (September)
GDP: ~3.4% (Q3 annualized)
2026 GDP est: ~2.3% (Fed, Q4/Q4)
Unemployment: ~4.2% (September)
➢ **Growth strong; inflation persistent**

Credit

IG spreads: ~95 bps
HY spreads: ~345 bps
Credit stress concentrated in pockets
Income attractive
➢ **Spread upside limited**

Geopolitics

Iran: Hormuz attacks; talks ongoing
Venezuela: ~$76B oil investment pipeline
Trade fragmentation → supply chains
Regional conflicts → commodity volatility
➢ **Increased market uncertainty**

Reaccelerating growth • broadening earnings • Fed on hold, hike bias • sticky inflation • Hormuz risk

PERS Market Stress and Liquidity June 30, 2026

	1 yr Downside Return Estimates		
12 Month	1 in 10 Year Stress	1 in 20 Year Stress	1 in 50 Year Stress
9.5%	-6.5%	-9.9%	-13.8%
✓		Legend	
	✓	▼	■

LCR Levels		
Strong Coverage > 2x	**2.00**	✓
Adequate > 1.25x	**1.25**	▼
Red < 1.25x	**1.25**	■

			Liquidity Coverage Ratio (Liquidity/Flows)			
Horizon	Tier	Available	Current	1 in 10 Year Stress	1 in 20 Year Stress	1 in 50 Year Stress
5 Days	1	$3,340,432,790	34.8	28.7	27.3	25.8
30 Days	2	$795,364,374	8.3	6.4	5.9	5.4
>30 Days	3	$1,452,225,158				
	Total	**$5,588,022,322**	**43.1**	**35.1**	**33.2**	**31.2**
			▲			

Current 12M Net Flows	-$96,000,000
Stress 12M Net Flows	-$107,575,042

Assumptions:

- NEPC 30-yr Returns with NEPC Vol and Correlation
- Private Markets are Flat, Public markets are the drawdown, with public markets being the liquidity sources
- Flows: Current = assumes privates are net zero flow, Stress = no distributions, but 100% of capital calls on committed capital.
- 12M MV Change = Change it total market value of funds, inclusive of client flows
- *Stress for Legacy is 50% of expected inflows from normal environment

▲ Exceptional

✓ As Expected

▼ Caution

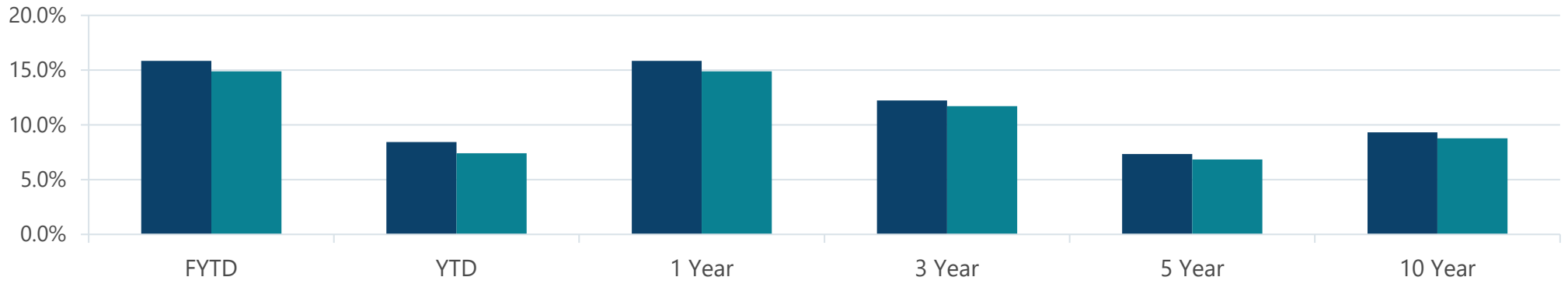
■ Alert

PERS Asset Allocation

June 30, 2026

	Current Balance ($000s)	Current Allocation (%)	Policy Allocation (%)	Policy Difference (%)	Corridor Allocation (%)	Corridor Difference (%)
Domestic All Cap Equities	326,457	5.8✓	5.8	0.0	5.8	0.0
Domestic Equity Large Cap	1,370,407	24.5✓	18.3	6.2	25.3	(0.8)
Domestic Equity Small Cap	73,474	1.3✓	0.8	0.5	1.1	0.2
International Equity	1,084,963	19.4✓	15.1	4.3	19.5	(0.1)
Private Equity	475,995	8.5✓	15.0	(6.5)	8.1	0.4
Investment Grade	1,137,801	20.3✓	16.0	4.3	20.8	(0.5)
Non-Investment Grade	138,999	2.5✓	2.5	(0.0)	2.5	(0.0)
Private Credit	182,653	3.3✓	7.5	(4.2)	3.2	0.1
Global Real Estate	436,348	7.8✓	11.0	(3.2)	7.7	0.1
Infrastructure	310,585	5.5✓	7.5	(2.0)	5.5	0.1
Timber	29,065	0.5✓	0.5	0.0	0.5	0.0
Cash and Equivalents	31,432	0.6✓	0.0	0.6	0.0	0.6
Residual Holdings	777	0.0✓	0.0	0.0	0.0	0.0
	5,598,957	100.0	100.0		100.0	

PERS Performance



June 30, 2026

TFFR	FYTD %	YTD %	1 Yr %	3 Yr %	5 Yr %	10 Yr %	5 Yr Volatility%
Total Fund Return	15.9	8.4	15.9	12.2	7.3✓	9.3▲	8.5▲
Policy Benchmark Return	14.9	7.4	14.9	11.7	6.8	8.8	8.7
Total Relative return	1.0	1.0	1.0	0.5▲	0.5	0.5	

PERS Performance Detail

June 30, 2026

TFFR	Market Value	% of Portfolio	YTD %	FYTD %	1 Yr %	3 Yr %	5 Yr %	10 Yr %
Total Fund	5,598,957,403	100.0	8.4	15.9	15.9	12.2	7.3	9.3
Corridor Target Index			7.5	15.0	15.0	11.7	6.9	8.8
Total Equity	3,331,296,728	59.5	12.2	23.9	23.9▲	18.3	10.7	12.9
Total Equity Benchmark			11.5	22.4	17.8	11.5	10.4	12.7
Total Income	1,459,452,792	26.1	1.6	4.8	4.8✓	6.1	2.2	4.0
Total Income Benchmark			1.0	4.5	4.5	-	-	-
Total Real Assets	775,998,942	13.9	4.7	3.6	3.6✓	0.3	2.6	4.4
Total Real Assets Benchmark			1.9	3.5	3.5	0.4	3.0	3.9
Cash and Equivalents	31,431,820	0.6	9.2	4.0	9.8▲	6.8	4.8	3
90 Day U.S. Treasury Bill			1.7	3.8	3.8	4.6	3.5	2.3

▲ Exceptional

✓ As Expected

▼ Caution

■ Alert

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
(800) 803-7377

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

457(b) Deferred Compensation Provider Reporting – Lincoln Financial Group

TO: NDPERS Board

FROM: Rebecca Fricke

DATE: November 10, 2026

As reported at the previous Board meeting, NDPERS has experienced issues with Lincoln Financial Group's ability to provide accurate quarterly reports since the June 30, 2025 quarter as required for provider participation in the 457(b) Deferred Compensation Plan. Notice (Attachment 1) was provided to Lincoln Financial on September 22, 2026 notifying them of the requirements for participation per the Provider Administrative Agreement (Attachment 2) and that if not resolved, staff would bring this to the attention of the Board for potential Board action.

This is a non-active provider meaning they did not sign the fiduciary amendment. This means they are not able to enroll new members, but can currently continue to receive contributions from members that enrolled with them prior to Lincoln Financial becoming a non-active provider. As such, the 90-day termination of contract is the only recourse we have. As of October 6th, they have eight members actively contributing and 34 inactive members.

Following the previous Board meeting, an email (Attachment 3) was sent to our contact at Lincoln Financial Group providing information on the discussion that occurred by the Board during the meeting. The contact indicated that she had referred the issue to their Compliance Department. As of November 4th, I have not been contacted and we have not received revised quarterly reports. Staff will provide an update at the meeting of any contacts made after this date.

N.D.A.C. Guidance

71-04-06-06. Retirement board report.

The provider shall deliver quarterly reports, in an approved electronic format, to the board detailing the activity of each participant's account. The quarterly report must be delivered within thirty days of the end of each calendar quarter and must include an alphabetical listing of the participants, social security numbers of the participants, the provider's contract number for the participants (if any), type of account for each participant, beginning account balance forwarded from the previous reporting period, contributions made by the participants for the current reporting period, transfers and rollovers from other eligible plans during the reporting period, investment earnings or losses added to the account (if any for the reporting period), any withdrawals made during the reporting period, administrative charges assessed against the account during the reporting period, transfers and direct rollovers to other eligible plans during the reporting period, and the account balance at the end of the reporting period. The report columns must be totaled. The quarterly report must include active, inactive, and accounts in payout status, with the exception of accounts which have been annuitized, and be for all payroll divisions for the plan.

71-04-06-11. Provider reporting failure - Penalty.

Should the provider fail to deliver the required report within a thirty-day period beyond the end of the reporting period, notice must be given by certified mail of the provider's failure to comply. The provider shall then have thirty days from the date of the certified letter to comply with the reporting requirement. If the provider fails to deliver the required report within the thirty-day period, the provider is in violation of the administrative agreement and shall lose active provider status as described under subsection 1 of section 71-04-04-09. If the provider has not filed the report within ninety days after the end of the reporting period, the provider shall lose provider status as described under subsection 2 of section 71-04-04-09. Loss of provider status results in all current contributions of active participants being suspended effective in the next payroll cycle. The board will notify all participants of the company's failure to deliver the required reports. Current participants will be required to either select a new provider for future contributions, or have their account go into a dormant status with the company losing provider status. The board will then terminate the agreement with the provider.

History: Effective April 1, 1989; amended effective November 1, 1990; July 1, 1994; May 1, 2004; July 1, 2010.
General Authority: NDCC 28-32-02, 54-52.2-03.2
Law Implemented: NDCC 54-52.2-03, 54-52.2-03.2

71-04-06-12. Provider suspension - Employee account transfers.

Should the provider be in violation of the administrative agreement, employees shall have the option of transferring their individual accounts to another qualified provider. The employee shall also have the option of leaving the account with the provider until the employee is eligible for a distributable event.

71-04-04-09. Provider suspension.

The board shall suspend a provider that does not meet the requirements under article 71-04 or North Dakota Century Code chapter 54-52.2. The board may apply either of the following two types of suspension:

1. **Loss of active provider status.** Under this type of suspension, the provider may not enroll any new participants. The provider may continue to receive contributions from existing members.

2. **Loss of provider status.** Under this type of suspension, the provider may not enroll any new participants nor receive any further contributions from existing members.

At least thirty days prior to suspension, the board shall send a certified letter to the provider indicating the board's intent to suspend and the reasons for the suspension. Any response from the provider must be reviewed by the board at the board's next scheduled meeting. A letter of intent does not need to be sent if the provider fails to meet the requirements of section 71-04-06-11. If the board decides to suspend a provider, the board shall send a certified letter of suspension to the provider stating the reasons for the suspension and the type of suspension.

Staff have confirmed with legal counsel that the Board has a basis to pursue loss of provider status given the provider has failed to deliver the required reports.

If the Board opts for Lincoln Financial Group to have a loss of provider status, the following steps will need to take place:

1) Per N.D.A.C. 71-04-04-09 (2), the Board shall send a certified letter to the provider stating the reasons for the suspension and the type of suspension.
2) Per N.D.A.C. 71-04-06-11, the active participants will have their payroll deduction suspended effective the next payroll cycle. Notice will be provided to participants.

Board Action Requested

Determine how to proceed with Lincoln Financial Group.

Attachment 1

North Dakota
Public Employees Retirement System
1600 E Century Ave, Suite 2 ● 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 https://ndpers.nd.gov

September 22, 2026

Lincoln Financial Group / Plan ID : CR20540, CR23047 and CR27963
P.O Box 2348
Fort Wayne, IN 46801-2348
Fax : 260-455-9427

Dear Sir or Madam:

This letter serves as formal notice that NDPERS has experienced ongoing issues with Lincoln Financial's ability to provide accurate quarterly reports to NDPERS as required by Section II(C) of the signed Provider Administrative Agreement (the "Agreement").

Pursuant to Section II(C) of the Agreement, the provider is required to provide accurate quarterly reports to NDPERS within thirty (30) days following the end of each quarterly reporting period. Lincoln Financial's quarterly reporting issues have continued across multiple reporting periods, and NDPERS continues to have unresolved issues regarding the accuracy and completeness of the statements provided.

NDPERS has repeatedly requested quarterly statements that accurately reflect a beginning account balance that corresponds to the ending account balance reported for the preceding period. Despite these requests, NDPERS has not received the necessary corrected statements or a timely resolution to these issues.

NDPERS has also experienced delayed responses from Lincoln Financial regarding these matters. NDPERS initially requested the necessary statements on July 9, 2026. On August 20, 2026, NDPERS was informed that the matter had been escalated. On August 25, 2026, NDPERS was advised that an update regarding the progress of the issue would be provided. As of September 22, 2026, the issue has not been resolved.

Given the continuing issues with obtaining accurate quarterly statements, particularly with respect to participant contributions and account balances, NDPERS considers these failures to constitute a **material breach of the Agreement**.

Pursuant to Section II(C) of the Agreement, the Retirement Board's remedy is to notify participants using your services of the breach and commence termination of the Agreement. If the Agreement is terminated, Lincoln Financial will no longer be eligible to provide services under the State of North Dakota Deferred Compensation Program, and participants will no longer be permitted to make contributions to the Program through Lincoln Financial.

NDPERS will present this matter to the Retirement Board for its consideration at the **October 27, 2026, Board meeting**. If, by that meeting, Lincoln Financial has not designated a responsive point of contact and fully corrected the outstanding reporting issues, I will recommend that the Board exercise its contractual remedy and terminate the Agreement.

Given the seriousness of these concerns, I strongly encourage Lincoln Financial representatives to attend the October 27, 2026, meeting, either virtually or in person, to explain to the Board why these

basic reporting requirements have not been satisfied and why NDPERS's repeated requests for information have not received timely responses.

NDPERS expects Lincoln Financial to treat this matter with the urgency it requires and to take immediate action to resolve all outstanding reporting issues.

If you have any questions, please contact me.

Sincerely,



Rebecca Fricke
Executive Director

Certified Mail: 7021035000110301701

Attachment 2

NORTH DAKOTA DEFERRED COMPENSATION PLAN

PROVIDER ADMINISTRATIVE AGREEMENT

COPY

This Agreement is made and entered into this first day of August, 1998, by and between the North Dakota Public Employees Retirement System Board, administrator of the North Dakota Deferred Compensation Plan, hereinafter referred to as the "Retirement Board". and Lincoln National Life, hereinafter referred to as the "Provider".

I. Purpose and Scope of the Deferred Compensation Program

The purpose of this Agreement is to document specific areas of responsibility with respect to the administration of the North Dakota Deferred Compensation Plan. No later than January 1, 1999, all participant assets must be held in an insurance annuity contract or custodial account for the exclusive benefit of the participant and the participant's beneficiaries as required by section 457 of the Internal Revenue Code. No deferred compensation program assets are subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever. Neither the participant nor the participant's beneficiary has the right to commute, sell, assign, transfer, or otherwise convey the right to receive payments under the deferred compensation program. The Provider is authorized to make investments as specified by the participant. The participant is responsible for any loss which may result from investment of the deferred compensation.

II. Provider's Area of Responsibility

A. All sales representatives of the Provider who are authorized to solicit new enrollees to the plan shall be fully qualified to explain the deferred compensation program as found under Section 457 of the Internal Revenue Code and shall be licensed by the North Dakota State Securities Commissioner for the sale of registered securities or the North Dakota State Insurance Commissioner for the sale of insurance products, or both, if applicable. All new sales representatives must complete an initial review of the Deferred Compensation Program and be certified by the Retirement Board before the sales representative may enroll or recruit eligible participants. All sales representatives must complete an initial orientation of the deferred compensation program within one year of beginning service and all sales representatives must complete ongoing training orientation every two years as prescribed by the Retirement Board. This orientation may be obtained through a program to be developed by the Retirement Board. Any sales representative who does not complete the required training under this provision or fails to comply with other provisions of this agreement may not enroll new participants.

COPY

B. The Provider may not solicit or enroll any new participants after November 1, 1998. The Provider may continue to receive contributions from participants who are using the Provider's services as of the date of this agreement.

C. The Provider shall deliver to the Retirement Board at least semi-annual reports indicating the total assets allocated to the Provider for each participant. The report must include all participants from all payroll sources (Central Payroll, Bank of North Dakota, Political Subdivisions, etc.). The reports shall include the following information:

1. Alphabetical List of Participants.
2. Social Security Number.
3. Provider Contract Number.
4. Type of Account.
5. Beginning Account Balance Forwarded From Previous Reporting Period.
6. Contributions During the Reporting Period.
7. Investment Earnings or Losses During the Reporting Period.
8. Withdrawals and Charges Made Against the Account During the Reporting Period.
9. Balance of the Account at the End of the Reporting Period.
10. Other information required by the Retirement Board.

The Retirement Board agrees that the current report used by the Provider is acceptable. The Retirement Board will notify the Provider if the Provider's current report is no longer considered satisfactory. The Provider must include in its report all active accounts, inactive accounts, and accounts in payout status, with the exception of accounts which have been annuitized. The report columns must be totaled. The report must be submitted within thirty days of the end of each reporting period. Failure to submit a report within thirty days of the end of a reporting period will result in the Retirement Board sending the Provider a letter advising the Provider that, if the Retirement Board does not receive the report within thirty days of the date of the letter, the Retirement Board will automatically suspend the Provider's eligibility to enroll new members until the first day of the month following the date the Retirement Board receives the report. The Provider's failure to submit a report within ninety days after the end of a reporting period will be considered a material breach of this agreement. At that point, the Retirement Board will inform all members who are using the Provider's services that the Provider is in material breach of the agreement, that the Retirement Board is commencing termination of the agreement, as well as Provider's eligibility to supply services under the Deferred Compensation program, and that the members may no longer contribute to the Deferred Compensation program using the Provider. The Retirement Board will then terminate the agreement with the Provider as provided in subsection C of section IV of this agreement.

COPY

D. The Provider shall provide to all Participants at their home addresses, no less than quarterly, account statements detailing each Participant's account activity and account balance, with the exception of accounts that have been annuitized. However, if the Provider provides inactive participants with a toll-free number those participants may utilize to review their accounts, the Provider need only provide inactive participants with semi-annual account statements.

E. No benefit payments will begin until the Provider receives the written authorization of the Retirement Board. Once authorization for payments has been given, the Provider will make benefit payments directly to the participant.

F. The Provider shall withhold federal and state taxes from the benefit payments and file the required reports of said withholdings with the appropriate federal and state agencies in accordance with applicable state and federal law.

G. The Provider shall deliver W-2s to all annuitants and separated employees receiving distributions and 1099R's to all beneficiaries or other appropriate forms as required by federal and state law.

H. The Provider shall allow the plan participant to "direct transfer" the participant's account to another provider after first receiving written consent from the Retirement Board or the Retirement Board's designated representative. All Requests for Transfer must be effected within thirty days after the Request for Transfer is signed by the Retirement Board and mailed to the Provider Contact Person or the Provider Contact Person's designee, or within such earlier time as prescribed by the National Association of Securities Dealers (NASD) Rules of Fair Practice or 15 U.S.C. § 80a-22(e). The Provider's failure to effect a transfer within the time prescribed by the NASD rules or 15 U.S.C. § 80a-22(e) will result in the Retirement Board reporting that violation to the applicable regulatory agency. The Provider's failure to effect a transfer within thirty days after the Request for Transfer is signed by the Retirement Board will require the Provider to pay to the Retirement Board liquidated damages of $50.00 or .1% of the participant's transferable account balance, whichever is greater, for each day that passes until the transfer is accomplished. The Provider must also provide to the Retirement Board written confirmation within ten days that the transfer was accomplished. Provider and Retirement Board agree that the amount of damages in the event of a failure to timely effect a transfer is currently difficult to estimate, that the amount of liquidated damages has been reviewed, and that the stated amount is reasonable in light of the additional expense to the Retirement Board in the event of a breach and is not disproportionate to the damages reasonably to be anticipated in the event of a breach. Payment of liquidated damages to the Retirement Board shall not relieve the Provider of any liability to the participant for the Provider's failure to effect a transfer as required in this paragraph.

COPY

I. The Provider shall provide to the employee a list of all investment options offered by the provider under the program. A list of the options must also be attached to this agreement and updated whenever a new investment product is offered or whenever an existing investment option is discontinued.

J. The Provider must report annually such information as the Board may require related to the Provider's investment products. In connection with this report, the Provider must also provide a list of fees and distribution options in a format as specified by the Retirement Board.

K. The Provider understands and agrees that the maintenance of the North Dakota Deferred Compensation Program as an eligible program under section 457 of the Internal Revenue Code is of great importance, and that all of the Provider's functions are subject to a high standard of conduct in order to maintain the program's eligible status. The Provider agrees to indemnify and save and hold harmless the Retirement Board for any loss, damage, claim, or expense arising in connection with any actions taken or omitted by the Provider, specifically including, but not limited to, actions or omissions by the Provider that adversely affect the program's eligible status.

L. The Provider shall comply in a timely manner with all reasonable direction that the Retirement Board, as contract owner, may provide concerning the administration of the deferred compensation program, including any procedures established by the Retirement Board for processing contributions and distributions. The Provider agrees to abide by the Plan and the Administrative Rules adopted by the Retirement Board and communicated to the Provider. Notice of any amendment to the Plan or Rules will be provided as required by North Dakota law.

M. The Provider shall assume the risk associated with any unauthorized distribution of participant assets, including, but not limited to, restoring the funds to the participant's account, and holding the participant harmless for the unauthorized distribution. The unauthorized distribution of participant assets must be reported to the participant as income. For the purposes of this provision, an "unauthorized distribution" means a distribution which is not authorized by the Retirement Board, or the failure to make a distribution which is authorized by the Retirement Board.

N. The Provider shall fully inform the participant of all standardized distribution options available from the Provider at the time of enrollment and prior to the participant electing a distribution option.

O. The Provider must designate a Provider Contact Person who will assume, on behalf of the Provider, all administrative responsibilities associated with this agreement, including serving as liaison between the Retirement Board and the Provider's sales representatives, ensuring that all reports are correctly and timely

COPY

filed, and serving as the Provider's reference person to handle all dispute resolutions. The Provider Contact Person must be a senior level manager with experience in handling large accounts. The Provider Contact Person or successor must also serve, on behalf of the Provider, as the Retirement Board's "Employer Appointment of Agent" as set forth under section 3504 of the Internal Revenue Code. The Provider Contact Person, as the Retirement Board's appointed agent, must ensure that a letter request and Form 2678 is sent to the Director of the Internal Revenue Service Center pursuant to Form 2678 and that a copy of the request letter and form is also sent to the Retirement Board.

III. **Retirement Board's Areas of Responsibility**

A. The Retirement Board must administer a plan under Section 457 of the Internal Revenue Code.

B. The Retirement Board will direct the participant's employer to make the proper payroll deductions.

C. The Retirement Board will provide employers with Participant Agreements for salary reduction authorization.

D. The Retirement Board will provide participants who separate from service with a Benefit Selection form to facilitate distribution of their accounts.

E. The Retirement Board will promulgate rules regarding the administration of the Plan and provide a copy of these rules to the Provider.

F. The Retirement Board will designate a contact person to serve as the recipient of all communications from the Provider.

G. The Retirement Board will make appropriate authorizations for distribution of benefits in a timely manner.

IV. **General Terms and Conditions**

A. Amendment. This Agreement may be amended from time to time by written agreement between the Retirement Board and the Provider.

B. Contract Period. This Agreement shall be in effect for a one-year period from _____, 1998, with automatic one-year extensions unless terminated earlier by either party.

C. Termination. This Agreement may be terminated at any time by the Retirement Board or the Provider, upon sixty days written notice to the other party.

COPY

However, this provision shall not affect the liability of the Provider under any contract purchased before termination. Upon termination of this agreement by the Retirement Board or Provider, the Provider agrees to transfer all participant accounts to another provider upon request of the Retirement Board. If the termination of this agreement is by the Retirement Board and is for-cause, including the Provider's failure to deliver a semi-annual report as required by subsection C of section II of this agreement, or if the termination of this agreement is by the Provider, the Provider agrees to make the above transfer free from all transfer charges and penalties whatsoever, regardless of any provision to the contrary in the investment contract.

D. Delay. Neither party shall be liable for any delay in or failure of performance under this Agreement due to an act of God or due to war mobilization, insurrection, rebellion, civil commotion, riot, act of an extremist or public enemy, sabotage, labor dispute, explosion, fire, flood, storm, accident, drought, equipment failure, power failure, fuel or energy shortages, unavoidable delay of carriers, embargo, law, ordinance, act, rule or regulation of any government, whether valid or invalid.

E. Applicable Law. This agreement is governed by the laws of the State of North Dakota.

F. Participant's Rights. Nothing in this agreement shall be construed to restrict in any way a participant's rights against the Provider.

G. Notices. Whenever notices and correspondence are to be given under this Agreement, the notice must be given by personal delivery to the other party or may be sent by mail, postage prepaid to the other party at the following address:

Provider Contact Person (please print):

_____

_____

_____

_____

_____

COPY

To Retirement Board:

North Dakota Public Employees Retirement System
400 East Broadway, Suite 505
P.O. Box 1214
Bismarck, ND 58502
(701) 328-3900

IN WITNESS WHEREOF, the undersigned have executed this Agreement this _____ day of _____, 19___.

PROVIDER NAME:

Lincoln National Life

Fort Wayne, Indiana

Kathleen Peterson 9-23-98
Signature Date

KATHLEEN PETERSON
Name (please print)

Second Vice President
Title

RETIREMENT BOARD:

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD

Signature 7/24/98
Date

Name (please print)

Exec Dir
Title

LINCOLN LIFE
American Legacy

PO Box 2348
Fort Wayne IN 46801-2348

September 23, 1998

Mr. Sparb Collins
Executive Director
North Dakota Public Employees
Retirement System
400 East Broadway
Suite 505
P.O. Box 1214
Bismarck, ND 58502-1214

RE: Service Provider Agreement

Enclosed please find two signed originals of the North Dakota Deferred Compensation Plan Provider Administrative Agreement between Lincoln National Life and the North Dakota Public Employees Retirement System. Scott Miller conveyed that these were to be directed to you for your signature and then an original will be sent back to Lincoln for our records.

Please do not hesitate to call if you have any questions or concerns. My direct line is 219-455-1764.

Respectfully,

Kathleen Peterson

Kathleen M. Peterson
Second Vice President

AMENDMENT No. 1

NORTH DAKOTA DEFERRED COMPENSATION PLAN

PROVIDER ADMINISTRATIVE AGREEMENT

This amendment to amend the North Dakota Deferred Compensation Plan Provider Administrative Agreement (Agreement) is made and entered into this ~~first~~ 30th day of July, 2002 by and between the North Dakota Public Employees Retirement System Board, administrator of the North Dakota Deferred Compensation Plan, hereinafter referred to as the "Retirement Board", and, Lincoln National _____ hereinafter referred to as the "Provider".

The purposes of the amendment are to implement necessary and appropriate changes resulting from the changes in applicable federal law under the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law107-16) and to address certain desired technical and administrative issues. This amendment is effective April 1, 2002.

Sections II and III of the Agreement are amended and restated as follows:

II. Providers' Area of Responsibility

A. All sales representatives of the Provider who are authorized to solicit employees shall be fully qualified to explain the deferred compensation program as found under Section 457 of the Internal Revenue Code and shall be licensed by the North Dakota State Securities Commissioner for the sale of registered securities or the North Dakota State Insurance Commissioner for the sale of insurance products, or both, if applicable. All new sales representatives must complete an initial review of the Deferred Compensation Program and be certified by the Retirement Board before the sales representative may enroll or recruit eligible participants. All sales representatives must complete an initial orientation of the deferred compensation program within one year of beginning service and all sales representatives must complete ongoing training orientation every two years as prescribed by the Retirement Board. This orientation may be obtained either through a program to be developed by the Retirement Board or through a program to be developed by the Provider and approved by the Retirement Board. Any sales representative who does not complete the required training under this provision or fails to comply with other provisions of this agreement may not enroll new participants.

B. The Provider may not solicit or enroll any new participants after November 1, 1998. The Provider may continue to receive contributions from participants who are using the Provider's services as of the date of this agreement.

C. The Provider shall deliver to the Retirement Board at least semi-annual reports indicating the total assets allocated to the Provider for each participant. The report must include all participants from all payroll sources (Central Payroll, Bank of North Dakota, Political Subdivisions, etc.). The reports shall include the following information:

1. Alphabetical List of Participants.
2. Social Security Number.

3. Provider contract number.
4. Type of account.
5. Beginning account balance forwarded from previous reporting period.
6. Contributions during the reporting period.
7. Transfers and rollovers from other eligible plans during the reporting period.
8. Investment earnings or losses during the reporting period.
9. Withdrawals and charges made against the account during the reporting period.
10. Transfers and direct rollovers to other eligible plans during the reporting period.
11. Balance of the account at the end of the reporting period.
12. Other information required by the Retirement Board.

The Retirement Board agrees that the current report used by the Provider is acceptable. The Retirement Board will notify the Provider if the Provider's current report is no longer considered satisfactory. The Provider must include in its report all active accounts, inactive accounts, and accounts in payout status, with the exception of accounts which have been annuitized. The report columns must be totaled. The report must be submitted within thirty days of the end of each reporting period. Failure to submit a report within thirty days of the end of a reporting period will result in the Retirement Board sending the Provider a letter advising the Provider that, if the Retirement Board does not receive the report within thirty days of the date of the letter, the Retirement Board will automatically suspend the Provider's eligibility to enroll new members until the first day of the month following the date the Retirement Board receives the report. The Provider's failure to submit a report within ninety days after the end of a reporting period will be considered a material breach of this agreement. At that point, the Retirement Board will inform all members who are using the Provider's services that the Provider is in material breach of the agreement, that the Retirement Board is commencing termination of the agreement, as well as Provider's eligibility to supply services under the Deferred Compensation program, and that the members may no longer contribute to the Deferred Compensation program using the Provider. The Retirement Board will then terminate the agreement with the Provider as provided in subsection C of section IV of this agreement.

D. The Provider shall maintain beneficiary designations for those participants who submit their beneficiary information.

The Provider shall provide to all Participants at their home addresses, no less than quarterly, account statements detailing each Participant's account activity and account balance, with the exception of accounts that have been annuitized. However, if the Provider provides inactive participants with a toll-free number those participants may utilize to review their accounts, the Provider need only provide inactive participants with semi-annual account statements.

E. No benefit payments will begin until the Provider receives the written documentation from the Retirement Board under Section III, paragraph G confirming that the plan participant has severed employment or is otherwise eligible for distribution of benefits from the Plan. Once such information has been given, the Provider will make benefit payments directly to the participant.

F. The Provider will furnish, upon request, a calculation of the amount necessary under the Plan for each separate account of the participant held by the Provider to satisfy the minimum and required distributions of federal Internal Revenue Code Section 457(d)(2) and related provisions of Internal Revenue Code Section 401(a)(9).

G. The Provider shall withhold federal and state taxes from the benefit payments and file the required reports of said withholdings with the appropriate federal and state agencies in accordance with applicable state and federal law, including the mandatory 20% withholding requirements as such apply to Section 457 plans under federal Internal Revenue Code Section 457(d)(1)(C) and any related regulations.

H. The Provider shall comply with and administer the direct rollover requirements as such apply to Section 457 plans under federal Internal Revenue Code Section 457(d)(1)(C) and any related regulations and accept eligible rollover distributions from other eligible plans as may be permitted under Plan and federal Internal Revenue Code Section 457 (e)(16). The Provider shall comply with and administer the reporting requirements of federal IRC Section 457 (e)(16)(C).

I. The Provider shall provide the written explanation required by federal Internal Revenue Code Section 402(f) to participants and beneficiaries receiving distributions from the Plan. The Provider shall ensure that the written explanation required under this paragraph J. is provided within the time established under applicable federal regulations. The Provider must accept an application for benefits received more than 60 days before the requested benefit starting date. The Provider may accept an application for benefits received between 60 days and 30 days before the requested benefit starting date. The Provider shall not accept an application for benefits received less than 30 days before the requested benefit starting date unless the Provider has received a written waiver of the notice timing requirements established under Code section 402(f) and applicable federal regulations.

K. The Provider shall deliver the appropriate tax reporting form as required under the IRC to all annuitants, separated employees and beneficiaries receiving distributions or other appropriate forms as required by federal and state law.

L. The Provider shall allow the plan participant to "direct transfer" the participant's account to another provider and to a public sector defined benefit plan eligible to receive such transfers as permitted under the Plan pursuant to federal Internal Revenue Code Section 457(e)(17) after first receiving written consent from the Retirement Board or the Retirement Board's designated representative. All Requests for Transfer must be effected within thirty days after the Request for Transfer is signed by the Retirement Board and mailed to the Provider Contact Person or the Provider Contact Person's designee, or within such earlier time as prescribed by the National Association of Securities Dealers (NASD) Rules of Fair Practice or 15 U.S.C. § 80a-22(e). The Provider's failure to effect a transfer within the time prescribed by the NASD rules or 15 U.S.C. § 80a-22(e) will result in the Retirement Board reporting that violation to the applicable regulatory agency. The Provider's failure to effect a transfer within thirty days after the Request for Transfer is signed by the Retirement Board will require the Provider to pay to the Retirement Board liquidated damages of $50.00 or .l% of the participant's transferable account balance, whichever is greater, for each day that passes until the transfer is accomplished. The Provider must also provide to the Retirement Board written confirmation within ten days that the transfer was accomplished. The confirmation must include the date of the transfer, the dollar amount of the transfer, and the entity to which you sent the funds. Provider and Retirement Board agree that the amount of damages in the event of a failure to timely effect a transfer is currently difficult to estimate, that the amount of liquidated damages has been reviewed, and that the stated amount is reasonable in light of the additional expense to the Retirement Board in the event of a breach and is not disproportionate to the damages reasonably to be anticipated in the event of a breach. Payment of liquidated damages to the Retirement Board shall not relieve the Provider of any liability to the participant for the Provider's failure to effect a transfer as required in this paragraph.

M. The Provider shall provide to the employee a list of all investment options offered by the provider under the program. A list of the options must also be attached to this agreement and updated whenever a new investment product is offered or whenever an existing investment option is discontinued. The annual prospectus is an acceptable report to fulfill this obligation.

N. The Provider must report annually such information as the Board may require related to the Provider's investment products. In connection with this report, the Provider must also provide a list of fees and distribution options in a format as specified by the Retirement Board. The annual prospectus is an acceptable report to fulfill this obligation.

O. The Provider understands and agrees that the maintenance of the North Dakota Deferred Compensation Program as an eligible program under section 457 of the Internal Revenue Code is of great importance, and that all of the Provider's functions are subject to a high standard of conduct in order to maintain the program's eligible status. The Provider agrees to indemnify and save and hold harmless the Retirement Board for any loss, damage, claim, or expense arising in connection with any actions taken or omitted by the Provider, specifically including, but not limited to, actions or omissions by the Provider that adversely affect the program's eligible status.

P. The Provider agrees to abide by the Plan and the Rules adopted and amended from time to time by the Retirement Board for the administration of the Plan. Notice of the amendment of the Plan or Rules will be provided as required by North Dakota law. Additionally, the Provider shall comply in a timely manner with all reasonable direction that the Retirement Board may provide concerning the administration of the deferred compensation program, including any procedures established by the Retirement Board for processing contributions and distributions.

Q. The Provider shall assume the risk associated with any distribution of participant assets not permitted under the plan or federal law. The Provider making an impermissible distribution must take appropriate corrective action including, but not limited to, restoring the funds to the participant's account, and holding the participant harmless for the unauthorized distribution.

R. The Provider shall fully inform the participant of all standardized distribution options available from the Provider at the time of enrollment and prior to the participant electing a distribution option.

S. The Provider must designate a Provider Contact Person who will assume, on behalf of the Provider, all administrative responsibilities associated with this agreement, including serving as liaison between the Retirement Board and the Provider's sales representatives, ensuring that all reports are correctly and timely filed, and serving as the Provider's reference person to handle all dispute resolutions. The Provider Contact Person must be a senior level manager with experience in handling large accounts.

III. Retirement Board's Areas of Responsibility

A. The Retirement Board must administer a plan under Section 457 of the Internal Revenue Code.

B. The Retirement Board will direct the participant's employer to make the proper payroll deductions.

C. The Retirement Board will provide employers with Participant Agreements for salary reduction authorization.

D. The Retirement Board will provide participants who separate from employment with written documentation to facilitate distribution of their accounts.

E. The Retirement Board will promulgate rules regarding the administration of the Plan and provide a copy of these rules to the Provider.

F. The Retirement Board will designate a contact person to serve as the recipient of all communications from the Provider.

G. The Retirement Board will provide appropriate documentation to Providers regarding when a participant has separated from employment for distribution of benefits in a timely manner.

The Provider Contact Person information is updated to be as follows:

Provider Contact Person – Include name, mailing address, phone number, fax number and email address (please print):

_____

_____

_____

_____

_____

To Retirement Board:

North Dakota Public Employees Retirement System
400 East Broadway, Suite 505
P.O. Box 1657
Bismarck, ND 58502-1657
(701) 328-3900

IN WITNESS WHEREOF, the undersigned have executed this Agreement this 30th day of July _____, 2002

PROVIDER NAME:

_____

_____

Diahn McHenry 7/30/02
Signature Date

Diahn McHenry
Name (please print)

Assistant Vice President
Title

RETIREMENT BOARD:

NORTH DAKOTA PUBLIC EMPLOYEES
RETIREMENT SYSTEM BOARD

Sparb Collins 8/1/02
Signature Date

Sparb Collins
Name (please print)

Executive Director
Title

119458/01640.021

Attachment 3

From: Fricke, Rebecca D.
To: Burton, Amanda
Cc: Hohbein, Derrick L.; Schaf, Lindsay J.; Aldinger, Marcy D.; Mistelski, Robin M.
Subject: Update following NDPERS Board Discussion at 10/27/26 Meeting
Date: Tuesday, October 27, 2026 11:15:00 AM
Attachments: image001.png
Importance: High

Good morning, Amanda.

The Board was informed of the delinquency by Lincoln Financial Group in providing accurate quarterly reports since June 30, 2025, quarter ending. The Board asked that this item be placed on the agenda for their next meeting on November 10, 2026. Specifically, they request NDPERS staff provide an update on the status of NDPERS receiving the required accurate quarterly reports and also, discussion on the possibility of the Board moving Lincoln Financial Group to lose provider status. Loss of provider status means that existing active participants will no longer be able to make payroll deductions through the NDPERS 457(b) plan to Lincoln Financial Group.

Therefore, if this issue is to be resolved by Lincoln Financial Group, NDPERS must receive the backlog of requested, accurate quarterly statements no later than Wednesday, November 4th, so that staff may prepare information for the Board's consideration. Prior to the meeting, we will share the meeting details and the information that will be shared with the Board so that you or a representative of Lincoln Financial Group may attend. As stated previously in the notice sent on September 22, we strongly encourage someone from Lincoln Financial Group to attend the Board meeting.

Please let share with whomever you feel needs to be made aware at Lincoln Financial Group and let me know if you have questions.

Thanks.

Rebecca Fricke

North Dakota Public Employees Retirement System
Visit us at 1600 East Century Avenue|Suite 2 | Bismarck
Send mail to PO Box 1657 | Bismarck, ND 58502-1657
W www.ndpers.nd.gov | Subscribe to receive news
P 701.328.3978|**TF** 800.803.7377|**F** 701.328.3920
email rfricke@nd.gov| **Find us on** facebook

This e-mail, including any attachments, may contain information that is proprietary, privileged and/or confidential and is intended exclusively for the person(s) to whom it is addressed. Any use, disclosure, copying, retention or distribution by any person other than the intended recipient or the intended recipient's designees is strictly prohibited. If you are not the intended recipient or their designee, please notify the sender immediately by return e-mail and delete all copies. This message is not intended to provide specific advice or recommendations for any individuals. NDPERS is governed by the laws and

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
(800) 803-7377

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

Public Safety Plans Employer Contribution Rates

TO: NDPERS Board

FROM: MaryJo Anderson

DATE: November 10, 2026

Most of the retirement plan contribution rates are set in statute by the Legislative Assembly. The exceptions to that general rule are the Political Subdivision Public Safety Plans (which is split into two plans, one for members with prior PERS service and one for members without), State Public Safety Plan, Bureau of Criminal Investigation, and National Guard Public Safety plan. The employer contribution amounts for those plans is set by the Board at "an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17." NDCC sections 54-52-06.3 (Political Subdivision Public Safety) and 54-52-06.4 (State Public Safety Plan/BCI/National Guard Public Safety).

The current Public Safety Plan employer contribution amounts were set by the Board previously after our 2024 actuarial valuation and following 2025 legislative session changes. Based on previous cost impact analyses and the Actuarially Determined Employer Contribution (ADEC) calculation in the most recent July 1, 2026 valuation, our actuary, Gabriel, Roeder, Smith & Company (GRS), calculated the ADEC as follows:

Plan	Current	ADEC	Difference
Public Safety With Prior Service	12.63%	10.46%	- 2.17%
National Guard	12.63%	10.46%	- 2.17%
Public Safety Without Prior Service	8.81%	7.23%	- 1.58%
BCI	23.49%	21.32%	- 2.17%
State Public Safety	15.69%	13.52%	- 2.17%

Section 71-02-06-07 of the North Dakota Administrative Code provides guidance on the timing of contribution rate changes: *"The board shall set the employer's contribution rate on a biennial basis but may adjust that rate if it is actuarially necessary to maintain appropriate funding levels."*

Given the multiple legislative changes affecting the Public Safety Plan in recent years, GRS and NDPERS staff recommend maintaining the current employer contribution rates.

Board Action Requested

Affirm or deny the recommendation to maintain the current Public Safety Plan employer contribution rates with no changes effective January 1, 2028.

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
(800) 803-7377

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

Legislation

TO: NDPERS Board

FROM: Rebecca Fricke

DATE: November 10, 2026

Staff request that the Board advise of the position to take on those bills that were considered by the Employee Benefits Programs Committee (EBPC) during the interim that were not submitted by NDPERS. The following is the list of bill drafts:

Bill Drafts

Draft Bill #	Summary/Description of Bill	Sponsor	Links to View Draft Bill & Consultant Analysis	EBPC Recommendation
33	Automatic renewal of pretax benefit elections	Senator Boehm	Interm Committee Bill Draft - LC Number 27.0033.01000 27.5186.02000presentation0033.pdf	Favorable
43	Volunteer first responder retirement plan	Representative Grueneich	Interm Committee Bill Draft - LC Number 27.0043.02000 27.5186.02000presentation0043.pdf	No Recommendation
56	Relating to diagnostic breast examination and supplemental screening breast examination cost-sharing restricts	Representative Karls	Interm Committee Bill Draft - LC Number 27.0056.02000 27.5186.02000presentation0056.pdf	Favorable
66	Relating to orthotic and prosthetic devices benefits coverage under the Uniform Group Insurance Program	Senator Mathern	Interm Committee Bill Draft - LC Number 27.0066.02000 27.5213.02000presentation1205tech.pdf 27.5213.02000presentation1205a.pdf	Favorable
87	Relating to health insurance benefits coverage provided by the Uniform Group Insurance Program	Senator Davison	Interm Committee Bill Draft - LC Number 27.0087.01000 27.5186.02000presentation0087.pdf	Favorable
104	Relating to membership in the public safety retirement plan	Representative Porter	Interm Committee Bill Draft - LC Number 27.0104.01000 27.5186.02000presentation0104.pdf	Favorable
113	Relating to Uniform Group Insurance Program benefits for retired peace officers	Representative Hauck	Interm Committee Bill Draft - LC Number 27.0113.01000 27.5186.02000presentation0113.pdf	Favorable

117	Relating to health insurance benefits coverage provided by the Uniform Group Insurance Program and state employee contributions for enhanced coverage	Representative Schauer	Interm Committee Bill Draft - LC Number 27.0117.01000 27.5186.02000presentation0117.pdf	Favorable
120	Relating to public employee fertility health benefits	Representative Brandenburg	Interm Committee Bill Draft - LC Number 27.0120.01000 27.5186.02000presentation0120.pdf	No Recommendation
121	Relating to public employee fertility preservation health benefits	Representative Brandenburg	Interm Committee Bill Draft - LC Number 27.0121.01000 27.5186.02000presentation0121.pdf	No Recommendation
190	Relating to retirement benefits for public safety plan members	Representative Vetter	Interm Committee Bill Draft - LC Number 27.0190.01000 27.5186.02000presentation0190.pdf	No Recommendation
191	Relating to retirement benefits for public safety plan members	Representative Vetter	Interm Committee Bill Draft - LC Number 27.0191.01000 27.5186.02000presentation0191.pdf	No Recommendation
329	Volunteer first responder retirement plan	Senator Schaible	Interm Committee Bill Draft - LC Number 27.0329.02000	Will not have a recommendation

Bill draft 329 will not have a Committee recommendation as they took jurisdiction at their October 28 meeting and the Committee will not be meeting again during the Interim. Technical and cost analysis has been requested but has not been received yet.

The attached provides the presentations given to the EBPC during the interim and includes an overview of each bill, a summary of the consultant's cost and technical analysis, as well as summary of the Ice Miller analysis regarding federal tax compliance concerns, if any.

Board Action Requested

Advise staff of the position to take on each of the bills.

Attachment

Proposed Legislation Consultant Analysis

Employee Benefits Programs Committee
October 1, 2026
Rebecca Fricke, Executive Director
Derrick Hohbein, Chief Operating & Finance Officer

NORTH DAKOTA
PUBLIC EMPLOYEES
RETIREMENT SYSTEM

Bill 33 – Pre-tax premium elections for the NDPERS dental and vision plans

- Requires automatic renewal of pre-tax premium elections under NDPERS FlexComp Plan for the NDPERS dental and vision plans
- Effective with the plan year beginning January 1, 2028
- Required for elections of state employees, legislators and district health unit employees

Bill 33 – Continued

Consultant notes (Deloitte):

- No financial impact on the Program
- Does not impact underlying benefits offered, nor is it anticipated to materially change enrollment in the dental or vision coverages
- Potential impact to tax liability, but not anticipated to materially impact

Consultant notes (Ice Miller):

- Permissible under federal law (Proposed Regulation 1.125-2(b))
- Employee must have an opportunity to decline the dental and vision coverage and to void the pre-tax election
  - Must occur prior to the start of each new plan year

Observations:

- NDPERS does not administer FlexComp benefits for University System employees or all district health unit employees
  - Can only administer provision for those in the NDPERS FlexComp plan
  - Recommend including term “participating” in front of “district health units” on Row 10
- Under IRS guidelines, once plan year begins, changes to pre-tax election can only be done if there is a qualified change in status and change is consistent with event that occurred

Bill 43 – New plan for volunteer first responders

- Requires NDPERS to create a new retirement plan for volunteer first responders
  - Length of service award plan (LOSAP)
  - IRC 457(e)
- Defines eligibility for employers to participate
- Defines eligibility for volunteers to participate
  - Must have served as volunteer for full fiscal year (July 1-June 30) to receive credit for that year
  - Receive up to 15 years credit for prior service
    - Must request prior to July 1, 2028
  - Certified by fire chief, manager or designated official of each eligible volunteer agency

Bill 43 – Continued

- Creates volunteer first responder retirement fund to pay benefits
  - No employee or employer contributions
  - Benefits funded by State through transfer from general fund
- Benefit to be paid upon retirement:
  - Full benefit = $200/month
    - 20 years of service and at least age 55
    - Additional $10/month for each additional year of service, up to 30 years of service
  - Partial benefit = full benefit x fraction with numerator being eligible service of volunteer and denominator being 20
    - 5 years of service and at least 60 years of age
- Includes survivorship benefits to surviving spouse or dependent children up to 40 months of payments
  - Includes payments to member prior to death
  - Can receive lump sum payout in lieu of monthly benefits
- Includes disability benefits up to 40 months of payments
- Effective July 1, 2028

Bill 43 – Continued

Consultant notes (GRS):

- Data requested for analysis included dates of birth, dates of hire and gender of potential eligible volunteers
  - Total of 483 agencies surveyed
    - 137 responsive agencies with 678 individuals
    - 346 non-responsive agencies
- Analysis used data provided from 137 responsive agencies and then results were extrapolated to estimate costs for all 483 agencies
  - Actual results will differ due to varying agency size and demographics
- 4.5% discount rate used to measure total pension liability as of July 1, 2026
  - May be appropriate to gradually increase in the future as assets accumulate and cash flow pressures ease over time
- Retirement benefit adequacy may diminish with inflation
- Providing LOSAP to volunteers makes becoming a first responder more attractive
- State contribution amounts need to be sufficient to fund the expected benefit payments and administrative expenses
  - Creates an initial $25.5M unfunded liability as of July 1, 2026
  - ADC calculated as $6.8M for first biennium

Consultant notes (Ice Miller):

- Recommend the legislation expressly permit the Board to adopt a separate plan document to incorporate all federal law requirements for a 457(e) plan
- Funds in a LOSAP may not be comingled in a group trust
  - NDPERS required to hold any LOSAP assets separate from its other plan assets
- The bill does not raise any federal law concerns

Bill 43 – Continued

Observations:

- Operates similar to a Defined Benefit Plan with an initial unfunded liability of $25.5M
- Requires annual valuations and ADEC funding
- NDPERS does not currently administer this type of plan
- Subject to ERISA
  - PERS is exempt from ERISA for administration of other governmental plans
- Likely creates GASB 67/68 liabilities that will appear on the State's ACFR
- Page 7, row 30: recommend changing "property" to "money"
- Page 9, row 18: Recommend changing annual certification due date to end of July for valuation deadline purposes
  - September is too late to be considered in annual valuation of plan
- Additional 3-4 staff necessary to administer plan

Bill 56 - Diagnostic or supplemental breast exam services

- Adds new section under NDCC 54-52.1 related to diagnostic and supplemental breast exam coverage, including a cost-share restriction
- Defines diagnostic breast examination and supplemental screening breast examination
  - Medically necessary and appropriate examination
  - In accordance with the national comprehensive cancer network guidelines (new)
- Restricts imposing a deductible, copayment or any other cost-sharing requirement that forces a member to pay an out-of-pocket cost for these exams
- Stipulates that high-deductible health plans that qualify for health savings account are exempt from this cost-share limit until a member reaches their minimum deductible
- Applies to NDPERS health insurance plan for pilot program per NDCC 54-03-28

Bill 56 - Continued

Consultant notes (Deloitte):

- Estimated to have a financial impact on the NDPERS Plan
- 0.1% increase in premium or $910,000 in the 2027-2029 biennium based upon current utilization
  - Significantly lower than previous estimates due to addition of language aligning coverage to NCCN guidelines
- Currently:
  - Initial mammogram is covered within age category as preventative benefit
  - Cost-sharing applies on diagnostic and supplemental breast exams

Consultant notes (Ice Miller):

- State-level mandated benefit legislation, which allows state's discretion to define the benefits
- Bill draft addresses issue related to high-deductible health plans and health savings accounts. If language remains, it does not create federal law concerns

Observations:

- Terms in Section 1 reference services "including", which may not exclude other service related to breast exam services. If intent is to limit to imaging, would help to state this.
- Bill does not state that the required coverage applies to a specific age range or gender
- The definition of both "diagnostic breast examination" and "supplemental breast examination" refer to aligning coverage with "the national comprehensive cancer network guidelines". A suggestion would be for this language to refer to the "United States Preventative Task Force (USPTF)" guidelines that are recognized throughout the industry.

Bill 87 – State employees and pre-Medicare retirees in non-grandfathered plan

- Requires non-grandfathered large employer group coverage, in addition to existing grandfathered plan coverage, for eligible state employees and pre-Medicare retirees
- Excludes political subdivisions participating in NDPERS grandfathered plan
  - NDPERS would maintain Grandfathered PPO/Basic Plan for this population
    - Majority of participating political subdivisions are small and therefore, if they lose grandfathered status, they lose eligibility to participate in NDPERS health insurance
- Removes language regarding district health units and Garrison Diversion participating in same manner as state agencies:
  - Requires same premium structure, thus could charge similar flat rate as currently done, rather than single/family rate
- Effective January 1, 2029 – final 6 months of biennium
- Appropriates general funds towards health insurance premium pool for amount to be determined
- Provides legislative intent for use of health insurance reserves for amount to be determined

Bill 87 - Continued

- ACA mandated coverage for **large employer Non-grandfathered plans** (list is not all inclusive):
  - Medical Copayments apply towards Out-of-Pocket Maximums
  - Preventive colonoscopies covered at 100%
  - Contraception covered at 100%
  - Additional well child-care coverage
  - Preventative screening for adults covered at 100%
  - Tobacco cessation services
  - Breast pumps
  - Routine prenatal and postnatal care
  - Lactation counseling

  - Does not include essential health benefits (EHB) required of small employer/individual fully insured market

- NDPERS already administers a large employer non-grandfathered PPO/Basic Plan with these mandated benefits
  - Includes existing grandfathered PPO/Basic Plan coverage
    - Such as infertility benefit, prosthetic repair & replacement with prior authorization
    - Member cost share for existing coverage may change

  - Currently 1 political subdivision participates, 1 additional large political subdivision group joining 1/1/2027

Bill 87 - Continued

Consultant notes (Deloitte):

- Moving the State from NDPERS grandfathered PPO/Basic Plan to non-grandfathered PPO/Basic Plan as a large employer group is estimated to cost the State and pre-Medicare groups:
  - $4.8M for 2027-2029 biennium (delayed effective date) or approximately 2.6% of premium
  - $21.9M for 2029-2031 biennium
    - Anticipated utilization increase once benefits available result in @ 1% additional cost (included)
    - Sanford Health Plan estimates cost to be an additional 3.92% of premium
- Could result in higher (or lower) premiums for political subdivisions that remain in grandfathered plan
  - Pool of employees will be separate for state and political subdivisions
  - Claims experience of new groups will determine premiums for each group separately rather than as part of one larger pool
- Additional reporting requirements of ACA include Transparency in Coverage reporting, RxDC reporting and the No Surprises Act attestations

Bill 87 - Continued

Consultant notes (Ice Miller):

- Restrictions removed due to loss of grandfathered status:
  - Coverage can be modified without regard to limits placed on a grandfathered plan (deductible, copayments, coinsurance, elimination of benefits, as long as, not ACA mandated for large employer group)
  - Share of premium paid by employees could be modified without regard to limits placed on a grandfathered plan
- Remaining restrictions:
  - Non-grandfathered plans have cost-sharing limitations (self-only coverage may not exceed $10,600, family coverage may not exceed $21,200 in 2026)
  - Amount charged to an employee towards single coverage must be affordable under ACA regulations to avoid tax penalties
  - Coverage must provide “minimum value” to avoid tax penalties

Bill 87 - Continued

Consultant notes (Ice Miller) continued:

- Transparency in coverage requirements at federal level for non-grandfathered employer plans and health insurers
- Suggests clarification regarding what is meant by “benefits provided under the uniform group insurance’s grandfathered preferred provider organization plan”
- Suggests clarification regarding intent for political subdivisions to remain eligible to participate in the grandfathered plan
- Does not raise federal law concerns in terms of compliance
- There are federal law issues that will need to be addressed in the administration of the bill if enacted

Bill 104 – State EMS in Public Safety Plan

- Adds state emergency medical services professionals to Public Safety Plan
  - Requires working at least 32 hours per week/20 weeks per year
  - Must have achieved the 2nd level of training and certification in accordance with the rules of Department of Health & Human Services
  - Cannot participate concurrently in any other retirement plan administered by NDPERS
    - NDPERS is aware of 4 state employees that would become eligible for State Public Safety Plan
- These are same requirements as other public safety classes of employees

Bill 104 – Continued

Consultant notes (GRS):

- NDPERS provided information of 4 eligible state employees that would transfer
  - All currently Main plan members
  - Does not have any impact on the ADEC of the Plan as of July 1, 2025
  - Actuarial impact dependent on the number and age of new members who would enter the Public Safety Plan in future
    - Otherwise, would be part of Defined Contribution Plan (unless prior Main service exists)

Consultant notes (Ice Miller):

- Does not have any federal law concerns
- EMS personnel will be subject to a reduced 415(b) limit for any benefit received prior to age 62

Bill 106 – Highway Patrol Plan cash infusion

- Provides for a cash infusion for the Highway Patrol (HP) Retirement Plan to be 100% funded based on a 20-year amortization

<u>Consultant notes (GRS):</u>

- Assumptions:
  - Includes $15 million cash infusion on July 1, 2025
  - Assumes a $21,695,286 cash infusion on July 1, 2027
  - No changes to benefit provisions
  - No gains or losses and all actuarial assumptions from the 2025 valuation are realized
- Positive financial impact on the System
- Positive impact to the actuarial valuation results

<u>Consultant notes (Ice Miller):</u>

- No federal law concern
- Once transfer occurs, the funds will become trust fund assets and subject to the Exclusive Benefit Rule

Bill 107 – Final average salary calculation

- Removes the previous Final Average Salary (FAS) calculation, which leaves the updated FAS calculation approved during 2019 Session going forward

Consultant notes (GRS):

- Immaterial financial impact on the Systems
- No impact to the actuarial valuation results

Consultant notes (Ice Miller):

- Does not raise any federal law concerns
- Recommend consultation with Attorney General's Office on State constitutionality
  - Attorney General's Office indicated there could be a constitutionality issue if the proposed legislation passed and resulted in a lower retirement benefit for some members
    - NDPERS has drafted similar legislation in previous interims and will only submit for legislative consideration if it is determined that new retirees are not having the previous FAS used in retirement benefit calculation

Bill 109 – Elected county official participation

- Resolves a conflict between federal and state law that impacted the NDPERS retirement plans
  - Emergency rules promulgated during interim until legislation could be passed to correct conflict
- Requires elected county officials to participate in the NDPERS retirement plans in the same manner as all other members:
  - If official meets mandatory participation requirements, must participate
  - If official does not meet mandatory participation requirements, may participate as a temporary employee
- Permits limited in-service benefit distributions
  - Submit application prior to August 1, 2027
  - Must meet normal retirement date
  - Who returned to service or continued employment
  - Cannot be contributing to the retirement plan
  - This provision essentially allows individuals who have been receiving benefits prior to the discovery of the conflict to continue to receive benefits, while sunsetting the provision for officials who have not yet retired

Bill 109 – Continued

Consultant notes (GRS):

- Immaterial positive actuarial impact on PERS

Consultant notes (Ice Miller):

- Does not raise any federal qualification concerns
- Ensures that there is not an impermissible cash or deferred arrangement (CODA)

Bill 110 – Technical corrections

- Updates 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)
- Corrects citation under 54-52-01(15) from subsection 14 to subsection 16
- Revises language in NDCC 54-52-05 regarding employee contributions
- Clarifies 54-52.1-03.2(1)(a) due to RHIC portability, any health, dental, vision or insurance plan, not just NDPERS
- Clarifies 54-52.1-03.3(3) that combined spouse RHIC can only be applied to NDPERS health insurance
- Modifies 54-52-04.11 to change “and” to “or” regarding funding of administrative fees for 457 plan
- Updates definitions under 54-52.6-01(4), (6) & (7) passed in HB 1040 that were not included in SS 1548

Bill 110 – Continued

- Clarifies NDCC 54-52.6-02 regarding member who made DC election participation ceases if political subdivision opts to withdraw from DC plan as provided under HB 1602
- Corrects citation under 54-52.6-14 due to changes in 54-52.6-13 references
- Adds DC plan & 457 plan citations (54-52.6 and 54-52.2-03.3) to exemptions under 28-22-03.1(7) & 28-22-19 exemptions as public retirement funds
- Includes “subject to federal contribution limitations” to NDCC 54-52.2-09 in two places when it talks about the employer match
- Clarifies 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)

Bill 110 – Continued

Consultant notes (GRS):

- No actuarial impact

Consultant notes (Deloitte):

- No actuarial impact

Consultant notes (Ice Miller):

- Does not create a federal law concern
- Recommends language modification in Section 4 and Section 16 related to minimum distribution requirements

Bill 113 – Retired peace officer pre-Medicare coverage

- Creates a new subgroup for eligibility in the NDPERS health insurance plan specific to retired peace officers who are pre-Medicare
  - Only applies to peace officers who retire after July 31, 2027
  - Requires retired peace officer to have worked 20 or more years of employment as a peace officer within the State or a political subdivision, working at least 32 hours per week for 20 or more weeks per year
  - Defines peace officer under provisions of NDCC 12-63-01
  - Does not require participation in NDPERS retirement programs to be eligible
  - Retired eligible peace officer cannot be charged any portion of premium
    - Up to 120 months of coverage
    - Premium to be based upon coverage provided to retired peace officer group

Bill 113 – Continued

Consultant notes (Deloitte):

- Estimated to have a financial impact on the NDPERS Plan
- $507,000, or 0.05% of premium, for 2027-2029 biennium and $949,000, or 0.08% of premium, for 2029-2031 biennium
- Expected to continue to increase each biennia thereafter but eventually plateau as retired peace officers age-in and age-out of coverage
- Estimates based upon data of NDPERS retirement systems and information from the Attorney General's website providing a census of full-time law enforcement employees reported by the Uniform Crime Reporting agencies
- Variance will occur based upon actual rate of retirements
- Bill does not indicate coverage to extend to a spouse or children
  - if intent is to include, the bill should be modified to specify and this will impact cost (priced as single policies, rather than family policies)

Bill 113 – Continued

Consultant notes (Ice Miller):

- Results in an implicit subsidy as an Other Post Employment Benefit (OPEB) for State given retired peace officers not charged any premium for coverage
  - 100% of premium not paid by retiree = entire amount being paid is a subsidy for each retiree covered
  - GASB guideline requirement that must be reported on State's financials
    - NDPERS would need to retain a consultant to evaluate the implicit subsidy and calculate the amount the State needs to report as an unfunded liability
    - Has not been necessary since 2019 due to legislation passed in 2013 which closed the NDPERS pre-Medicare plan to new retirees as of 7/1/2015

Bill 113 – Continued

Observations:

- Proposal does not provide a funding source to pay required premium
- Premium will be based upon coverage for this new group and their claims experience and trend
- As stated earlier, draft proposal does not indicate whether coverage is to extend to a spouse or children dependents
  - If intent is to include, the bill should be modified to specify and this will impact cost (priced as single policies, rather than family policies)
- Per Ice Miller, could impact state's financials under required GASB guideline for reporting Other Post Employment Benefit (OPEB)

Bill 117 – 3rd Plan option for state employee health insurance

- Creates a 3rd plan option for state employees related to the health plan
  - Must include ACA enhanced benefits of a large employer non-grandfathered plan (List is not all inclusive)
    - Medical copayments apply towards Out-of-Pocket Maximums
    - Preventive colonoscopies covered at 100%
    - Contraception covered at 100%
    - Additional well child-care coverage
    - Preventative screening for adults covered at 100%
    - Tobacco cessation services
    - Breast pumps
    - Routine prenatal and postnatal care
    - Lactation counseling
  - NDPERS already administers this type of plan for eligible large political subdivisions
    - Does not include essential health benefits (EHB) required of small employer/individual fully insured market
  - Currently state employees can either participate in grandfathered PPO/Basic or non-grandfathered High-Deductible Health Plan (HDHP)
- State employee selecting this coverage option must pay cost of enhanced coverage
- Plan must be available as of January 1, 2028

Bill 117 – Continued

Consultant notes (Deloitte):

- May have a financial impact on the NDPERS Plan
  - Dependent upon volume of employees that select 3rd plan option
    - May not be significant volume, less impact, due to $0 employee contribution for current PPO/Basic Plan
    - Unlikely that HDHP members will select new plan as most HDHP members select based on health savings account
- Estimated cost for employees who select enhanced coverage is 2.6% of premium, or $56/month
  - Note Sanford estimates 3.92% increase for enhanced coverage

Consultant notes (Ice Miller):

- State-level mandated benefit legislation, which allows state's discretion to define the benefits
- Does not create federal law concerns

Bill 120- Fertility treatment

- Adds definition for fertility health care
- Requires coverage for diagnosis of infertility and fertility treatment services if recommended and medically necessary
- Requires the NDPERS health plan to expand its coverage of fertility treatment, removing the current lifetime maximum of $20,000 and lifetime deductible of $500, replacing these maximums with required coverage for specific services
- Requires coverage of third-party reproductive services, which may include gestational carriers
- Cannot apply exclusions on coverage of fertility medication different from those imposed on other prescriptions

Bill 120- Continued

- Requires 5 years of cryopreservation services
- Coverage cannot be limited on certain areas, such as benefit maximums
- Coverage must be available to those who obtain coverage during special enrollment windows or open enrollment
- Applies to NDPERS health insurance plan for pilot program per NDCC 54-03-28

Bill 120- Continued

Consultant notes (Deloitte):

- Estimated to have a financial impact on the NDPERS Plan
- 0.04% increase in premium or $410,000 in the 2027-2029 biennium based upon current utilization
  - Transitions coverage from a dollar limit to a service limit
    - Cover a fixed number of medically necessary infertility services
    - Includes medical and pharmacy benefit designs
    - May reduce predictability of cost estimation for fertility services, but may allow greater flexibility in coverage

Consultant notes (Ice Miller):

- State-level mandated benefit legislation, which allows state's discretion to define the benefits
- Does not create federal law concerns

Bill 120- Continued

- Observations:
  - Requires 5 years of cryopreservation services
    - Would NDPERS be liable for coverage for the full 5 years if a member exits the plan prior to the completion?
    - Clarification would be helpful
  - Coverage cannot be limited on certain areas, such as benefit maximums; may contradict other provisions of the bill that place limitations on coverage
    - Example of certain number of intrauterine insemination or completed oocyte retrievals
    - Does not clarify if limitations are per plan year or lifetime
  - Requires coverage of third-party reproductive services, which may include gestational carriers
    - Currently only enrolled members or eligible dependents of the health plan are eligible for coverage
      - Health plans only cover individuals with contractual relationship with a plan
      - May be difficult to administer to cover a benefit with a person who does not have a contract with the plan
  - Coverage must be available to those who obtain coverage during special enrollment windows or open enrollment
    - Effective date of coverage varies for special enrollment windows and open enrollment
      - Example – Open enrollment window in fall with coverage effective January 1

Bill 121 – Fertility preservation services

- Adds definitions for “medically necessary” and “standard fertility preservation services”
- Board required to provide coverage for standard fertility preservation services, if recommended and medically necessary, for covered individual that has a diagnosed medical condition or genetic condition that may cause impairment of fertility affecting the reproductive organs or processes
- Sets specific coverage requirements
  - 4 preservation cycles
- Restricts benefits for fertility preservation from having a separate copayment, deductible, coinsurance or other benefit maximum that is separate from other benefits provided in the plan
- Coverage cannot be limited on certain areas, such as benefit maximums

Bill 121 – Continued

- Coverage must be available to those who obtain coverage during special enrollment windows or open enrollment
- Applies to NDPERS health insurance plan for pilot program per NDCC 54-03-28

Bill 121 – Continued

Consultant notes (Deloitte):

- Estimated to have a financial impact on the NDPERS Plan
- 0.02% increase in premium or $200,000 in the 2027-2029 biennium
  - Based upon submitted claims for services in 2024-2025, which were not covered
  - Actual cost may vary as there could be utilization occurring but claims not submitted given cryopreservation services are not currently covered – induced utilization factor used to attempt to account for this

Consultant notes (Ice Miller):

- State-level mandated benefit legislation, which allows state's discretion to define the benefits
- Does not create federal law concerns

Bill 121 – Continued

Observations:

- Currently, NDPERS health insurance plan does not provide cryopreservation services, so this would be an enhancement in coverage
- Coverage cannot be limited on certain areas, such as benefit maximums; may contradict other provisions of the bill that place limitations on coverage
    - Example of certain number of intrauterine insemination or completed oocyte retrievals
    - Does not clarify if limitations are per plan year or lifetime
- Section 1, 2(b) relating to "procurement and storage" is difficult to understand scope, suggest clarification of intent as relates to the member and whether this term is inclusive of third-party services
- Effective date of coverage varies for special enrollment windows and open enrollment
    - Example – Open enrollment window in fall with coverage effective January 1
- Consider outlining what is to happen with coverage if a member terminates and the embryos are still within cryopreservation or other preservation methods. Plan should not be in the position of declining coverage that would jeopardize the embryo, eggs, etc.
    - Does coverage follow the embryo or term with the member?

Bill 130 – School districts in uniform group insurance program

- Requires public school districts, if eligible under federal law, to participate in the NDPERS Uniform group insurance program under “same terms and conditions” as state agencies
  - Uniform group insurance program includes more than health insurance benefits:
    - Life insurance
    - Dental insurance
    - Vision insurance
    - Employee Assistance Program
- School districts and their employees cannot be charged premium
- State to transfer necessary funds from general fund to NDPERS to pay for coverage

Bill 130 – Continued

Consultant notes (Deloitte):

- Estimated to have a financial impact on the NDPERS Plan
- Estimates vary based upon option for implementation:
  - Option 1 (fully insured small school district plan, large schools in NDPERS NGF plan): $1.081B for 2027-2029, $1.217B for 2029-2031
    - Includes essential health benefits for small school district plan
  - Option 2: (self insured small school district plan, large schools in NDPERS NGF plan): $1.070B for 2027-2029, $1.198B for 2029-2031
  - Option 3: (self insured small and large school district plan): $1.110B for 2027-2029, $1.221B for 2029-2031
- Analysis based upon survey of school districts in North Dakota
  - Sent to 167 public school districts, 93 responded = 56% response rate
  - Survey results included 11,085 records that could be used in analysis
  - OpenGovPay salary database also used to fill in gaps in survey results
    - Total estimate of potential eligible employees is 21,001
      - 2,861 small school district employees
      - 18,140 large school district employees

Bill 130 – Continued

Consultant notes (Deloitte) continued:

- Analysis compared potential eligible school district population to existing political subdivision population (currently in plan):
  - Age adjustment considered – i.e. school district employees trended younger
  - Family size adjustment considered – i.e. school district employees trended with larger average family size
    - Estimated enrollment mix for school district employees – 22% single contracts and 78% family contracts
- Total financial impact includes:
  - Applying applicable demographic adjustments to base claims costs
  - Applying any applicable contingency adjustments to base claims costs (reserves)
  - Adding estimated administrative costs back to the adjusted claims costs to calculate per contract rates
  - Multiplying the single and family rates by the estimated number of single and family contracts for this population, multiplying by 24 months
  - Adding together the estimated total costs for large and small employer school districts if they were calculated separately
- Assumed all eligible school district employees would participate because the premiums are fully covered. If some do not, actual costs could be lower than the current estimate.
- Estimates do not include cost of stop-loss coverage should NDPERS opt to purchase for any self-insured plan(s)

Consultant notes (Ice Miller):

- "Same terms and conditions" as state agencies is problematic under federal law
- Due to Affordable Care Act (ACA), NDPERS cannot allow new employers to join the Grandfathered Plan, which is what State offers

Bill 130 – Continued

Consultant notes (Ice Miller) continued:

- ACA has different requirements for coverage for new (to NDPERS) large employer groups and small employer groups
  - NDPERS already offers products for large employers, defined as 51 or more employees, that is a Non-Grandfathered PPO Plan or the High-Deductible Health Plan
    - Coverage provides ACA large group requirements
  - NDPERS does not have a product for small employers, defined as 50 or less employees, that meets requirements of small employer group coverage
    - NDPERS may be able to offer a product and would need to explore more what would be involved
    - Plans may have age and other risk factors built into premiums, resulting in varying premiums per subscriber based on these factors
    - Options vary based upon self-insured vs fully-insured products
      - Self-insured plans:
        - More flexibility on plan design and employer eligibility
        - Have greater risk
        - Allowed to have both small and large employers participating in the same policy
      - Fully-insured plans:
        - Required to cover ND Essential Health Benefits – estimated additional cost for this enhanced coverage is @ 5%
        - Prohibited in having small and large employers participating in the same policy

Bill 130 – Continued

Consultant notes (Ice Miller) continued:

- Potential options identified:
  - "Not eligible under federal law" does not allow PERS to offer to small employer school districts at all due to current program options
    - PERS could continue offering coverage to large employer school districts, but coverage would vary between State and large schools
  - Small employer fully insured policy:
    - Does not meet "same terms and conditions" requirement as ACA would require different coverage for small vs. large employers
    - Requires ND EHBs – enhanced benefits with additional @ 5% premium
    - Small and large employers cannot be in same policy, thus disparity between coverage based on school size
    - Recommend a competitive bid process
  - Small employer self-insured policy:
    - Does not meet "same terms and conditions" requirement
    - Subject to non-discrimination requirements
    - Potential MEWA issue
    - Recommend a competitive bid process
  - Small and large employer (school district) self-insured policy:
    - Does not meet "same terms and conditions" requirement
    - Can include both small and large school districts in same policy
    - Subject to non-discrimination requirements
    - Potential MEWA issue
    - Additional ACA tax reporting requirements
    - Recommend a competitive bid process

Bill 130 – Continued

Consultant notes (Ice Miller) continued:

- Conclusion - There are challenges
  - The “same terms and conditions” language creates issues given the current plan is unavailable to school districts not currently offering NDPERS health insurance
  - There is not a current option within NDPERS for small employer schools

Bill 130 – Continued

Observations:

- If intent is to require only health insurance benefits within uniform group insurance , this should be clarified to reference specific benefit – currently includes dental, vision, life and employee assistance program as written
- Political subdivision, including school districts, rate structure is different than state
  - single/family vs blended rate
- Is intent of bill to have all schools in same health plan, regardless of size? Could result in large employers paying for benefits they are not required to provide, which adds in premium that State pays
- Currently, 13 school districts participate in NDPERS health insurance, all under the Grandfathered PPO/Basic Plan
  - Helpful if clarification provided on how NDPERS to handle these employers
    - Permitted to remain or must move?
    - If move, they will lose their grandfathered status
- NDPERS would need a delayed implementation date to allow Board to develop a small employer product, conduct a competitive bid process, allow time for employer and employee enrollment, business system programming, and determine if rules need to be promulgated for new plan
- Currently, school districts contract individually for health insurance for their employees
  - Contracting terms are not consistent as far as when contracts begin and end
  - Coverage varies based upon terms of contract between school districts and carriers

Bill 130 – Continued

Observations continued:

- NDPERS will have 5-6 staffing needs for administration of expansive group
  - If plan is self-insured product, additional staffing of 3-4, in addition to the above will be necessary
- If self-insured, NDPERS would need to add an additional amount of premium that State pays to ensure a build-up of reserves (starting at $0) as required in law under NDCC 54-52.1-04.3(1) – can't use existing reserves since new population
- State mandates required in NDPERS administered self-insured plan = additional cost under NDCC 54-52.1-04.3(2)
- How will employees who do not meet "eligible employee" definition be treated?
  - NDCC 54-52.1-03.4 allows participation
- Purchase of stop loss insurance = additional cost
- What happens if State changes law to no longer pay full premium on behalf of public-school districts?

Bill 190 – Enhanced benefits for Public Safety Plan (2.25% Multiplier)

- Increases benefit multiplier for Public Safety Plan members to 2.25%
  - Must retire after December 31, 2027
  - Current multiplier:
    - If hired before January 1, 2020 – 2%
    - If hired on or after January 1, 2020 – 1.75%
- Requires employee contribution increase to support enhanced multiplier
  - Board determines actuarially required additional contributions
    - Based upon valuation effective July 1, 2026
    - Effective January 1, 2028
- Requires lump sum infusion by the State to catch up all prior service
  - Actuary assumes a $39.5 million infusion on January 1, 2028
- Increases vesting schedule for new enrollees after December 31, 2027 to 5 years of service
  - Currently 3 years of service

Bill 190 - Continued

Consultant notes (GRS):

- Financial impact on the Public Safety Plans
- Lump sum cash infusion
  - With Prior Service Plan - $35.9M
  - Without Prior Service Plan - $3.6M
  - Total lump sum cash infusion - $39.5M
- Mandatory employee contribution
  - With Prior Service Plan (PS & state) – current statutory contributions sufficient to cover and do not need to be adjusted
  - Without Prior Service Plan (PS) – 1.32% increase
- Actuarial impacts:
  - Full funding
    - With Prior Service Plan – 8 years later than under current scenario but anticipated to reach full funding in 20-year horizon
    - Without Prior Service Plan – remains same, approximately 100% funded indefinitely

Bill 190 - Continued

Consultant notes (Ice Miller):

- No federal law concerns
  - Mandatory employee contribution can be increased (one time) due to benefit enhancement (higher multiplier)
    - If shortage in future, will need to be made up through increases in employer contributions
- Recommended input from Attorney General's Office regarding a state constitutional issue regarding vesting rights:
  - Legal counsel indicates minimal risk:
    - Increase in benefit multiplier results in higher retirement benefit and the corresponding member contribution is to pay for the enhancement
    - Increase in vesting schedule is only prospective for new hires

Observations:

- Clarification – Page 11, row 15: should the word "after" be "before" given it reflects 3 years of service?
- NDPERS understanding of Section 4 is that the modification is not substantive, but rather is intended to reflect revised format of subsection 4 of 54-52-17

Bill 191 – Enhanced benefits for Public Safety Plan (2.5% Multiplier)

- Increases benefit multiplier for Public Safety Plan members to 2.5%
  - Applies to benefits accrued January 1, 2028 and after
    - Must retire after December 31, 2027
  - Current multiplier:
    - If hired before January 1, 2020 – 2%
    - If hired on or after January 1, 2020 – 1.75%
- Requires mandatory employee contribution increase to support enhanced multiplier
  - Board determines based upon actuarially required additional contributions
    - Based upon valuation effective July 1, 2026
  - Effective January 1, 2028

Bill 191 – Continued

- Allows participants to elect additional contribution increase to have 2.5% multiplier apply for service prior to January 1, 2028
  - Must be actuarial amount necessary and determined by the Board
- Increases vesting schedule for new enrollees after December 31, 2027 to 5 years of service
  - Currently 3 years of service

Bill 191 - Continued

Consultant notes (GRS):

- Financial impact on the Public Safety Plans
- Mandatory employee contribution
  - With Prior Service Plan (PS & State) – 2.36% increase
  - Without Prior Service Plan (PS) – 3.64% increase
- Actuarial impacts:
  - Cost of increase in multiplier
    - Increases benefits with a contribution increase that is less than the value of the benefit increase
    - Offset by the existing contribution surplus
  - Full funding
    - With Prior Service Plan – 16 years later than under current scenario
    - Without Prior Service Plan – will gradually decrease due to member contribution increases that are less than the value of the benefit increase, and the elimination of existing contribution sufficiency
  - When new hires are reflected, the plans are not expected to reach full funding within the 20-year amortization period
    - New hires will have a higher normal cost than current active members due to the prospective nature of the increased accrual rate.
    - The contribution increase based on 2026 results is not sufficient to cover future increases in normal cost
    - Employer contributions will need to be increased in the future to reach full funding in the 20-year timeframe
      - 0.97% employer contribution increase in fiscal year 2027 for With Prior Service Plan
      - 0.91% employer contribution increase in fiscal year 2027 for Without Prior Service Plan
      - If intent is to have employees pay the cost of the benefit enhancements, the bill would need to be written to calculate the new employee contribution rate as the current contribution rate plus the cost of the benefit increase
- Optional contributions for retro-active service – in form of purchase of eligible prior service for higher multiplier
  - See Table II for examples with various ages, pay, prior service, etc

Bill 191 – Continued

Consultant notes (Ice Miller):

- The mandatory pre-tax employee contribution for prospective higher multiplier does not raise a federal tax concern since due to benefit enhancement
  - If shortage in future, will need to be made up through increases in employer contributions
- Additional employee contribution to have enhanced multiplier apply to previous service must be treated like an "air-time" purchase of service under federal regulations
  - Can create a cash or deferred arrangement (CODA) issue if not properly administered
  - Subject to benefit limitations under IRC 415(n) and IRC 415(c)
    - Some will experience favorable limits while others will be tested under less favorable limits
  - All years of service may not be eligible for purchase
  - Recommended input from Attorney General's Office regarding a state constitutional issue regarding vesting rights:
    - Legal counsel indicates minimal risk
      - Increase in benefit multiplier results in higher retirement benefits and the corresponding member contribution to pay for the enhancement
      - Increase in vesting schedule is prospective only for new hires

Bill 191 - Continued

Observations:

- Clarification – Page 11 – would recommend language be added to NDCC 54-52-17.4, purchase provisions, to address ability for eligible employees to elect to purchase prior service (pre-January 1, 2028) for higher multiplier
- Clarification – Page 11, row 31: should the word “after” be “before” given it reflects 3 years of service?
- Clarification – Page 14, row 31: should the word “after” be “before” given it reflects 3 years of service?
- NDPERS understanding of Section 4 is that the modification is not substantive, but rather is intended to reflect revised format of subsection 4 of 54-52-17

Questions?



Rebecca Fricke
rfricke@nd.gov
(701) 328-3978

Derrick Hohbein
dhohbein@nd.gov
(701) 328-3945

Proposed Legislation Consultant Analysis

Employee Benefits Programs Committee
October 28, 2026
Rebecca Fricke, Executive Director

NORTH DAKOTA
PUBLIC EMPLOYEES
RETIREMENT SYSTEM

Bill 66 – Prosthetic and orthotic coverage

- Requires NDPERS health plan to cover devices, supplies and services at least as equal to the coverage under Medicare
  - Includes repair or replacement if medically necessary
- Coverage must provide for more than one prosthesis or orthosis when medically necessary
  - Include devices and services customized to individual's medical needs to perform activities of daily living or essential job-related functions
  - Includes orthosis or prosthesis determined by provider to be the most appropriate to maximize functional ability, including participation in physical activities such as walking, running, cycling, swimming or other daily life activities
  - Includes orthosis or prosthesis designed for showering or bathing
- Out-of-pocket cannot be more restrictive than those applicable for other covered medical or surgical benefits
- Prior authorization can only be required to same extent as for other covered medical benefits
- Insurer must have two distinct orthotics or prosthetic providers in network, or reimburse at in-network rate if not available from in-network provider
- Provider determines which prosthetic/orthotic device is appropriate
- Applies to NDPERS health insurance plan for pilot program per NDCC 54-03-28

Bill 66 – Continued

Consultant notes (Deloitte):

- 0.03% increase in premium or $290,000 in the 2027-2029 biennium based upon current utilization
- Financial impact based upon changes to plan design, cost of proposed design changes, estimated premiums and enrollment in upcoming biennium, and effective date of changes
  - At least equal to coverage provided under Medicare for prosthetic and orthotic devices, supplies and services:
    - PPO coverage – 80% coinsurance meets requirement
    - Basic – 75% coinsurance does not meet requirement, enhanced coverage needed to increase to 80%
  - Additional coverage requirements for both PPO and Basic Plan to comply:
    - Provider driven based upon medical determination
    - Member-use for particular activities or purposes

Consultant notes (Ice Miller):

- State-level mandated benefit legislation, which allows state's discretion to define the benefits
- Does not create federal law concerns

Bill 66 – Continued

Observations:

- HB 1411 passed in 2023 session requires NDPERS plan to cover prosthetic repairs and replacements, if medically necessary
- Several places of the bill prohibit the plan from covering orthotics/prosthesis in a manner more restrictive than those applicable for other covered medical or surgical benefits
  - Suggest a comparison against “durable medical equipment (DME)”
- 8(b) on page 3, rows 17-19 – difficult to understand its requirements in terms of denials – may be opportunity to make clearer on its objective
- From a policy criteria and benefits prospective, the term “customization” may be ambiguous to administer as it would be subjective to each individual member as opposed to an objective policy standard

Questions?



Rebecca Fricke
rfricke@nd.gov
(701) 328-3978

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
(800) 803-7377

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

Contracts Under $15,000

TO: NDPERS Board

FROM: Rebecca Fricke

DATE: November 10, 2026

Attached is a document that shows the contracts under $15,000 that have been signed since the last update. Please let me know if you have any questions on any of these contracts.

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

Attachment

All Contracts Signed During 2026:

Vendor	Amount	Notes
UHY LLP	$ -	GASB Management Representation Letters
Traill County	$ -	Expanded Public Safety Plan effective 3/1/2026
United Printing	$ 689.15	Member Brochures
NDIT	$ -	ADA Compliance Remediation Work Order Not to Exceed $20,000
OMB Surplus Property	$ -	Surplus Property Designations
Interoffice	$ 70.00	Adjustments to work areas
Docu-Shred	$ 9.00/pickup	State contract switched from Recordkeepers
Empower	$ -	Letter of direction for JP Morgan fund change
Empower	$ -	Letter of direction for Power of Attorneys
City of Grand Forks	$ -	Joined NGF Health Insurance Plan effective 1/1/2027
Interoffice	$ 1,239.66	Office Chair

Contracts Signed Since Last Reported:

Vendor	Amount	Notes
City of Gladstone	$ -	Joined NDPERS Retirement Plan effective 11/1/2026
Grand Forks County	$ -	Joined NGF Health Insurance Plan effective 1/1/2027
Ransom County	$ -	Joined NGF Health Insurance Plan effective 1/1/2027