



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: 618 133 974#  
**Date:** **Tuesday, September 12, 2023**  
**Time:** 8:30 A.M. [Click here to join the meeting](#)

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## I. MINUTES

- A. August 15, 2023

## II. CONFLICT OF INTEREST DISCLOSURE CONSIDERATION

## III. PRESENTATIONS

- A. Investment Performance Update – Scott Anderson, RIO

## IV. DEFERRED COMPENSATION / DEFINED CONTRIBUTION

- A. 457 Companion Plan & 401(a) Plan 2nd Quarter 2023 Report – Derrick (Information)
- B. Investment Options Summary Book – Katheryne (Information)
- C. Recordkeeper Request For Proposal (RFP) – Katheryne (Information)

## V. GROUP INSURANCE / FLEXCOMP

- A. Uniform Group Insurance Consultant Request For Proposal – Katheryne (Information)
- B. FlexComp Plan Document – Rebecca (Board Action)
- C. Medicare Part D Contract Amendment – Rebecca (Board Action)

## VI. MISCELLANEOUS

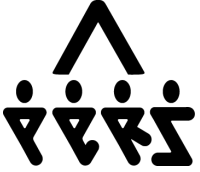
- A. Legislation Implementation – Rebecca (Board Action)
- B. Audit Committee Minutes – Shawna (Information)
- C. Litigation Update – Scott (Information)
- D. Open Records Request **\*EXECUTIVE SESSION** – Scott (Board Action)
- E. Contracts Under \$10,000 – Scott (Information)
- F. Legislative Relations Update – Scott (Information)

## VII. MEMBER **\*\*EXECUTIVE SESSION**

- A. Hardship Withdrawal Case #816 – MaryJo (Board Action)

\*Executive Session pursuant to NDCC §44-04-19.1(2), (5), & (9) and §44-04-19.2 to discuss negotiating strategy or provide negotiating instructions to its attorney or other negotiator regarding a pending claim, litigation, adversarial administrative proceedings, or contracts, which are currently being negotiated or for which negotiation is reasonably likely to occur in the immediate future.

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



**North Dakota  
Public Employees Retirement System**  
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**Scott A. Miller**  
Executive Director  
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# Memorandum

**TO:**                   NDPERS Board

**FROM:**               Scott

**DATE:**               September 12, 2023

**SUBJECT:**           Conflict of Interest Disclosure Consideration

This will be on the agenda every meeting for the Board to consider any conflict of interest disclosures we received concerning any of the agenda topics.

Board Action Requested:

Address any conflict of interest disclosures submitted.



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# Memorandum

**TO:**                   NDPERS Board

**FROM:**               Scott

**DATE:**               September 12, 2023

**SUBJECT:**           Investment Performance Update

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 2022-2023.

# PERFORMANCE

Scott M Anderson, CFA – Chief Investment Officer

September 12, 2023

# THE MARKET



Retirement & Investment

# PERFORMANCE – BENCHMARK INDICES

| <b>Summary of Returns</b>          |            |             |             |              |                   |
|------------------------------------|------------|-------------|-------------|--------------|-------------------|
| <b>June 30, 2023</b>               |            |             |             |              |                   |
| <b>Benchmark Indices</b>           |            |             |             |              | <b>10 Yr</b>      |
| <b>(% change, annualized)</b>      | <b>YTD</b> | <b>1 Yr</b> | <b>5 Yr</b> | <b>10 Yr</b> | <b>Volatility</b> |
| Russell 1000                       | 16.7%      | 19.4%       | 11.9%       | 12.6%        | 17.8%             |
| Russell 2000                       | 8.1%       | 12.3%       | 4.2%        | 8.3%         | 22.3%             |
| S&P 500                            | 16.9%      | 19.6%       | 12.3%       | 12.9%        | 17.7%             |
| MSCI ACWI IMI Net                  | 13.2%      | 16.1%       | 7.6%        | 8.6%         | 14.2%             |
| MSCI World ex US                   | 11.3%      | 17.4%       | 4.6%        | 5.4%         | 14.2%             |
| MSCI Emerging Markets              | 4.9%       | 1.7%        | 0.9%        | 2.9%         | 15.7%             |
| Bloomberg Aggregate                | 2.1%       | -0.9%       | 0.8%        | 1.5%         | 4.3%              |
| Bloomberg Gov/Credit               | 2.2%       | -0.7%       | 1.0%        | 1.7%         | 4.7%              |
| Bloomberg US High Yield            | 5.4%       | 9.1%        | 3.4%        | 4.4%         | 5.1%              |
| NCREIF Property Index (06/30/2023) | -3.8%      | -6.6%       | 5.9%        | 7.82%        | 3.6%              |

Source: Bloomberg

# PERFORMANCE – BENCHMARK INDICES

| <b>Summary of Returns</b>          |            |             |             |              |                   |
|------------------------------------|------------|-------------|-------------|--------------|-------------------|
| <b>August 30, 2023</b>             |            |             |             |              |                   |
| <b>Benchmark Indices</b>           | <b>YTD</b> | <b>1 Yr</b> | <b>5 Yr</b> | <b>10 Yr</b> | <b>10 Yr</b>      |
| <b>(% change, annualized)</b>      |            |             |             |              | <b>Volatility</b> |
| Russell 1000                       | 18.7%      | 14.6%       | 10.8%       | 12.6%        | 17.9%             |
| Russell 2000                       | 9.1%       | 4.2%        | 3.3%        | 8.0%         | 22.3%             |
| S&P 500                            | 18.9%      | 15.2%       | 11.2%       | 12.8%        | 17.7%             |
| MSCI ACWI IMI Net                  | 14.4%      | 13.0%       | 7.0%        | 8.4%         | 14.2%             |
| MSCI World ex US                   | 10.8%      | 16.3%       | 4.2%        | 4.9%         | 14.3%             |
| MSCI Emerging Markets              | 5.4%       | 2.2%        | 1.1%        | 3.1%         | 15.7%             |
| Bloomberg Aggregate                | 1.2%       | -1.7%       | 0.5%        | 1.5%         | 4.4%              |
| Bloomberg Gov/Credit               | 1.4%       | -1.4%       | 0.7%        | 1.6%         | 4.8%              |
| Bloomberg US High Yield            | 7.0%       | 6.6%        | 3.3%        | 4.5%         | 5.1%              |
| NCREIF Property Index (06/30/2023) | -3.8%      | -6.6%       | 5.9%        | 7.82%        | 3.6%              |

Source: Bloomberg

# HAS INFLATION PEAKED?<sup>1</sup>



**ANNUAL INFLATION RATE  
(June 2021 thru June 2022)**

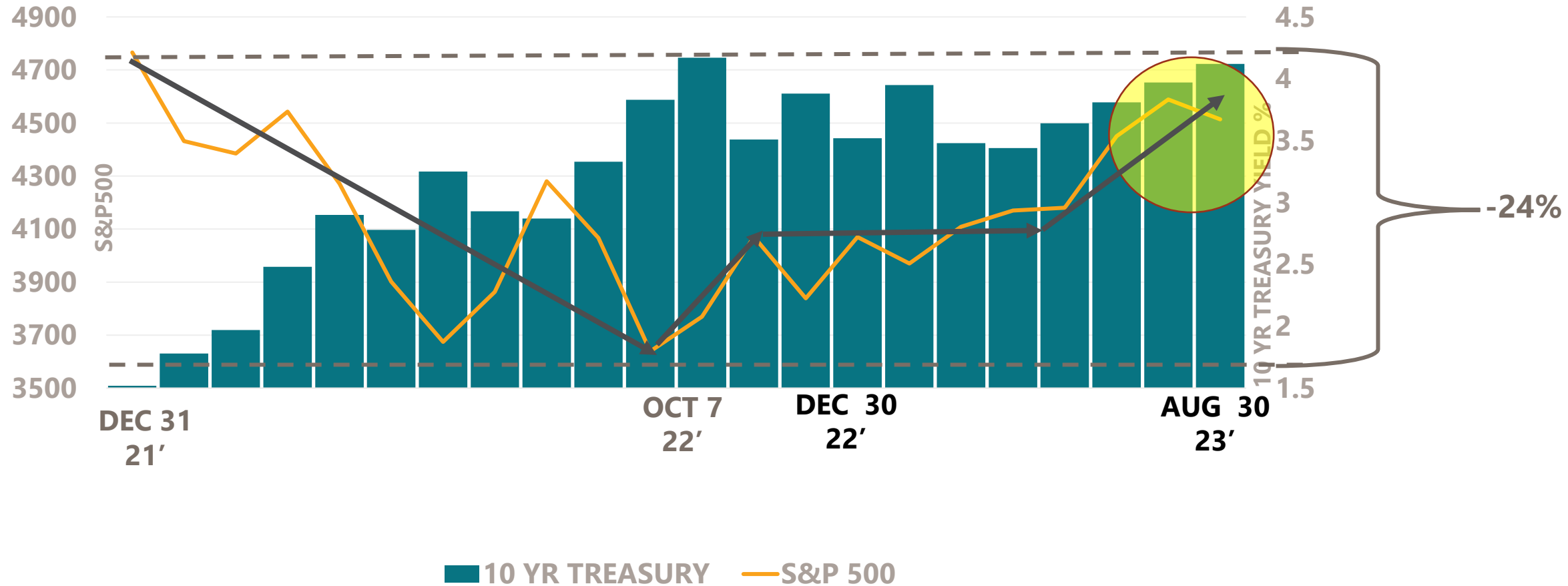


**ANNUAL INFLATION RATE  
(July 2022 thru July 2023)  
**4.7%** Ex Food & Energy**

1. Bureau of Labor Statistics  
Scott M Anderson, CFA September 12, 2023

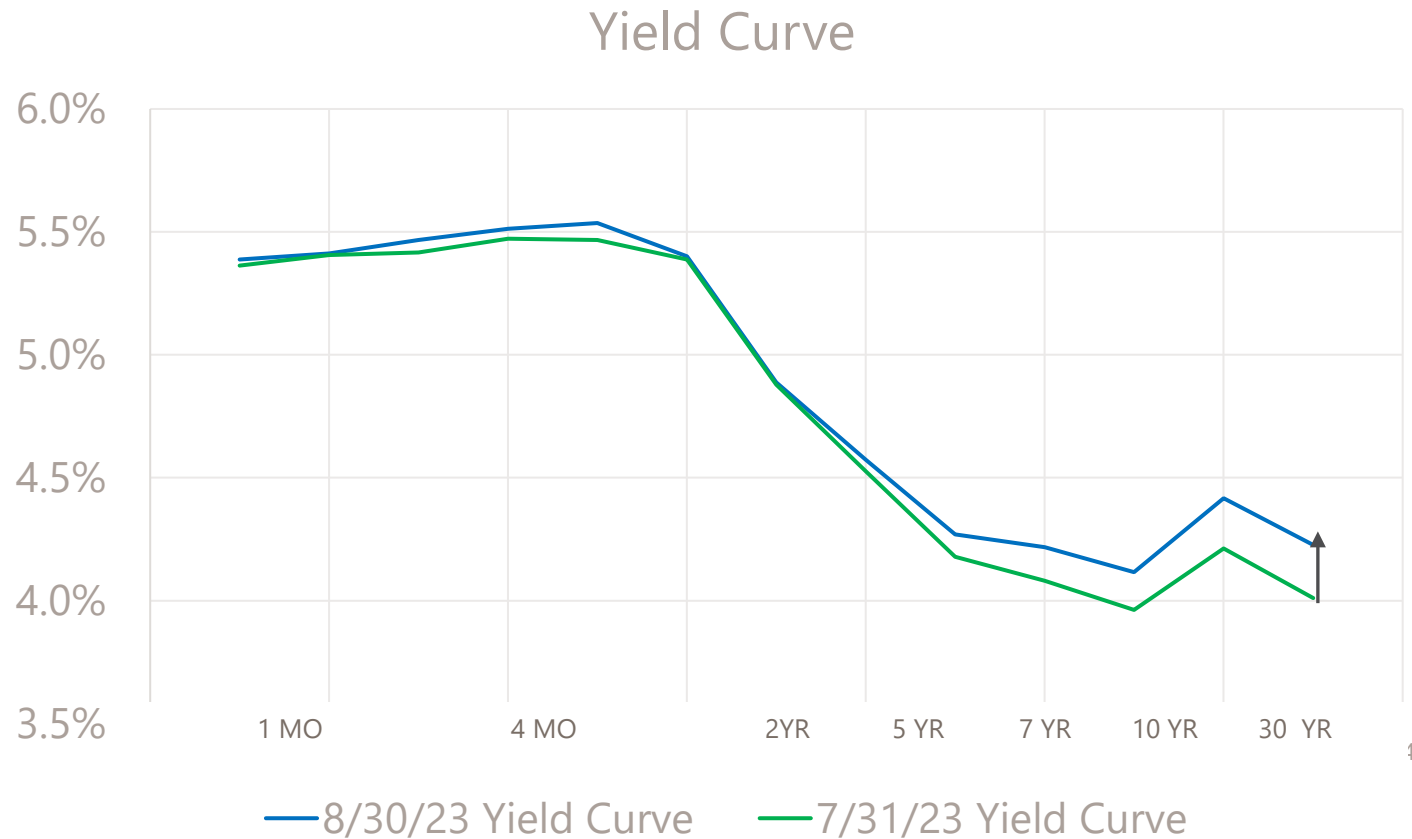


# THE S&P500 HAS TRACKED INFLATION EXPECTATIONS<sup>1</sup>



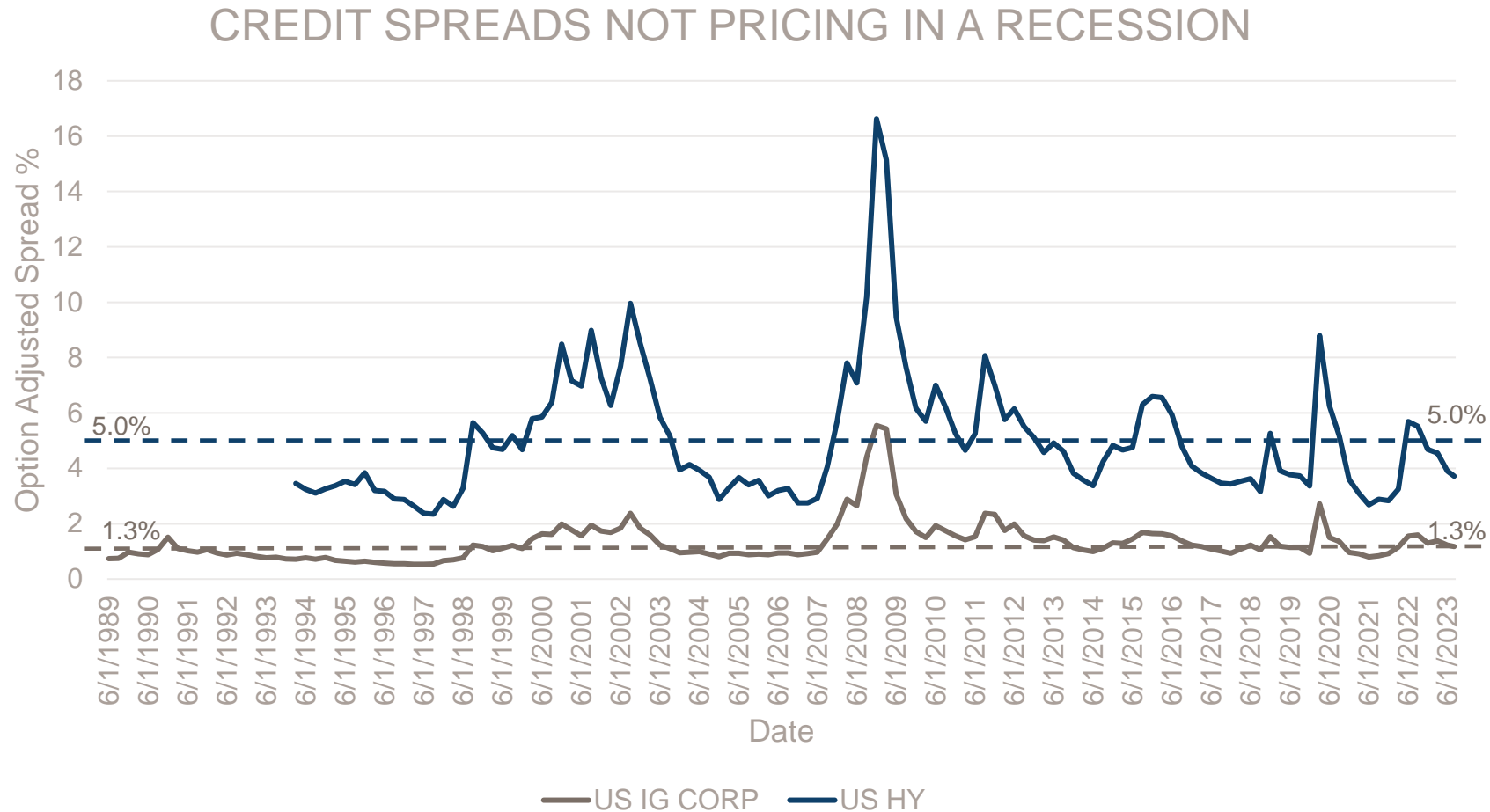
1. FRED

# FITCH DOWNGRADE<sup>1</sup>



1. Bloomberg US Treasuries Active Curve

# CREDIT SPREADS NOT PRICING IN A RECESSION<sup>1</sup>



1. Bloomberg Aggregate IG Corporate and HY Average Credit Spread

# GOOD NEWS <sup>1</sup>

BLOOMBERG AGG YIELD<sup>1</sup>: 5.0%



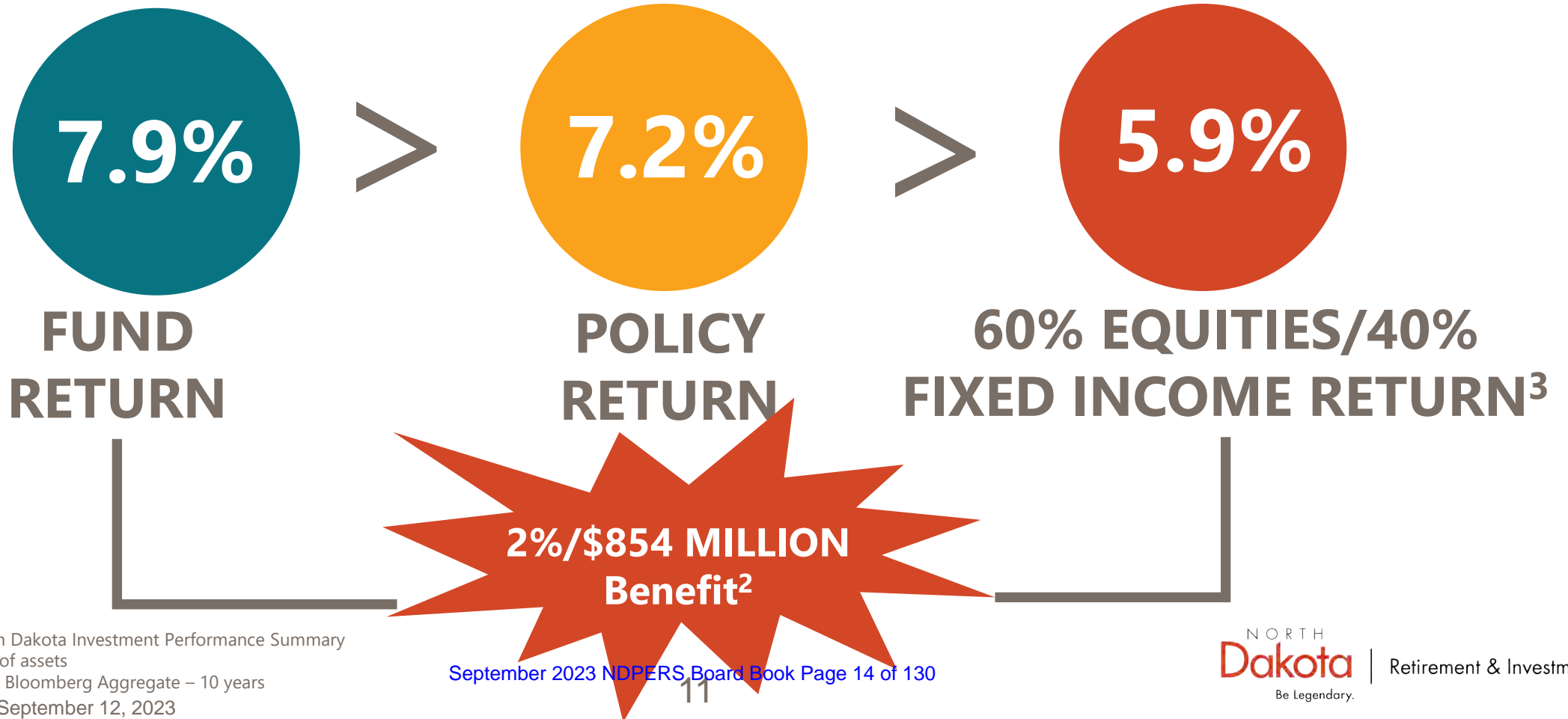
# PERFORMANCE



Retirement & Investment

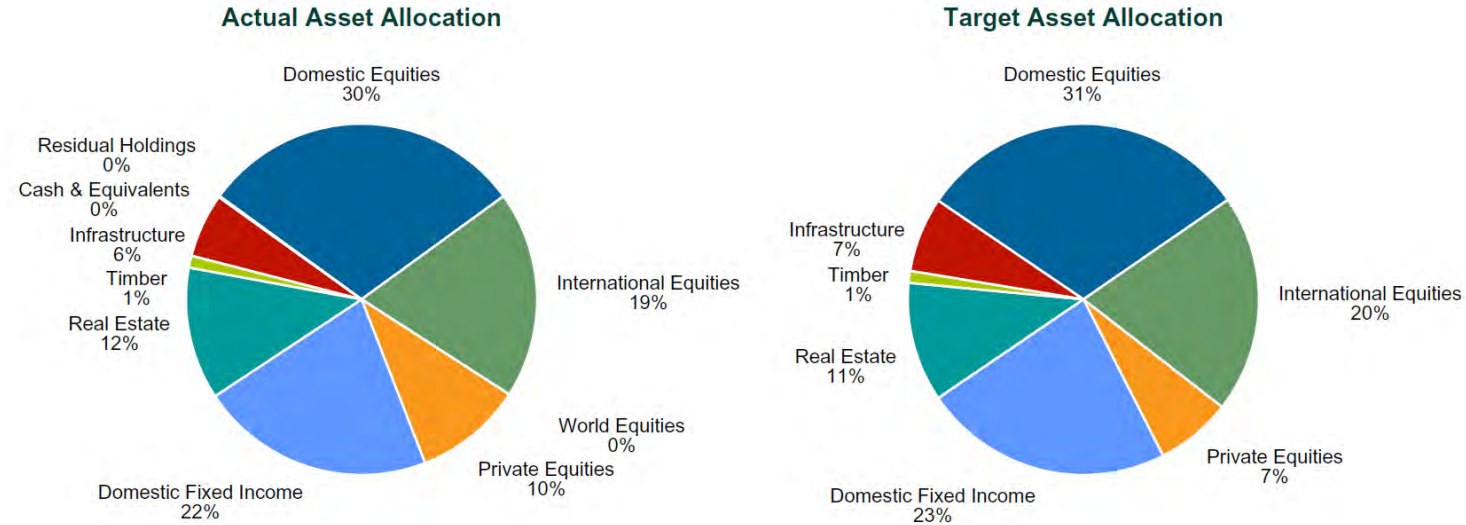
# INVESTMENT MANAGEMENT BENEFITS

## PERS TEN YEAR AVERAGE RETURN<sup>1</sup>



1. Thru MARCH 2023; North Dakota Investment Performance Summary  
2. Starting with \$3.8 Billion of assets  
3. 60% MSCI ACW IMI/40% Bloomberg Aggregate – 10 years  
Scott M Anderson, CFA September 12, 2023

# ASSET ALLOCATION



| Asset Class            | \$000s Actual    | Weight Actual | Target        | Percent Difference | \$000s Difference |
|------------------------|------------------|---------------|---------------|--------------------|-------------------|
| Domestic Equities      | 1,171,857        | 30.0%         | 30.9%         | (1.0%)             | (38,782)          |
| International Equities | 748,197          | 19.1%         | 20.1%         | (0.9%)             | (36,560)          |
| World Equities         | 27               | 0.0%          | 0.0%          | 0.0%               | 27                |
| Private Equities       | 391,541          | 10.0%         | 7.0%          | 3.0%               | 117,663           |
| Domestic Fixed Income  | 846,003          | 21.6%         | 23.0%         | (1.4%)             | (53,882)          |
| Real Estate            | 476,507          | 12.2%         | 11.0%         | 1.2%               | 46,127            |
| Timber                 | 42,065           | 1.1%          | 1.1%          | 0.0%               | 0                 |
| Infrastructure         | 231,361          | 5.9%          | 6.9%          | (1.0%)             | (39,577)          |
| Cash & Equivalents     | 4,597            | 0.1%          | 0.0%          | 0.1%               | 4,597             |
| Residual Holdings      | 386              | 0.0%          | 0.0%          | 0.0%               | 386               |
| <b>Total</b>           | <b>3,912,541</b> | <b>100.0%</b> | <b>100.0%</b> |                    |                   |

# PERS PERFORMANCE

**AS OF JUNE 30, 2023**

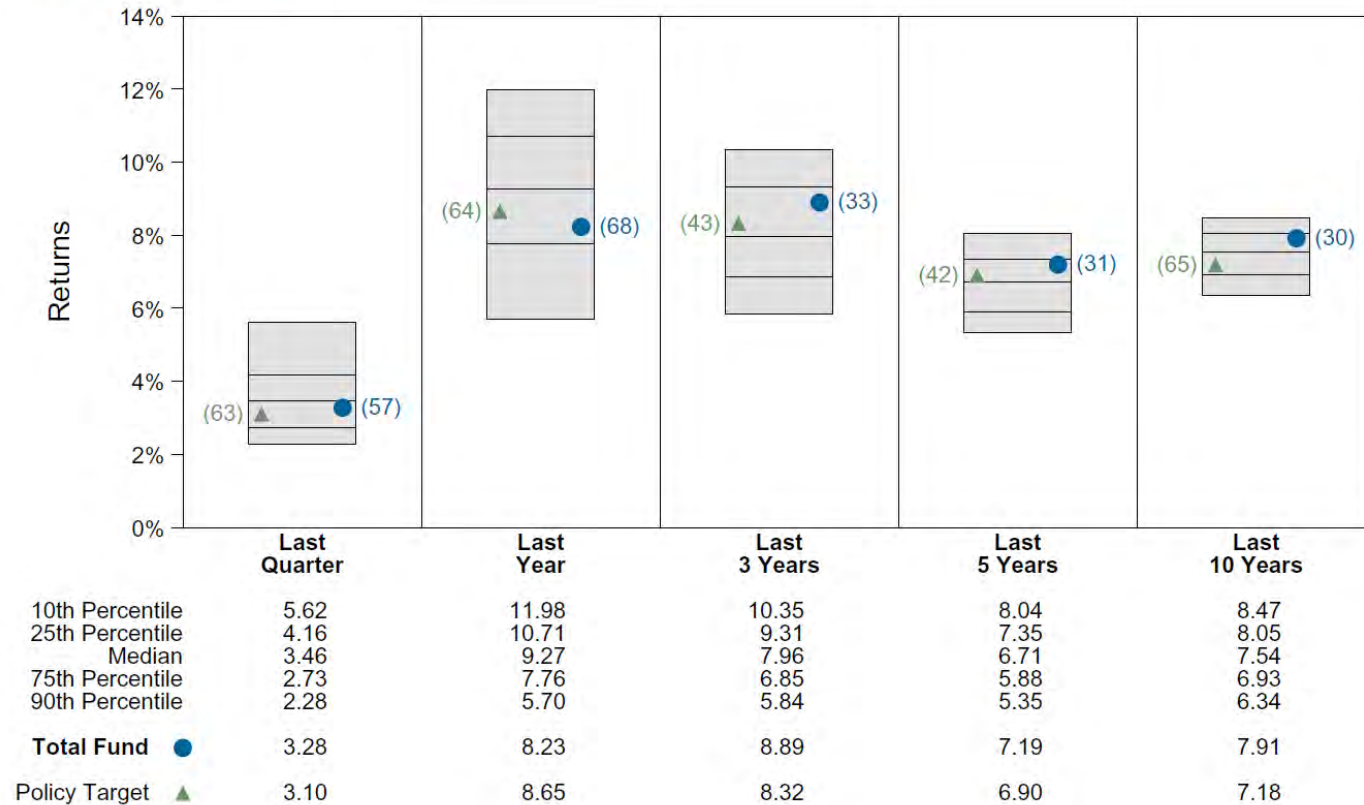
| <b>PERS \$3.9 Billion</b>              | <b>Year to Date</b> | <b>1 Year</b> | <b>3 year</b> | <b>5 Year<sup>1</sup></b> | <b>Risk (5 Year)</b> |
|--|---------------------|---------------|---------------|---------------------------|----------------------|
| <b>Total Fund Return - Net</b>         | <b>7.1%</b>         | <b>8.0%</b>   | <b>8.6%</b>   | <b>6.9%</b>               | <b>10.2%</b>         |
| <b>Policy Benchmark Return</b>         | <b>7.1%</b>         | <b>8.7%</b>   | <b>8.3%</b>   | <b>6.9%</b>               | <b>10.4%</b>         |
| <b>Total Relative Return</b>           | <b>-0.0%</b>        | <b>-0.7%</b>  | <b>0.3%</b>   | <b>0.0%</b>               |                      |
| <b>Total Relative Return(Corridor)</b> |                     | <b>0.0%</b>   | <b>0.6%</b>   | <b>0.3%</b>               |                      |

1. Median performance in Callan Public Fund Sponsor Database is 5.3% thru Q1 2023



# PERS PERFORMANCE<sup>1</sup>

## Callan Public Fund Sponsor Database



1. Median performance in Callan Public Fund Sponsor Database is 5.3% thru Q1 2023

# OVERVIEW

## RIO AT A GLANCE

As of June 30, 2023

**\$19.4 Billion**

AUM across all Client Funds

**28 Client Funds**

Sovereign wealth, pension  
and insurance

**43 Managers**

Equity, Fixed Income, Private  
Equity, and Real Asset

## INVESTMENT FOCUS

Global multi-asset public and  
private market fund of funds  
organization

## OBJECTIVE

To maximize after cost return  
for risk at a prudent level of  
risk for the funds in our care

Global, Multi-asset



Advanced Funds  
Management

## OUR COMMITMENT

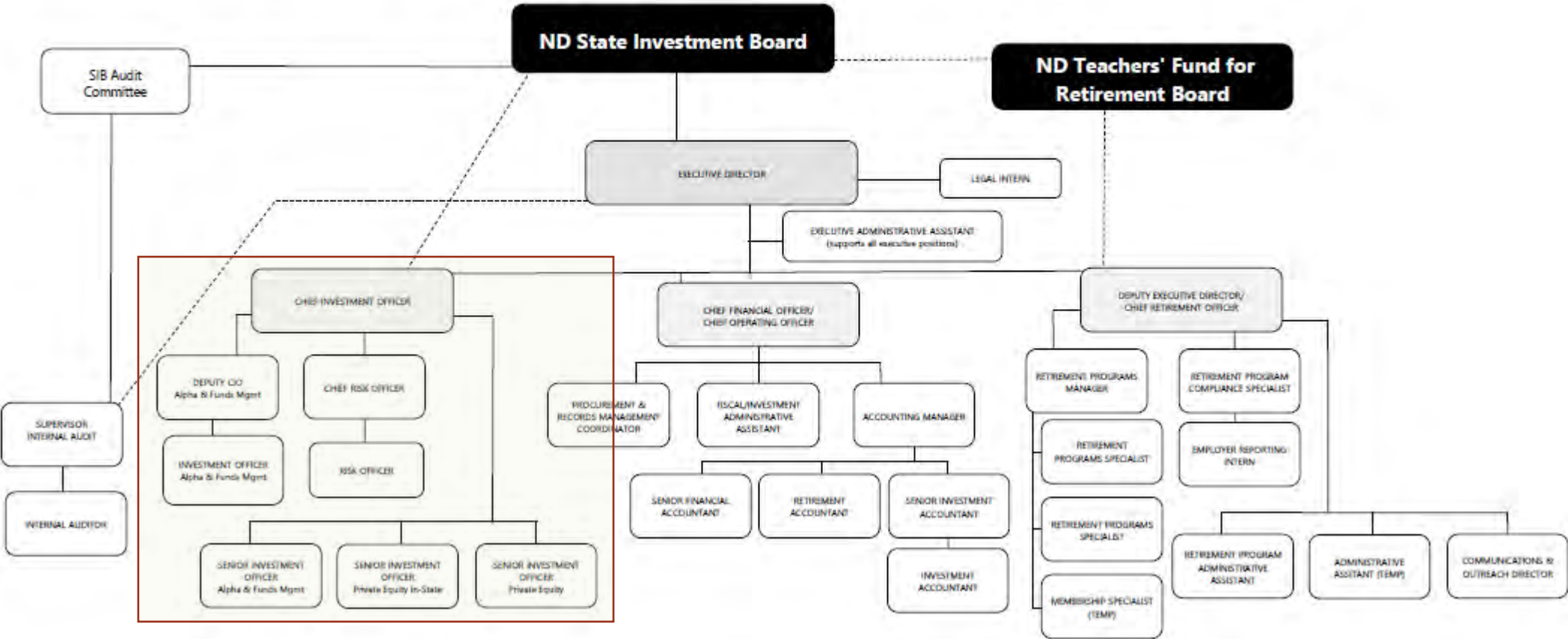
Client Focused

Value Added Results

Efficient Delivery

# RETIREMENT AND INVESTMENT OFFICE

## RETIREMENT AND INVESTMENT OFFICE ORGANIZATIONAL CHART



# INVESTMENT TEAM OVERVIEW

**Scott M Anderson**  
Chief Investment Officer (CIO)



**Eric Chin**  
Deputy CIO/Public Funds Mgt



**Matt Posch**  
Senior IO/Public Funds Mgt



**Derek Dukart**  
IO/Public Funds Mgt



**George Moss**  
Senior IO/Private Funds Mgt



**Lance Zietlow**  
Senior IO/Private Funds Mgt



**Nitin Vaidya**  
Chief Risk Officer



**Jason Yu**  
Risk Officer



PUBLIC MARKETS  
FUNDS MANAGEMENT

PRIVATE MARKETS  
FUNDS MANAGEMENT

RISK ALLOCATION  
AND MANAGEMENT

## EXPERIENCE: > 18 YEARS AVERAGE INVESTMENT EXPERIENCE

- ASSET AND RISK ALLOCATION
- DIRECT PUBLIC AND PRIVATE INVESTMENT
- FUND AND PORTFOLIO MANAGEMENT
- MANAGER SELECTION
- FUND OF FUNDS MANAGEMENT
- QUANTITATIVE ANALYSIS
- RISK MANAGEMENT
- LIQUIDITY MANAGEMENT
- PENSION, ENDOWMENT AND INSURANCE
- PERFORMANCE MANAGEMENT
- OVERLAYS AND EXPOSURE MANAGEMENT
- MULTI-ASSET PORTFOLIO MANAGEMENT

# WE BELIEVE

- Our mission is to deliver a high return per unit of risk; at a prudent level of risk for our client fund mandates; at an efficient cost
- Asset allocation is our chief source of efficient return (return/risk)
- Long term markets are efficient but there are short term inefficiencies that create opportunity for active return
- Active management improves return efficiency but active return is rare so is allocated in appropriate proportions of risk
- Effective implementation is an important driver of lower cost, and lower risk; therefore an important contributor to return efficiency
- Good investment decisions require fact based, reasoned judgements of experienced investment professionals regarding knowledge of compensated risks, investment process and return expectations in an analyst driven culture

# OBJECTIVE AND STRATEGY

## OBJECTIVE:

- To maximize after cost return for risk at a prudent level of risk for the funds in our care

## STRATEGY:

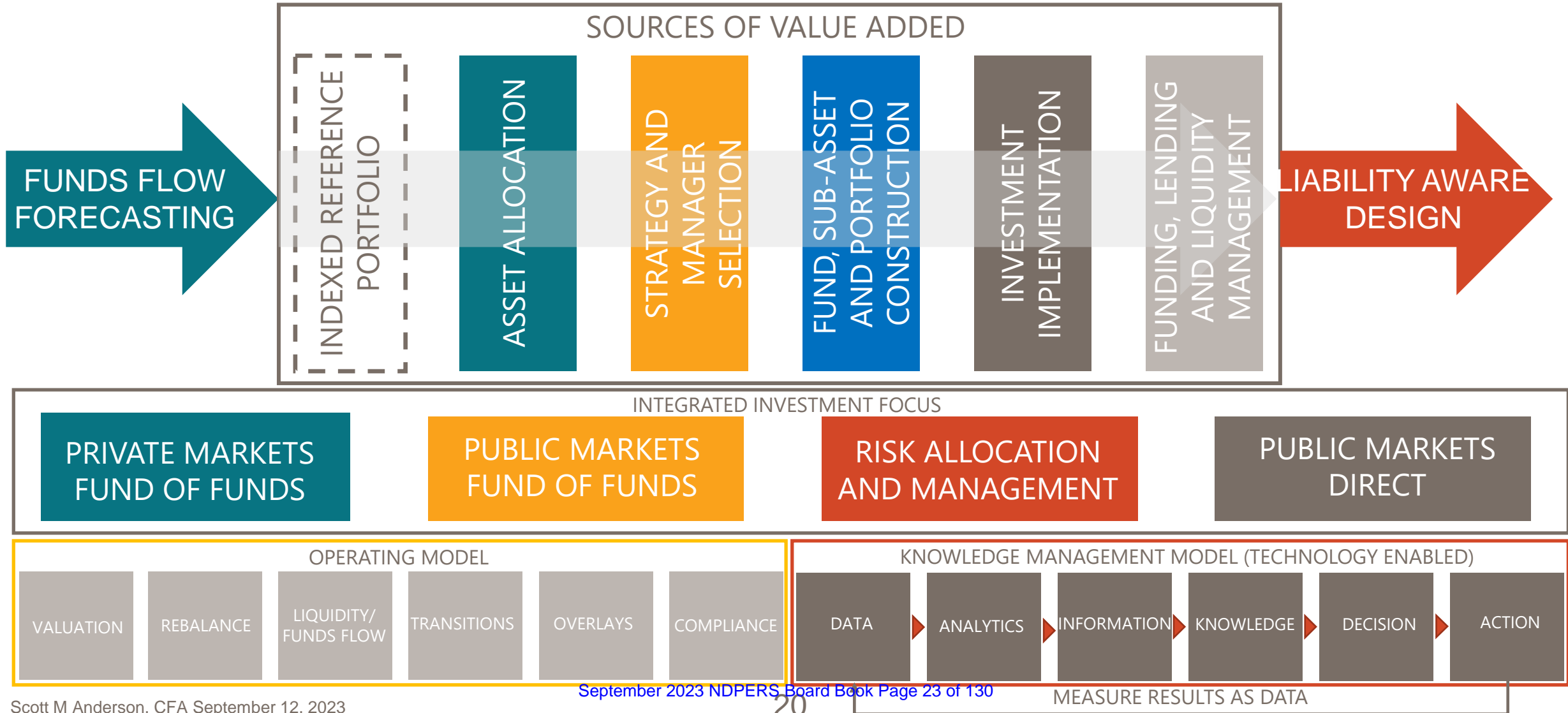
- Develop valuable investment trade-offs of return, risk and cost with time horizon, scale, complexity, and make versus buy decisions as drivers
- Implement trade-offs as state-based investment decisions enabled by technology and integrated across investment teams that leverage direct versus external, and customized versus commodity decisions
- Evolve strategies to be backward compatible

## WHY?

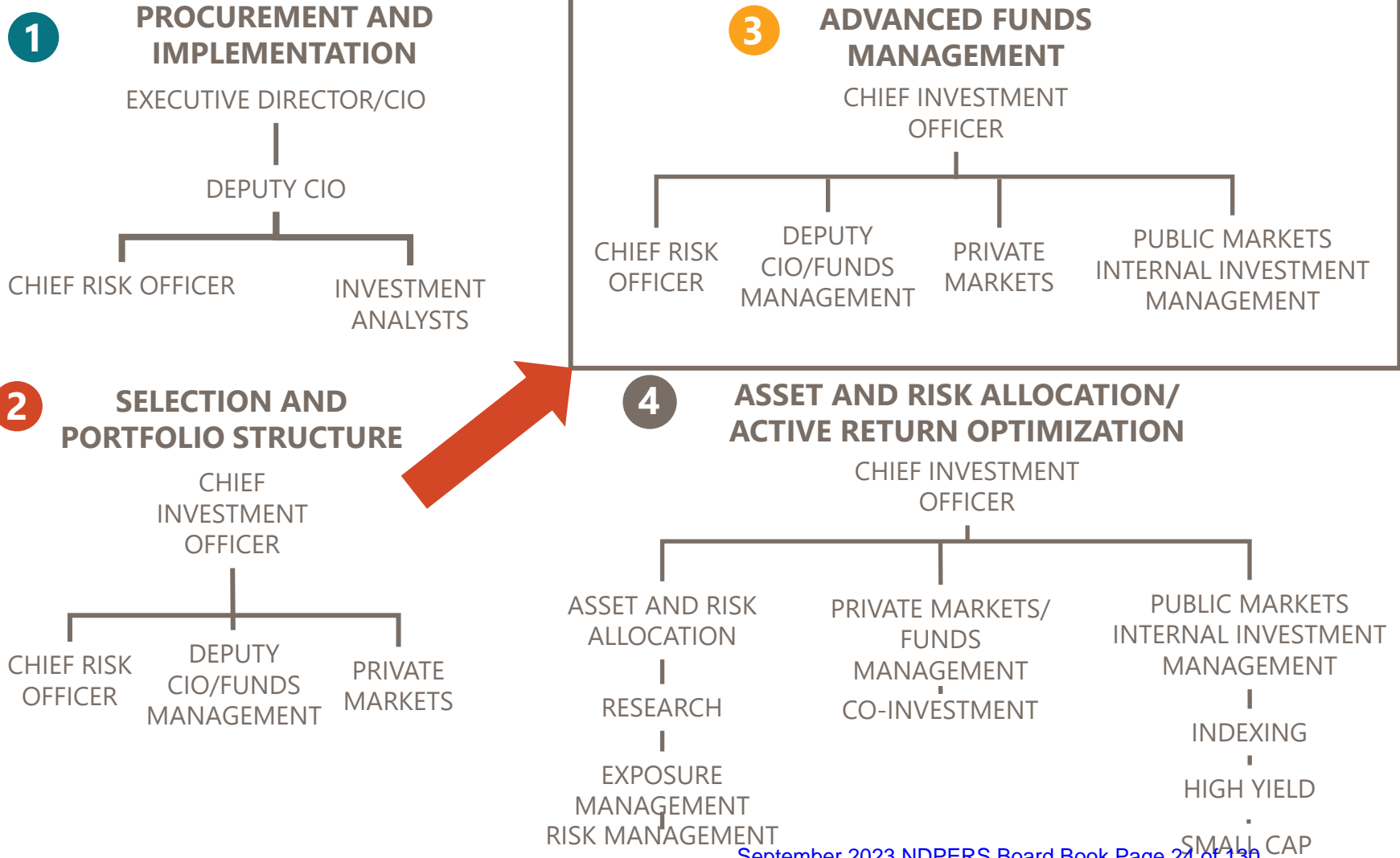
- We will have an advantage from diverse sources of market and business case information from our custom data as well as internal and external manager strategies. RIO will be differentiated with integrated optimization of state-based knowledge management decisions and implementation



# INVESTMENT TARGET MODEL- ADVANCED FUND OF FUNDS MODEL



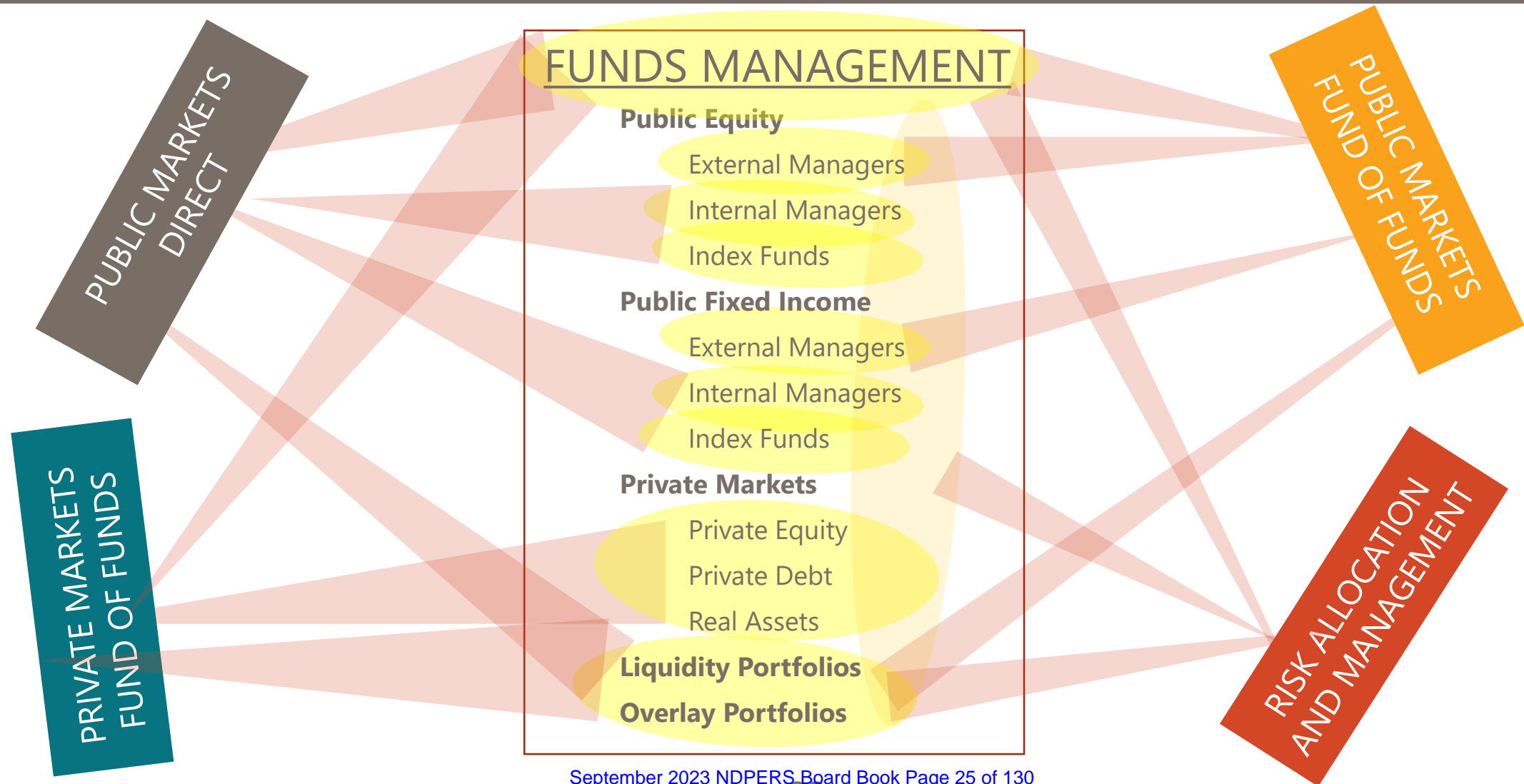
# EVOLVING INVESTMENT STRUCTURE



- Increasing investment focus
- Increasing analyst driven culture
- Increasing knowledge/collaboration
- Increasing specialization
- Increasing sophistication
- Increasing fund level/portfolio level harmonization
- Increasing risk management orientation
- Increased return/risk
- **Backward compatible**



# INTEGRATED INVESTMENT FOCUS



# NECESSARY CAPABILITIES FOR SUCCESS

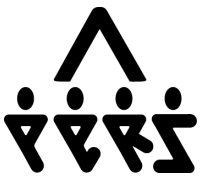
|  |  |
|--|--|
| GOVERNANCE  | A governance hierarchy including a staff run investment committee with some delegation as well as board level investment expertise         |
| <b>TALENT MANAGEMENT</b>   | <b>Specific investment role recognition as well as a total rewards package that is competitive with similar investment organizations</b>   |
| OPERATIONS (EARLIER PAGE)  | Appropriate staffing and skills or outsourcing of critical investment accounting, transaction processing, and enterprise risk capabilities |
| <b>DATA AND TECHNOLOGY INFRASTRUCTURE</b>  | <b>High frequency and high-quality data as well as infrastructure to support data throughput and processing speeds</b>                     |
| RESEARCH AND KNOWLEDGE MANAGEMENT (EARLIER PAGE)   | A culture of research, learning, creativity and knowledge management supported by expectations, resources, and recognition                 |

# ROADMAP FOR SUCCESS



## CAPABILITIES FOR SUCCESS

- DELEGATED AUTHORITY
- INCENTIVE COMP SYSTEM
- DIRECT INVESTMENT TEAM
- INDEPENDENT BENCHMARK CONSULTANT
- PRIVATE MARKETS BENCHMARK CORRIDOR
- FUND POOLING
- DAILY FUND VALUES AND RETURNS
- ADVANCED OPERATIONS
- AUDIT PROCESSES AND COMPLIANCE
- NEW INVESTMENT PROCESSES
- FUND AND LIQUIDITY MANAGEMENT
- DERIVATIVES OVERLAYS
- VALUATION AND EXPOSURE MANAGEMENT
- INVESTMENT DATA WAREHOUSE
- ORDER MANAGEMENT SYSTEM
- PORTFOLIO MANAGEMENT ANALYTICS
- INTEGRATED DATA AND MESSAGES
- KNOWLEDGE MANAGEMENT SYSTEM



# Memorandum

**TO:** NDPERS Board

**FROM:** Derrick Hohbein

**DATE:** September 12, 2023

**SUBJECT:** 457 Companion Plan & 401(a) Plan 2nd Quarter 2023 Report

Here is the 2nd quarter 2023 investment report for the 401(a) & 457 Companion Plans, which was reviewed by the Investment Subcommittee. The reports are available separately on the NDPERS website. The two plans have 10,152 (10,029 in Q1) participants with \$212.9 million (\$203.9 million in Q1) in assets.

Assets in the 401(a) plan increased to \$19.7 million (\$18.6 million in Q1) on June 30, 2023. The number of active participants slightly increased and is now at 90. The TIAA-CREF Target Date funds have 60% of the plan assets.

Assets in the 457 Companion Plan increased to \$193.3 million (\$185.4 in Q1) on June 30, 2023. The number of active participants slightly increased and is now at 6,725. The TIAA-CREF Target Date funds have 68% of the plan assets.

Benchmarks:

Fund returns for the quarter were mostly positive for the funds in the core lineup. 31 core funds had positive returns for the quarter (5 negative). Core fund performance was mixed when compared to benchmarks. Fund performance during the last year has been positive in almost every fund (only four have had negative returns), with the same applying to the 3-year & 5-year. Note that index funds are expected to slightly underperform their benchmarks because of fund administration fees.

Fund / Investment News:

The NDPERS Investment Subcommittee reviewed the 2nd Quarter 2023 plan review and field activity report with TIAA. Callan gave a market overview and investment performance report. The Subcommittee reviewed the two funds under formal fund review (Templeton Global Bond and Allspring Growth). Callan did bring forward the final RFP for the Investment Subcommittee, and then to the full Board for approval in August 2023.

# NDPERS Quarterly Investment Report 2nd Quarter 04/01/2023 – 06/30/2023



North Dakota Public Employees Retirement System  
1600 East Century Ave, Suite 2  
Box 1657  
Bismarck, ND 58502

## 457 & 401(a) Investment Structure

| Tier I: Asset Allocation  | Tier II: Core   | Tier III: Specialty   |
|---|---|---|
| <b>Target Date</b><br>TIAA-CREF Lifecycle Retirement<br>5-Year Increments | <b>Capital Preservation</b><br>Galliard Stable Value<br>Vanguard Treasury MM  |   |
| <b>Balanced</b><br>TRP Capital Appreciation                               | <b>Domestic Fixed Income</b><br>Vanguard Total Bond Index<br>Baird Core Plus Bond   | <b>Specialty Fixed Income</b><br>MassMutual Inflation Protected<br>PGIM High Yield<br>Templeton Global Bond |
|   | <b>Large Cap U.S. Equity</b><br>Franklin Growth Fund<br>Allspring Growth<br>Vanguard Dividend and Income<br>Vanguard Institutional Index<br>Hartford Dividend and Growth<br>T. Rowe Price Equity Income |   |
|   | <b>Mid Cap U.S. Equity</b><br>PGIM Jennison Mid-Cap Growth<br>Columbia Mid Cap Index Fund<br>Virtus Ceredex Mid Cap Value   |   |
|   | <b>Small Cap U.S. Equity</b><br>Brown Small Company Fund<br>DFA U.S. Small Cap<br>Northern Small Cap Value Fund   |   |
|   | <b>International Equity</b><br>AF New Perspective<br>Vanguard Total Intl Stock  | <b>Specialty International Equity</b><br>Invesco Developing Markets   |
|   |   | <b>Specialty Sector Fund</b><br>Cohen & Steers Realty Shares  |
|   |   | <b>Brokerage Window</b>   |



# Plan Performance Monitoring

As of June 30, 2023

|                                  | Last Quarter | Last Year | Last 3 Years | Last 5 Years | Last 7 Years |
|----------------------------------|--------------|-----------|--------------|--------------|--------------|
| <b>Asset Allocation Funds</b>    |              |           |              |              |              |
| TIAA-CREF Lifecycle Ret. Inc     | 1.90%        | 6.13%     | 3.03%        | 3.82%        | 4.71%        |
| LifeCycle Ret Income CB          | 1.98%        | 6.26%     | 3.19%        | 4.56%        | 5.01%        |
| Callan Tgt Dt Idx 2010           | 1.71%        | 5.57%     | 2.72%        | 4.16%        | 4.56%        |
| TIAA-CREF Lifecycle Ret. 2010    | 1.92%        | 6.21%     | 3.06%        | 3.85%        | 4.87%        |
| LifeCycle 2010 CB                | 1.79%        | 5.85%     | 3.10%        | 4.50%        | 5.11%        |
| Callan Tgt Dt Idx 2010           | 1.71%        | 5.57%     | 2.72%        | 4.16%        | 4.56%        |
| TIAA-CREF Lifecycle Ret. 2015    | 2.12%        | 6.60%     | 3.54%        | 4.10%        | 5.29%        |
| LifeCycle 2015 Cust Bnch         | 2.13%        | 6.67%     | 3.70%        | 4.86%        | 5.58%        |
| CAI Tgt Dt Idx 2015              | 1.87%        | 5.98%     | 3.13%        | 4.40%        | 4.90%        |
| TIAA-CREF Lifecycle Ret. 2020    | 2.49%        | 7.40%     | 4.07%        | 4.36%        | 5.80%        |
| LifeCycle 2020 Cust Bnchm        | 2.49%        | 7.52%     | 4.39%        | 5.26%        | 6.18%        |
| CAI Tgt Dt Idx 2020              | 2.15%        | 6.67%     | 3.80%        | 4.78%        | 5.55%        |
| TIAA-CREF Lifecycle Ret. 2025    | 2.99%        | 8.67%     | 5.03%        | 4.83%        | 6.52%        |
| LifeCycle 2025 Cust Bnch         | 2.94%        | 8.64%     | 5.32%        | 5.76%        | 6.90%        |
| CAI Tgt Dt Idx 2025              | 2.67%        | 8.00%     | 5.03%        | 5.43%        | 6.45%        |
| TIAA-CREF Lifecycle Ret. 2030    | 3.63%        | 10.23%    | 6.08%        | 5.34%        | 7.26%        |
| LifeCycle 2030 Cust Bnch         | 3.51%        | 10.03%    | 6.41%        | 6.34%        | 7.67%        |
| CAI Tgt Dt Idx 2030              | 3.36%        | 9.74%     | 6.43%        | 6.10%        | 7.39%        |
| TIAA-CREF Lifecycle Ret. 2035    | 4.40%        | 12.09%    | 7.21%        | 5.88%        | 8.02%        |
| LifeCycle 2035 Cust Bnch         | 4.20%        | 11.81%    | 7.62%        | 6.96%        | 8.49%        |
| CAI Tgt Dt Idx 2035              | 4.08%        | 11.60%    | 7.90%        | 6.79%        | 8.24%        |
| TIAA-CREF Lifecycle Ret. 2040    | 5.27%        | 14.08%    | 8.48%        | 6.47%        | 8.81%        |
| LifeCycle 2040 Cust Bnch         | 4.94%        | 13.64%    | 8.97%        | 7.61%        | 9.33%        |
| CAI Tgt Dt Idx 2040              | 4.69%        | 13.16%    | 9.07%        | 7.29%        | 8.86%        |
| TIAA-CREF Lifecycle Ret. 2045    | 5.82%        | 15.36%    | 9.54%        | 6.94%        | 9.33%        |
| LifeCycle 2045 Cust Bnch         | 5.39%        | 14.69%    | 10.11%       | 8.14%        | 9.88%        |
| CAI Tgt Dt Idx 2045              | 5.12%        | 14.26%    | 9.88%        | 7.64%        | 9.23%        |
| TIAA-CREF Lifecycle Ret. 2050    | 6.02%        | 15.85%    | 9.77%        | 7.05%        | 9.46%        |
| LifeCycle 2050 Cust Bnch         | 5.59%        | 15.13%    | 10.37%       | 8.26%        | 10.04%       |
| CAI Tgt Dt Idx 2050              | 5.36%        | 14.88%    | 10.25%       | 7.78%        | 9.40%        |
| TIAA-CREF Lifecycle Ret. 2055    | 6.13%        | 16.07%    | 9.94%        | 7.11%        | 9.57%        |
| LifeCycle 2055 Cust Bnch         | 5.68%        | 15.35%    | 10.57%       | 8.35%        | 10.16%       |
| CAI Tgt Dt Idx 2055              | 5.47%        | 15.13%    | 10.40%       | 7.84%        | 9.47%        |
| TIAA-CREF Lifecycle Ret. 2060    | 6.19%        | 16.17%    | 10.08%       | 7.20%        | 9.65%        |
| LifeCycle 2060 Cust Bnch         | 5.77%        | 15.58%    | 10.76%       | 8.44%        | 10.28%       |
| Callan Tgt Dt Idx 2055           | 5.47%        | 15.13%    | 10.40%       | 7.84%        | 9.47%        |
| T. Rowe Capital Appreciation Adv | 4.56%        | 14.07%    | 10.78%       | 10.60%       | 10.42%       |
| S&P 500 Index                    | 8.74%        | 19.59%    | 14.60%       | 12.31%       | 13.38%       |

# Plan Performance Monitoring

As of June 30, 2023

|                                   | Last Quarter | Last Year | Last 3 Years | Last 5 Years | Last 7 Years |
|-----------------------------------|--------------|-----------|--------------|--------------|--------------|
| <b>Large Cap U.S. Equity</b>      |              |           |              |              |              |
| Franklin Growth Fund Advisor      | 8.41%        | 21.05%    | 11.01%       | 11.77%       | 13.90%       |
| S&P 500 Index                     | 8.74%        | 19.59%    | 14.60%       | 12.31%       | 13.38%       |
| Allspring Growth Adm              | 9.76%        | 21.13%    | 4.04%        | 9.15%        | 13.33%       |
| Russell 3000 Growth Index         | 12.47%       | 26.60%    | 13.24%       | 14.39%       | 16.40%       |
| Vanguard Dividend Growth Inv      | 3.47%        | 10.75%    | 13.78%       | 12.16%       | 11.90%       |
| S&P 500 Index                     | 8.74%        | 19.59%    | 14.60%       | 12.31%       | 13.38%       |
| Vanguard Institutional Index      | 8.73%        | 19.55%    | 14.57%       | 12.28%       | 13.35%       |
| S&P 500 Index                     | 8.74%        | 19.59%    | 14.60%       | 12.31%       | 13.38%       |
| Hartford Dividend and Growth R5   | 5.54%        | 10.53%    | 15.55%       | 10.92%       | 11.73%       |
| S&P 500 Index                     | 8.74%        | 19.59%    | 14.60%       | 12.31%       | 13.38%       |
| T. Rowe Price Equity Income       | 3.23%        | 8.26%     | 15.85%       | 7.82%        | 9.45%        |
| Russell 1000 Value Index          | 4.07%        | 11.54%    | 14.30%       | 8.11%        | 8.94%        |
| <b>Mid Cap U.S. Equity</b>        |              |           |              |              |              |
| PGIM Jennison Mid-Cap Growth Z    | 6.39%        | 24.01%    | 10.51%       | 11.42%       | 12.26%       |
| Russell MidCap Growth Idx         | 6.23%        | 23.13%    | 7.63%        | 9.71%        | 11.96%       |
| Columbia Mid Cap Index Fund A     | 4.67%        | 16.97%    | 14.90%       | 7.28%        | 9.55%        |
| S&P Mid Cap 400 Index             | 4.85%        | 17.61%    | 15.44%       | 7.79%        | 10.07%       |
| Virtus Ceredex Mid-Cap Value I    | 4.21%        | 10.64%    | 12.82%       | 6.27%        | 8.63%        |
| Russell MidCap Value Idx          | 3.86%        | 10.50%    | 15.04%       | 6.84%        | 8.20%        |
| <b>Small Cap U.S. Equity</b>      |              |           |              |              |              |
| Brown Small Company Fund Investor | 7.13%        | 10.10%    | (4.41%)      | 1.94%        | 8.58%        |
| Russell 2000 Growth Index         | 7.05%        | 18.53%    | 6.10%        | 4.22%        | 9.31%        |
| DFA U.S. Small Cap Inst'l         | 4.30%        | 14.64%    | 17.57%       | 6.28%        | 9.61%        |
| Russell 2000 Index                | 5.21%        | 12.31%    | 10.82%       | 4.21%        | 8.76%        |
| Northern Small Cap Value Fund     | 3.76%        | 10.37%    | 15.25%       | 3.33%        | 6.52%        |
| Russell 2000 Value Index          | 3.18%        | 6.01%     | 15.43%       | 3.54%        | 7.70%        |
| <b>Non-U.S. Equity</b>            |              |           |              |              |              |
| AF New Perspective R4             | 6.21%        | 19.15%    | 10.42%       | 9.79%        | 12.10%       |
| MSCI ACWI                         | 6.18%        | 16.53%    | 10.99%       | 8.10%        | 9.94%        |
| Vanguard Total Int'l Stock Adm    | 2.61%        | 12.31%    | 7.51%        | 3.69%        | 6.37%        |
| FTSE GI All Cap ex US Idx         | 2.53%        | 12.51%    | 7.61%        | 3.66%        | 6.47%        |
| Invesco Developing Markets Y      | (0.23%)      | 11.58%    | (0.15%)      | 0.12%        | 4.78%        |
| MSCI EM                           | 0.90%        | 1.75%     | 2.32%        | 0.93%        | 4.95%        |



## Plan Performance Monitoring





As of June 30, 2023

|                                 | Last Quarter | Last Year | Last 3 Years | Last 5 Years | Last 7 Years |
|---------------------------------|--------------|-----------|--------------|--------------|--------------|
| <b>Fixed Income</b>             |              |           |              |              |              |
| Vanguard Total Bond Index Adm   | (0.90%)      | (0.90%)   | (4.02%)      | 0.77%        | 0.41%        |
| Blmbg:Aggregate Flt Adj         | (0.86%)      | (0.85%)   | (3.97%)      | 0.82%        | 0.47%        |
| Baird Core Plus Bond Investor   | (0.48%)      | 0.30%     | (3.33%)      | 1.16%        | 0.97%        |
| Blmbg:Universal                 | (0.59%)      | (0.04%)   | (3.43%)      | 0.98%        | 0.79%        |
| MM Premier Infl-Pr and Inc Srvc | (1.27%)      | (1.63%)   | (0.12%)      | 2.18%        | 1.82%        |
| Blmbg:TIPS                      | (1.42%)      | (1.40%)   | (0.12%)      | 2.49%        | 1.99%        |
| PGIM High Yield Fund Z          | 1.53%        | 6.85%     | 3.00%        | 3.38%        | 4.59%        |
| Blmbg:HY Corp 1% Iss Cap        | 1.77%        | 9.13%     | 3.14%        | 3.22%        | 4.43%        |
| Templeton Global Bond Advisor   | (2.91%)      | (0.15%)   | (3.90%)      | (2.53%)      | (0.68%)      |
| FTSE WGBI                       | (1.79%)      | (2.49%)   | (6.49%)      | (2.04%)      | (1.79%)      |
| <b>Capital Preservation</b>     |              |           |              |              |              |
| Galliard Stable Value J         | 0.53%        | 1.83%     | 1.48%        | 1.73%        | 1.56%        |
| 3-month Treasury Bill           | 1.17%        | 3.59%     | 1.27%        | 1.55%        | 1.37%        |
| Vanguard Treasury MM Inv        | 1.22%        | 3.69%     | 1.29%        | 1.49%        | 1.31%        |
| 3-month Treasury Bill           | 1.17%        | 3.59%     | 1.27%        | 1.55%        | 1.37%        |
| <b>Sector Funds</b>             |              |           |              |              |              |
| Cohen & Steers Realty Shares    | 3.13%        | (2.57%)   | 8.04%        | 6.62%        | 5.36%        |
| FTSE NAREIT All Eq Index        | 1.20%        | (4.39%)   | 6.12%        | 4.78%        | 4.14%        |

# Active Manager Monitoring Summary

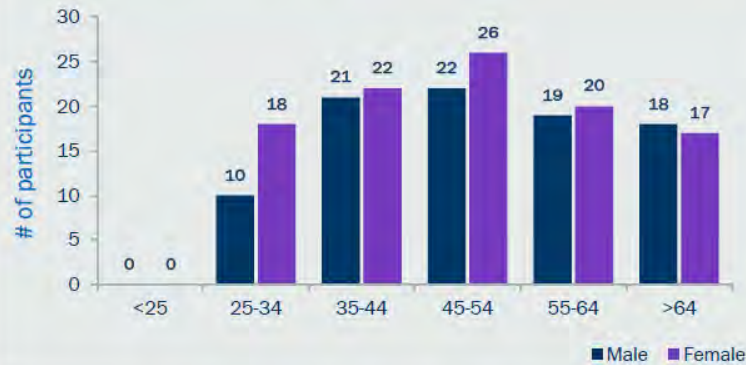
As of June 30, 2023

| Manager                        | Below Benchmark     | Above Benchmark |               | Above Peer Median |               | Qualitative Assessment |      |         |       |         | Overall Eval. |
|--------------------------------|---------------------|-----------------|---------------|-------------------|---------------|------------------------|------|---------|-------|---------|---------------|
|                                | 8 Straight Quarters | 3-Year Period   | 5-Year Period | 3-Year Period     | 5-Year Period | Firm                   | Team | Process | Perf. | Product |               |
| <b>Large U.S. Equity</b>       |                     |                 |               |                   |               |                        |      |         |       |         |               |
| Franklin Growth Fund           | No                  | No              | No            | Yes               | No            |                        |      |         |       |         | Stable        |
| Allspring Growth               | No                  | No              | No            | No                | No            |                        |      |         |       |         | On Watch      |
| Vanguard Dividend Growth       | No                  | No              | No            | No                | Yes           |                        |      |         |       |         | Stable        |
| Hartford Dividend and Growth   | No                  | Yes             | No            | Yes               | Yes           |                        |      |         |       |         | Stable        |
| T. Rowe Price Equity Income    | No                  | Yes             | No            | Yes               | No            |                        |      |         |       |         | Stable        |
| <b>Mid U.S. Equity</b>         |                     |                 |               |                   |               |                        |      |         |       |         |               |
| PGIM Jennison Mid-Cap Growth   | No                  | Yes             | Yes           | Yes               | Yes           |                        |      |         |       |         | Stable        |
| Virtus Ceredex Mid-Cap Value   | No                  | No              | No            | No                | No            |                        |      |         |       |         | Stable        |
| <b>Small U.S. Equity</b>       |                     |                 |               |                   |               |                        |      |         |       |         |               |
| Brown Small Compay Fund        | No                  | No              | No            | No                | No            |                        |      |         |       |         | Stable        |
| DFA U.S. Small Cap             | No                  | Yes             | Yes           | Yes               | No            |                        |      |         |       |         | Stable        |
| Northern Small Cap Value Fund  | No                  | No              | No            | No                | No            |                        |      |         |       |         | Stable        |
| <b>Global Equity</b>           |                     |                 |               |                   |               |                        |      |         |       |         |               |
| AF New Perspective             | No                  | No              | Yes           | Yes               | Yes           |                        |      |         |       |         | Stable        |
| Invesco Developing Markets     | No                  | No              | No            | No                | No            |                        |      |         |       |         | Stable        |
| <b>Fixed Income</b>            |                     |                 |               |                   |               |                        |      |         |       |         |               |
| Baird Core Plus Bond           | No                  | Yes             | Yes           | Yes               | Yes           |                        |      |         |       |         | Stable        |
| MM Premier Infl-Pr and Inc Svc | No                  | Yes             | No            | Yes               | No            |                        |      |         |       |         | Stable        |
| PGIM High Yield Fund           | No                  | No              | Yes           | Yes               | Yes           |                        |      |         |       |         | Stable        |
| Templeton Global Bond          | No                  | Yes             | No            | No                | No            |                        |      |         |       |         | On Watch      |
| <b>Sector Fund</b>             |                     |                 |               |                   |               |                        |      |         |       |         |               |
| Cohen & Steers Realty Shares   | No                  | Yes             | Yes           | Yes               | Yes           |                        |      |         |       |         | Stable        |

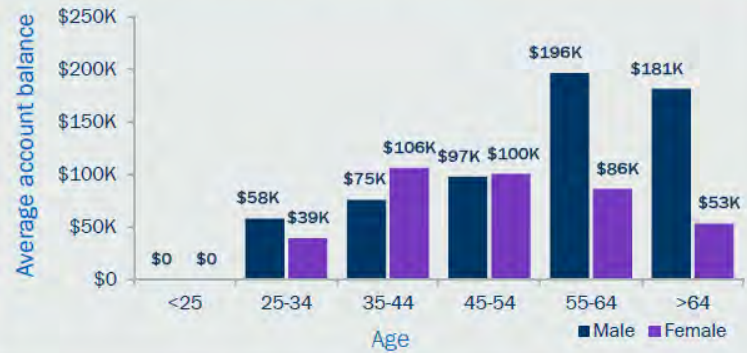
| Assessment   | Status and Actions   |
|--|--|
| <b>Stable</b>       | Firm, Team, Strategy are performing as expected  |
| <b>In Review</b>    | Callan is proposing that the fund be added to the watchlist  |
| <b>Cautionary</b>   | Staff is reviewing strategy with consultant and scheduling an update meeting with manager                                  |
| <b>Terminating</b>  | Following staff review and consultant recommendation, manager will be terminated following a successful replacement search |

# Employee summary: Gender and age<sup>1</sup>

Demographics by age and gender



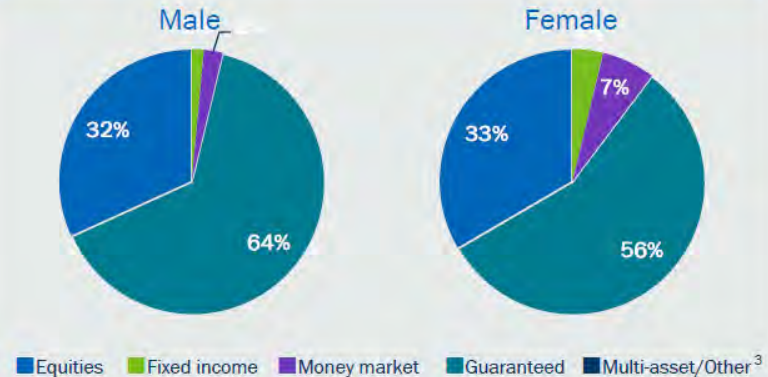
Average account balance by age and gender



Employee contribution amounts by gender



Diversification by gender



This report is as of the period ending 06/30/2023 and reflects the trailing 12 months of activity unless otherwise noted. The report includes all TIAA plans except 457(f), 457(b) Private, Nonqualified Deferred Compensation, and Retirement Healthcare plans. 1. Data reflected is for all participant statuses except Employee Contribution Amounts by Gender which includes only active or leave status. Does not include 268 participants with no age or gender on file. 2. Multi-Asset/Other includes Lifecycle, Real Estate, and Brokerage. 3. Contribution data reflects the trailing 12 months of data.

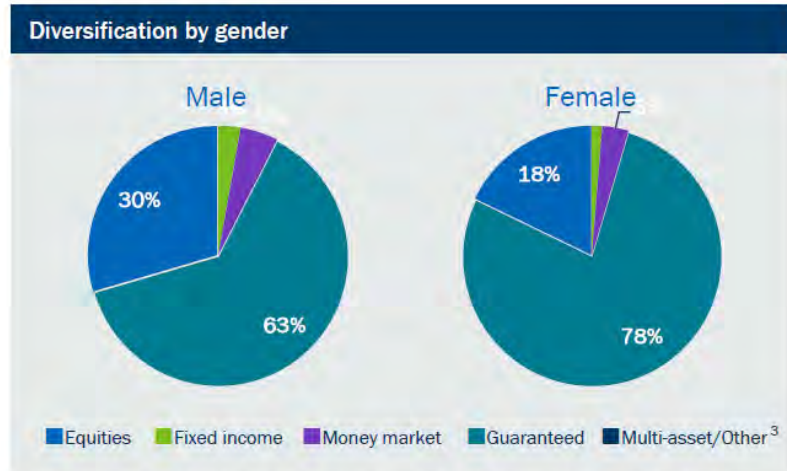
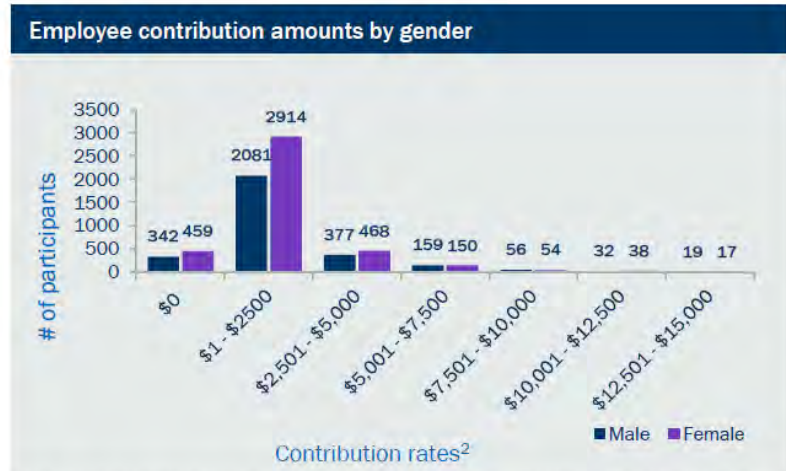
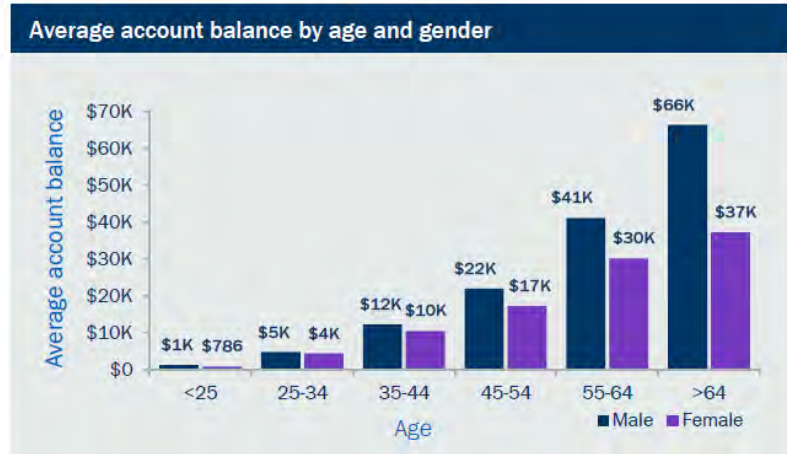
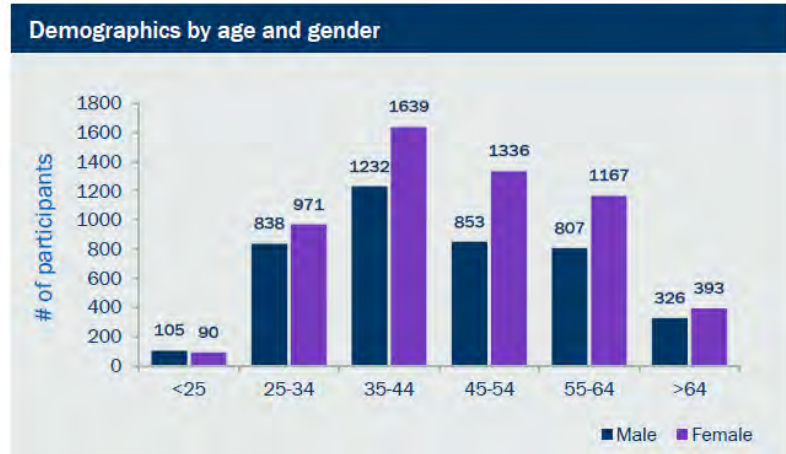


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NORTH DAKOTA PUBLIC EMPLOYEES | 08/10/2023



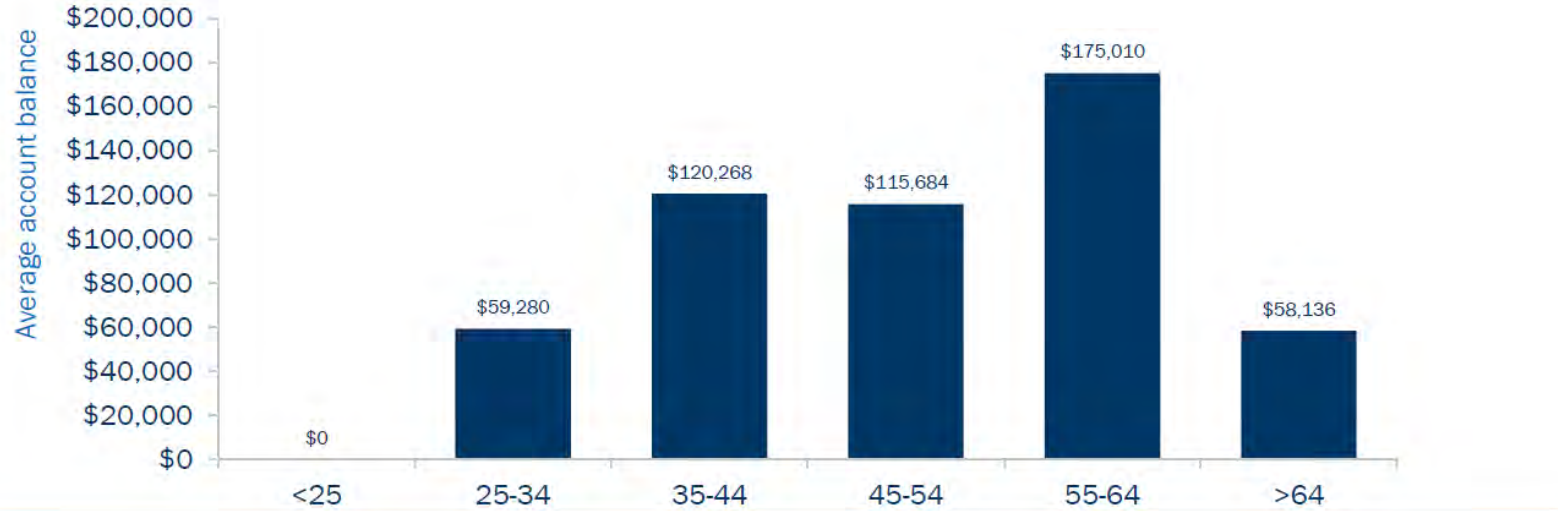
# Employee summary: Gender and age<sup>1</sup>



This report is as of the period ending 06/30/2023 and reflects the trailing 12 months of activity unless otherwise noted. The report includes all TIAA plans except 457(f), 457(b) Private, Nonqualified Deferred Compensation, and Retirement Healthcare plans. 1. Data reflected is for all participant statuses except Employee Contribution Amounts by Gender which includes only active or leave status. Does not include 268 participants with no age or gender on file. 2. Multi-Asset/Other includes Lifecycle, Real Estate, and Brokerage. 3. Contribution data reflects the trailing 12 months of data.



## Active participants: Average account balance by age

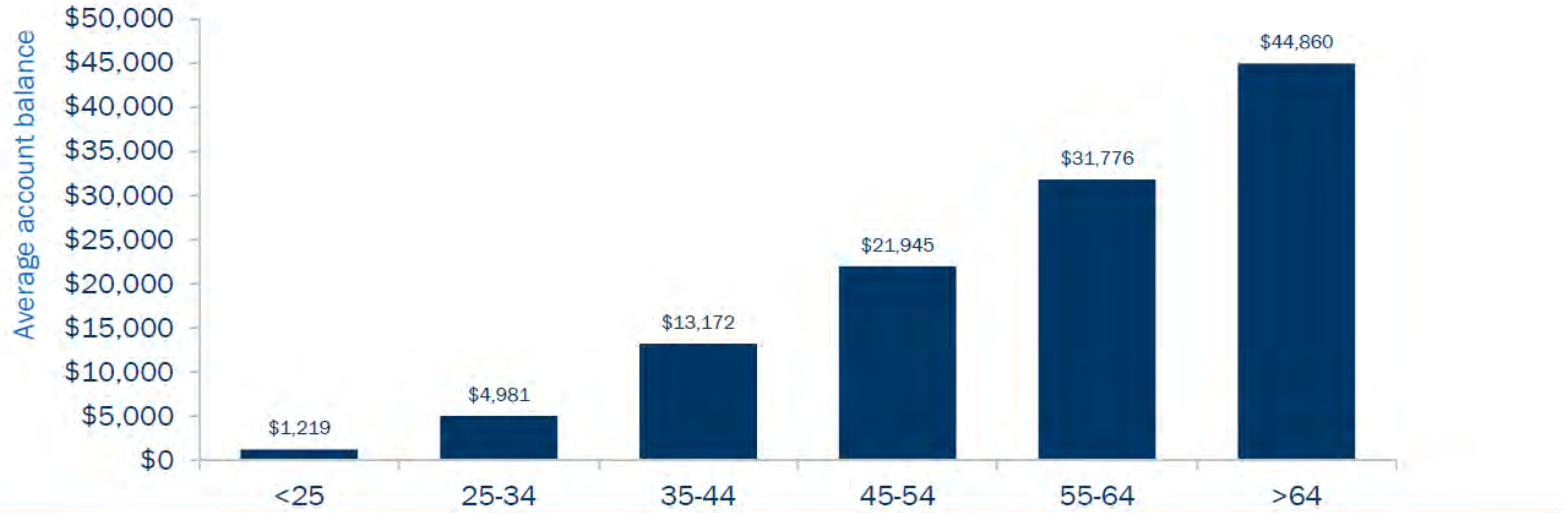


|                                | <25 | 25-34       | 35-44       | 45-54       | 55-64       | >64       | Total        |
|--------------------------------|-----|-------------|-------------|-------------|-------------|-----------|--------------|
| # of active participants       | 0   | 17          | 27          | 25          | 19          | 2         | 90           |
| % of total active participants | 0%  | 19%         | 30%         | 28%         | 21%         | 2%        | 100%         |
| Total active assets            | \$0 | \$1,007,753 | \$3,247,246 | \$2,892,099 | \$3,325,197 | \$116,272 | \$10,588,568 |
| % of total active assets       | 0%  | 10%         | 31%         | 27%         | 31%         | 1%        | 100%         |

This report is as of the period ending 06/30/2023 and reflects the trailing 12 months of activity unless otherwise noted. The report includes all TIAA plans except 457(f), 457(b) Private, Nonqualified Deferred Compensation, and Retirement Healthcare plans.



## Active participants: Average account balance by age



|                                | <25       | 25-34       | 35-44        | 45-54        | 55-64        | >64         | Total         |
|--------------------------------|-----------|-------------|--------------|--------------|--------------|-------------|---------------|
| # of active participants       | 153       | 1291        | 2071         | 1616         | 1367         | 186         | 6,684         |
| % of total active participants | 2%        | 19%         | 31%          | 24%          | 20%          | 3%          | 100%          |
| Total active assets            | \$186,433 | \$6,430,506 | \$27,280,129 | \$35,463,756 | \$43,437,498 | \$8,343,912 | \$121,142,235 |
| % of total active assets       | 0%        | 5%          | 23%          | 29%          | 36%          | 7%          | 100%          |

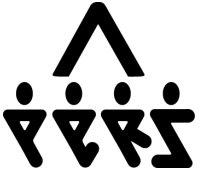
This report is as of the period ending 06/30/2023 and reflects the trailing 12 months of activity unless otherwise noted. The report includes all TIAA plans except 457(f), 457(b) Private, Nonqualified Deferred Compensation, and Retirement Healthcare plans.



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NORTH DAKOTA PUBLIC EMPLOYEES | 08/10/2023





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

**Scott A. Miller**  
Executive Director  
(701) 328-3900  
1-800-803-7377

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Fax (701) 328-3920    Email [ndpers-info@nd.gov](mailto:ndpers-info@nd.gov)    Website [www.ndpers.nd.gov](http://www.ndpers.nd.gov)

# Memorandum

**TO:**                   NDPERS Board

**FROM:**               Katheryne Korom

**DATE:**               September 12, 2023

**SUBJECT:**           Investment Options Summary Book

The updated Investment Options Summary for the NDPERS 457 Deferred Compensation Plan is now available. The booklet contains information on all the providers and investment options available in the plan. Inside you will find a description of the investment options available and the website link for the contact information for all the providers. For each active provider, all the investments are listed along with their investment objective, associated expenses, and historical performance.

The investment options summary is available on the NDPERS website:  
<https://www.ndpers.nd.gov/sites/www/files/documents/about/investments/investment-options.pdf>

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

Attachment

2023 - 2024



# Investment Options

***A SUMMARY FOR THE  
NORTH DAKOTA  
PUBLIC EMPLOYEES  
RETIREMENT SYSTEM***

***DEFERRED  
COMPENSATION PLAN***





# TABLE OF CONTENTS

Introduction ..... 2

## **SECTION I**

Summary of Investment Options  
NDPERS 457 Deferred Compensation Companion Plan..... 5

## **SECTION II**

Summary of Investment Options  
Bank of North Dakota..... 12  
Bravera Wealth ..... 13  
Nationwide Life Insurance..... 16

## **SECTION III**

Provider Representatives .....20

# SUMMARY OF INVESTMENT OPTIONS

## NORTH DAKOTA EMPLOYEE'S RETIREMENT SYSTEM

### Introduction

The information in this summary is organized into three sections. Section I details the investment options that are available through the NDPERS Deferred Compensation Companion Plan. Section II lists the other investment options currently available through the NDPERS Section 457 Deferred Compensation Plan. This information has been organized in alphabetical order by provider company. The investment objective, annual expenses, and historical performance information is provided for each investment option. Due to the inception date of some investment funds, historical performance information is not available and is indicated with "N/A" (not available). Instances in which information was not provided by the provider companies are indicated by "N/P" (not provided). Section III lists the representatives you can contact at each provider company for more information as of the date this summary was published. Updates to the list of registered provider representatives are published on the NDPERS website at the end of each quarter.

The annual expense column includes fund expense ratios and any applicable fees to pay for service, distribution, and marketing costs (12b-1 fees), operating expenses, asset management fees, separate account charges, or mortality and expense charges imposed by the provider. It does not, however, include any withdrawal, surrender or deferred sales charges or miscellaneous administrative fees. Whenever possible, withdrawal, surrender or deferred sales charges, etc. have been noted at the bottom of the page. Please refer to your prospectus or contact your provider company for more complete information. The column entitled "Other Fees" indicates whether additional information is footnoted below the table about fees and/or withdrawal provisions (Y=yes, N=no).

Performance results provided herein reflect all fund expense ratios and any applicable 12b-1 fees, operating expenses, asset management fees,

separate account charges, or mortality and expense charges imposed by the provider company. They do not, however, reflect any withdrawal, surrender or deferred sales charges or account maintenance fees footnoted below each table in the sections entitled "Other Fees" and "Withdrawal Provisions".

Although all applicable fees for each provider company should be provided in this **Summary of Investment Options**, you should discuss fees in detail with a provider company representative.

The following abbreviations are used in the "Type of Investment" column on the following pages:

- FA** – Fixed Annuity
- MF** – Mutual Fund
- VA** – Variable Annuity
- CF** – Commingled Fund

# ANNUITIES VERSUS MUTUAL FUNDS

## Annuities

Deferred annuities are essentially tax-sheltered accounts offered by life insurance companies. They come in two basic forms, fixed or variable, and offer different benefits each suited to achieving very different retirement objectives. Fixed annuities pay a fixed nominal interest rate per period and guarantee a minimum rate of return. Variable annuities can range from conservative to aggressive investments and pay a rate linked to the investment performance of some underlying portfolio; therefore, the returns of variable annuity contracts are not guaranteed by the offeror. Many variable annuities are invested in mutual funds as the underlying investment. The annuity fund structure typically offers a guaranteed death benefit which provides safety of principal for beneficiaries. This structure results in an additional layer of fees above those that are paid for the underlying investment vehicle. Typically,

the annual expenses associated with annuity solutions reflect a mortality and expense risk charge (insurance component, investment management expenses, administrative and recordkeeping charges, and declining surrender charges). Sales loads and marketing and distribution charges may apply but are often waived for institutional clients.

## Mutual Funds

Mutual funds are registered with the Securities and Exchange Commission (SEC) and their prices and performance are usually reported daily in the newspapers. Commingled funds are pooled investment vehicles that are similar to mutual funds but are not registered with the SEC and may or may not be reported in the newspapers.

Mutual funds can range from conservative to aggressive, and their values will fluctuate according to the



volatility of the securities in which the funds are invested. Mutual funds do not offer a guaranteed death benefit; therefore, their fees do not include an insurance component. Typically, the annual expenses associated with mutual funds reflect the investment management expenses and administrative and recordkeeping fees charged by the provider company. Again, sales loads and marketing and distribution charges may apply but are typically waived in the case of institutional accounts.

The investment funds that are available through the NDPERS Companion Plan consist of a series of mutual funds and a

Commingled fund. In the case of the Companion Plan, the annual fees charged by mutual fund organizations to pay for service, distribution, and marketing costs (12b-1 fees) are currently rebated back to participants by TIAA CREF. In addition, any front and deferred sales loads are currently waived by TIAA CREF.

The information included in this summary is strictly quantitative in nature and is intended to provide an evaluation of the returns and expenses associated with the investment options available through NDPERS' deferred compensation program.

This summary does not present factors that are more subjective in nature such as: 1) the quality, availability, and responsiveness of client service; 2) verification of the investment style underlying the investment options; 3) the longevity and stability of the investment professionals managing the investment options; and 4) internet access and voice response systems. These factors should also be taken into consideration when selecting provider companies and investment options. Please contact your provider companies to obtain this information.



Please keep in mind when reviewing the historical performance information that past performance does not guarantee future performance. This **Summary of Investment Options** is not a prospectus. It is only intended to provide basic information about the available investment options. Please contact the individual provider companies for a prospectus containing more detailed information.

The material presented in this Summary of Investment Options has been compiled from information supplied by the provider companies to the NDPERS to the NDPERS Section 457 Deferred Compensation Plan. To the best of our knowledge, this information is accurate and complete although we have not independently verified its accuracy or completeness.

ND Public Employees Retirement System, P.O. Box 1657, Bismarck, ND 58502-1657 Phone:  
701-328-3900 • FAX: 701-328-3920 • Toll-free outside the Bismarck calling area: 1-800-803-7377  
PERS Website: [www.nd.gov/ndpers](http://www.nd.gov/ndpers) • PERS e-mail address: [NDPERS@nd.gov](mailto:NDPERS@nd.gov)



# **SECTION I**

SUMMARY OF INVESTMENT OPTIONS

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM

## **SECTION 457 DEFERRED COMPENSATION COMPANION PLAN**

(INFORMATION CURRENT AS OF JUNE 30, 2023)

# NDPERS DEFERRED COMPENSATION COMPANION PLAN INVESTMENT OPTIONS

For more information, call TIAA-CREF at (800)842-2252



| Fund/Ticker Symbol                        | Investment Type             | Asset Class / Product Type | GROSS / NET EXPENSE RATIO | 6 Mos. 6/30/2023 | Net Historical Performance as of 12/31/2022 |        |       |        |
|---|-----------------------------|----------------------------|---------------------------|------------------|---|--------|-------|--------|
|   |                             |                            |                           |                  | 1 YR  | 3 YR   | 5 YR  | 10 YR  |
| Allspring Growth Admin (SGRKX)            | Large Growth                | Equity / Mutual Fund       | 1.09% / 0.96%             | 25.64%           | -37.48%                                     | 0.41%  | 6.85% | 10.49% |
| American Funds New Perspective R4 (RNPEX) | Global Large-Stock Growth   | Equity / Mutual Fund       | 0.76% / 0.76%             | 17.06%           | -26.06%                                     | 5.27%  | 7.32% | 10.05% |
| Baird Core Plus Bond Investor (BCOSX)     | Intermediate Core-Plus Bond | Fixed Income / Mutual Fund | 0.55% / 0.55%             | 2.44%            | -12.95%                                     | -2.34% | 0.29% | 1.47%  |
| Brown Capital Mgmt Small Co Inv (BCSIX)   | Small Growth                | Equity / Mutual Fund       | 1.25% / 1.25%             | 16.71%           | -38.34%                                     | -4.61% | 2.07% | 10.02% |
| Cohen & Steers Realty Shares (CSRSX)      | Real Estate                 | Equity / Mutual Fund       | 0.93% / 0.88%             | 5.57%            | -24.80%                                     | 1.56%  | 5.76% | 7.87%  |
| Columbia Mid Cap Index A (NTIAX)          | Mid-Cap Blend               | Equity / Mutual Fund       | 0.58% / 0.45%             | 8.59%            | -13.39%                                     | 6.76%  | 6.19% | 10.44% |
| DFA US Small Cap I (DFSTX)                | Small Blend                 | Equity / Mutual Fund       | 0.27% / 0.27%             | 7.58%            | -13.42%                                     | 7.96%  | 5.84% | 10.37% |
| Franklin Growth Adv (FCGAX)               | Large Growth                | Equity / Mutual Fund       | 0.55% / 0.55%             | 18.43%           | -25.11%                                     | 6.37%  | 9.04% | 12.68% |

# NDPERS DEFERRED COMPENSATION COMPANION PLAN INVESTMENT OPTIONS

For more information, call TIAA-CREF at (800)842-2252



| Fund/Ticker Symbol  | Investment Type           | Asset Class / Product Type | GROSS / NET EXPENSE RATIO | 6 Mos. 6/30/2023 | Net Historical Performance as of 12/31/2022 |        |        |        |
|---|---------------------------|----------------------------|---------------------------|------------------|---|--------|--------|--------|
|   |                           |                            |                           |                  | 1 YR  | 3 YR   | 5 YR   | 10 YR  |
| Invesco Oppenheimer Developing Markets Fund Class Y (ODVYX) | Diversified Emerging Mkts | Equity / Mutual Fund       | 0.99% / 0.99%             | 11.07%           | -24.82%                                     | -6.58% | -2.19% | 1.57%  |
| MassMutual Premier Inf-Prot and Inc Svc (MIPYX)             | Inflation-Protected Bond  | Fixed Income / Mutual Fund | 0.67% / 0.67%             | 2.42%            | -13.57%                                     | 0.71%  | 1.69%  | 0.87%  |
| Northern Small Cap Value (NOSGX)                            | Small Value               | Equity / Mutual Fund       | 1.15% / 1.00%             | 4.10%            | -10.27%                                     | 3.46%  | 3.15%  | 8.49%  |
| PGIM High Yield Fund Class Z (PHYZX)                        | High Yield Bond           | Fixed Income / Mutual Fund | 0.51% / 0.51%             | 4.58%            | -11.62%                                     | -0.26% | 2.60%  | 4.26%  |
| PGIM Jennison Mid-Cap Growth Fund Class Z (PEGZX)           | Mid-Cap Growth            | Equity / Mutual Fund       | 0.71% / 0.71%             | 15.45%           | -24.07%                                     | 6.76%  | 8.92%  | 10.55% |
| T. Rowe Price Capital Appreciation Adv (PACLX)              | Moderate Allocation       | Allocation / Mutual Fund   | 1.00% / 0.98%             | 11.16%           | -12.32%                                     | 6.99%  | 8.80%  | 10.60% |
| T. Rowe Price Equity Income (PRFDX)                         | Large Value               | Equity / Mutual Fund       | 0.67% / 0.67%             | 2.55%            | -3.33%                                      | 7.32%  | 7.17%  | 9.98%  |
| Templeton Global Bond Adv (TGBAX)                           | Global Bond               | Fixed Income / Mutual Fund | 0.75% / 0.72%             | -1.10%           | -6.06%                                      | -4.82% | -2.56% | -0.34% |
| The Harford Dividend and Groth Fund Class R5 (HDGTX)        | Large Value               | Equity / Mutual Fund       | 0.73% / 0.73%             | 6.35%            | -8.75%                                      | 9.03%  | 9.43%  | 12.14% |

# NDPERS DEFERRED COMPENSATION COMPANION PLAN INVESTMENT OPTIONS

For more information, call TIAA-CREF at (800)842-2252



| Fund/Ticker Symbol  | Investment Type                    | Asset Class / Product Type | GROSS / NET EXPENSE RATIO | 6 Mos. 6/30/2023 | Net Historical Performance as of 12/31/2022 |       |       |       |
|---|------------------------------------|----------------------------|---------------------------|------------------|---|-------|-------|-------|
|   |                                    |                            |                           |                  | 1 YR  | 3 YR  | 5 YR  | 10 YR |
| TIAA-CREF Lifecycle Retirement Income Fund (Retirement) (TLIRX) | Moderately Conservative Allocation | Allocation / Mutual Fund   | 0.79% / 0.62%             | 5.72%            | -12.75%                                     | 1.12% | 2.67% | 4.48% |
| TIAA-CREF Lifecycle 2010 Fund (Retirement) (TCLEX)              | Target-Date 2000-2010              | Allocation / Mutual Fund   | 0.77% / 0.62%             | 5.81%            | -12.68%                                     | 1.12% | 2.68% | 4.81% |
| TIAA-CREF Lifecycle 2015 Fund (Retirement) (TCLIX)              | Target-Date 2015                   | Allocation / Mutual Fund   | 0.78% / 0.63%             | 6.06%            | -13.16%                                     | 1.40% | 2.90% | 5.26% |
| TIAA-CREF Lifecycle 2020 Fund (Retirement) (TCLTX)              | Target-Date 2020                   | Allocation / Mutual Fund   | 0.79% / 0.64%             | 6.64%            | -13.80%                                     | 1.56% | 3.07% | 5.79% |
| TIAA-CREF Lifecycle 2025 Fund (Retirement) (TCLFX)              | Target-Date 2025                   | Allocation / Mutual Fund   | 0.8% / 0.66%              | 7.48%            | -14.57%                                     | 1.98% | 3.42% | 6.43% |
| TIAA-CREF Lifecycle 2030 Fund (Retirement) (TCLNX)              | Target-Date 2030                   | Allocation / Mutual Fund   | 0.82% / 0.67%             | 8.56%            | -15.47%                                     | 2.40% | 3.76% | 7.04% |
| TIAA-CREF Lifecycle 2035 Fund (Retirement) (TCLRX)              | Target-Date 2035                   | Allocation / Mutual Fund   | 0.85% / 0.68%             | 9.79%            | -16.26%                                     | 2.82% | 4.10% | 7.63% |
| TIAA-CREF Lifecycle 2040 Fund (Retirement) (TCLOX)              | Target-Date 2040                   | Allocation / Mutual Fund   | 0.88% / 0.69%             | 11.22%           | -16.91%                                     | 3.32% | 4.45% | 8.11% |



# NDPERS DEFERRED COMPENSATION COMPANION PLAN INVESTMENT OPTIONS

For more information, call TIAA-CREF at (800)842-2252



| Fund/Ticker Symbol                                 | Investment Type   | Asset Class / Product Type | GROSS / NET EXPENSE RATIO | 6 Mos. 6/30/2023 | Net Historical Performance as of 12/31/2022 |       |       |       |
|--|-------------------|----------------------------|---------------------------|------------------|---|-------|-------|-------|
|  |                   |                            |                           |                  | 1 YR  | 3 YR  | 5 YR  | 10 YR |
| TIAA-CREF Lifecycle 2045 Fund (Retirement) (TIFRX) | Target-Date 2045  | Allocation / Mutual Fund   | 0.89% / 0.70%             | 12.04%           | -17.60%                                     | 3.82% | 4.80% | 8.39% |
| TIAA-CREF Lifecycle 2050 Fund (Retirement) (TLFRX) | Target-Date 2050  | Allocation / Mutual Fund   | 0.9% / 0.70%              | 12.41%           | -17.89%                                     | 3.88% | 4.84% | 8.45% |
| TIAA-CREF Lifecycle 2055 Fund (Retirement) (TIFRX) | Target-Date 2055  | Allocation / Mutual Fund   | 0.91% / 0.70%             | 12.63%           | -18.05%                                     | 3.92% | 4.87% | 8.50% |
| TIAA-CREF Lifecycle 2060 Fund (Retirement) (TLFRX) | Target-Date 2060  | Allocation / Mutual Fund   | 0.94% / 0.70%             | 12.71%           | -18.10%                                     | 4.02% | 4.93% | n/a   |
| TIAA-CREF Lifecycle 2065 Retirement (TSFRX)        | Target-Date 2065+ | Allocation / Mutual Fund   | 2.31% / 0.70%             | 12.87%           | -18.04%                                     | n/a   | n/a   | n/a   |

# NDPERS DEFERRED COMPENSATION COMPANION PLAN INVESTMENT OPTIONS

For more information, call TIAA-CREF at (800)842-2252



| Fund/Ticker Symbol                              | Investment Type        | Asset Class / Product Type | GROSS / NET EXPENSE RATIO | 6 Mos. 6/30/2023 | Net Historical Performance as of 12/31/2022 |        |        |        |
|---|------------------------|----------------------------|---------------------------|------------------|---|--------|--------|--------|
|   |                        |                            |                           |                  | 1 YR  | 3 YR   | 5 YR   | 10 YR  |
| Vanguard Dividend Growth Inv (VDIGX)            | Large Blend            | Equity / Mutual Fund       | 0.30% / 0.30%             | 3.61%            | -4.74%                                      | 10.05% | 11.79% | 13.09% |
| Vanguard Institutional Index I (VINIX)          | Large Blend            | Equity / Mutual Fund       | 0.035% / 0.035%           | 16.87%           | -18.35%                                     | 7.74%  | 9.40%  | 12.72% |
| Vanguard Total Bond Market Index Adm (VBTLX)    | Intermediate Core Bond | Fixed Income / Mutual Fund | 0.05% / 0.05%             | 2.23%            | -13.08%                                     | -2.80% | -0.01% | 0.99%  |
| Vanguard Total Intl Stock Index Admiral (VTIAX) | Foreign Large Blend    | Equity / Mutual Fund       | 0.11% / 0.11%             | 9.44%            | -15.91%                                     | 0.57%  | 1.09%  | 4.16%  |
| Vanguard Treasury Money Mkt Inv (VUSXX)         | Money Market - Taxable | Money Market / Mutual Fund | 0.09% / 0.09%             | 2.33%            | 1.50%                                       | 0.66%  | 1.18%  | 0.70%  |
| Virtus Ceredex Mid-Cap Value Equity I (SMVTX)   | Mid-Cap Value          | Equity / Mutual Fund       | 1.01% / 1.01%             | 3.62%            | -13.79%                                     | 3.27%  | 6.12%  | 9.67%  |
| Galliard Stable Return - J (WFSJ#)              | Stable Value           | Other Investment / -       | 0.866% / 0.866%           | 1.01%            | 2.28%                                       | 2.21%  | 2.29%  | 2.02%  |

Additional investment options are available through the self-directed brokerage (Mutual Fund Window).



# **SECTION II**

## **SUMMARY OF INVESTMENT OPTIONS**

### **NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM**

#### **SECTION 457 DEFERRED COMPENSATION PLAN**

(INFORMATION CURRENT AS OF JUNE 30, 2023)

*The NDPERS Board provides this Summary as a service to the deferred compensation participants to help them make an informed decision regarding their investments. The NDPERS Board has not examined the investment options described in Section II of this Summary, and makes neither recommendation nor warranty regarding those options. The investment options offered are those the individual provider companies have determined they will offer to the participants using the provider's services.*

*Unless otherwise noted, performance results provided herein reflect all fund expense ratios and any applicable 12b-1 fees, operating expenses, asset management fees, separate account charges, or mortality and expense charges imposed by the provider company. They do not, however, reflect any withdrawal, surrender, or deferred sales charges or account maintenance fees footnoted below each table in the sections entitled "Other Fees" and "Withdrawal Provisions."*

# BANK OF NORTH DAKOTA INVESTMENT OPTIONS

For more information, call Bank of North Dakota at (701) 328-5617 or (701) 328-5652 or refer to List of Representatives in Section III



| Fund/Ticker Symbol                             | Type of Investment | Objective              | Annual Expense | Other Fees (Y/N) | Return                     | Net Historical Performance |         |         |          |
|--|--------------------|------------------------|----------------|------------------|----------------------------|----------------------------|---------|---------|----------|
|  |                    |                        |                |                  | 6 Mos. Ended June 30, 2023 | As of December 31, 2022    |         |         |          |
|  |                    |                        |                |                  |                            | 1 Year                     | 3 Years | 5 Years | 10 Years |
| Open Savings Statement (Variable Rate Account) | Savings            | Stability of Principal | None           | N                | 1.55%*                     | N/P                        | N/P     | N/P     | N/P      |

**Other Fees:** None

**Withdrawal Provisions:** No fee unless account is moved prior to eighteen months. Applicable fee is six months of interest.

*\*Rate presented is an annual interest rate that changes January 1. Call Bank of North Dakota to obtain the current new money rate.*

N/P – Not provided

# BRAVERA WEALTH INVESTMENT OPTIONS

For more information, call Bravera Wealth at (701) 456-3386 or Refer to of Representatives in Section III



| FUND / TICKER SYMBOL                             | TYPE OF INVESTMENT |   | ANNUAL EXPENSE (NET) | OTHER FEES (Y/N) | RETURN 6 MOS. ENDED<br>JUNE 30 <sup>TH</sup> , 2023 | HISTORICAL PERFORMANCE AS OF DECEMBER 31 <sup>ST</sup> , 2022 |         |         |          |
|--|--------------------|---|----------------------|------------------|---|---|---------|---------|----------|
|  |                    |   |                      |                  |   | 1 YEAR  | 3 YEARS | 5 YEARS | 10 YEARS |
| Federated Hermes Government Obligations / GOFXX  | Mutual Fund        | Stable Value  | 0.29%                | Y*               | 2.31  | 1.56  | 0.66    | 1.16    | -        |
| JHancock Stable Value Fund I6 / 47810T701        | Mutual Fund        | Stable Value  | 0.42%                | Y*               | 1.11  | 1.78  | 2.00    | 2.05    | 1.98     |
| BlackRock Inflation Protected Bond K / BPLBX     | Mutual Fund        | Treasury Inflation Protected Securities (TIPS) / Fixed Income | 0.55%                | Y*               | 1.80  | -11.81  | 1.43    | 2.10    | 1.01     |
| Vanguard GNMA Admiral / VFIJX                    | Mutual Fund        | Bond / Fixed Income   | 0.11%                | Y*               | 1.87  | -10.73  | -2.83   | -0.38   | 0.78     |
| Western Asset Core Bond IS / WACSX               | Mutual Fund        | Bond / Fixed Income   | 0.42%                | Y*               | 2.37  | -16.86  | -3.77   | -0.44   | 1.37     |
| Principal High Yield R-6 / PHYFX                 | Mutual Fund        | Bond / High Yield   | 0.52%                | Y*               | 5.22  | -8.26   | 1.09    | 2.40    | 3.98     |
| Vanguard Index 500 Admiral / VFIAX               | Mutual Fund        | Large Cap Blend / Equity                                      | 0.04%                | Y*               | 16.87   | -18.15  | 7.62    | 9.39    | 12.52    |
| American Funds American Mutual R6 / RMFGX        | Mutual Fund        | Large Cap Value / Equity                                      | 0.27%                | Y*               | 3.64  | -4.19   | 8.07    | 8.64    | 11.19    |
| JP Morgan Equity Income R6 / OIEJX               | Mutual Fund        | Large Cap Value / Equity                                      | 0.45%                | Y*               | -0.08   | -1.64   | 8.62    | 9.21    | 12.01    |
| PRIMECAP Odyssey Growth / POGRX                  | Mutual Fund        | Large Cap Growth / Equity                                     | 0.66%                | Y*               | 12.32   | -14.35  | 5.84    | 7.01    | 12.97    |
| MFS Growth R6 / MFEKX                            | Mutual Fund        | Large Cap Growth / Equity                                     | 0.55%                | Y*               | 24.23   | -31.08  | 3.96    | 9.72    | 13.08    |
| Vanguard Mid Cap Index Admiral / VIMAX           | Mutual Fund        | Mid Cap Blend / Equity  | 0.05%                | Y*               | 8.81  | -18.71  | 6.17    | 7.32    | 11.10    |
| Baird Mid Cap Inst / BMDIX                       | Mutual Fund        | Mid Cap Growth / Equity                                       | 0.82%                | Y*               | 16.56   | -27.64  | 6.12    | 9.89    | 11.16    |
| Vanguard Small Cap Value Index Admiral / VSIAX   | Mutual Fund        | Small Cap Value / Equity                                      | 0.07%                | Y*               | 5.31  | -9.31   | 7.13    | 5.79    | 10.28    |
| JP Morgan Small Cap Equity R6 / VSENX            | Mutual Fund        | Small Cap Growth / Equity                                     | 0.75%                | Y*               | 5.91  | -15.88  | 5.14    | 6.42    | 10.67    |
| Vanguard Developed Markets Index Admiral / VTMGX | Mutual Fund        | International / Equity  | 0.07%                | Y*               | 11.11   | -15.32  | 1.33    | 1.67    | 4.92     |
| MFS International Diversification R6 / MDIZX     | Mutual Fund        | International / Equity  | 0.73%                | Y*               | 10.47   | -17.02  | 1.06    | 3.00    | 5.73     |
| T. Rowe Price Science & Technology / TSNIX       | Mutual Fund        | Sector / Equity   | 0.69%                | Y*               | 40.44   | -35.09  | 0.01    | 6.33    | 14.06    |
| Vanguard Health Care Admiral / VGHAX             | Mutual Fund        | Sector / Equity   | 0.29%                | Y*               | 3.66  | -1.01   | 8.45    | 9.69    | 13.64    |
| Vanguard REIT Index Admiral / VGSLX              | Mutual Fund        | Sector / Equity   | 0.12%                | Y*               | 3.47  | -26.20  | -0.41   | 3.68    | 6.42     |



# BRAVERA WEALTH INVESTMENT OPTIONS

For more information, call Bravera Wealth at (701) 456-3386 or Refer to of Representatives in Section III



| FUND / TICKER SYMBOL                          | TYPE OF INVESTMENT |                     | ANNUAL EXPENSE (NET) | OTHER FEES (Y/N) | RETURN 6 MOS. ENDED<br>JUNE 30 <sup>TH</sup> , 2023 | HISTORICAL PERFORMANCE AS OF DECEMBER 31 <sup>ST</sup> , 2022 |         |         |          |
|---|--------------------|---------------------|----------------------|------------------|---|---|---------|---------|----------|
|   |                    |                     |                      |                  |   | 1 YEAR  | 3 YEARS | 5 YEARS | 10 YEARS |
| Principal Diversified Real Asset R6 / PDARX   | Mutual Fund        | Real Asset / Equity | 0.78%                | Y*               | 0.57  | -6.11   | 4.65    | 3.98    | 2.99     |
| Vanguard Conservative / VSCGX                 | Mutual Fund        | LifeStrategy        | 0.12%                | Y*               | 6.93  | -14.99  | 0.18    | 2.45    | 4.44     |
| Vanguard Moderate / VSMGX                     | Mutual Fund        | LifeStrategy        | 0.13%                | Y*               | 9.06  | -16.00  | 1.65    | 3.58    | 6.05     |
| Fidelity Advisor® Balanced Z / FZAAX          | Mutual Fund        | LifeStrategy        | 0.45%                | Y*               | 13.98   | -18.15  | 5.88    | 7.19    | 8.95     |
| Vanguard Growth / VASGX                       | Mutual Fund        | LifeStrategy        | 0.14%                | Y*               | 11.21   | -17.09  | 3.06    | 4.64    | 7.60     |
| Vanguard Target Retirement Income Inv / VTINX | Mutual Fund        | Target Date         | 0.08%                | Y*               | 5.65  | -12.74  | 0.34    | 2.30    | 3.62     |
| Vanguard Target Retirement 2020 Inv / VTWNX   | Mutual Fund        | Target Date         | 0.08%                | Y*               | 7.02  | -14.15  | 1.33    | 3.22    | 5.83     |
| Vanguard Target Retirement 2025 Inv / VTTVX   | Mutual Fund        | Target Date         | 0.08%                | Y*               | 8.45  | -15.55  | 1.66    | 3.58    | 6.43     |
| Vanguard Target Retirement 2030 Inv / VTHRX   | Mutual Fund        | Target Date         | 0.08%                | Y*               | 9.44  | -16.27  | 2.09    | 3.94    | 6.99     |
| Vanguard Target Retirement 2035 Inv / VTTHX   | Mutual Fund        | Target Date         | 0.08%                | Y*               | 10.28   | -16.62  | 2.64    | 4.34    | 7.57     |
| Vanguard Target Retirement 2040 Inv / VFORX   | Mutual Fund        | Target Date         | 0.08%                | Y*               | 11.06   | -16.98  | 3.17    | 4.74    | 8.06     |
| Vanguard Target Retirement 2045 Inv / VTIVX   | Mutual Fund        | Target Date         | 0.08%                | Y*               | 11.92   | -17.36  | 3.74    | 5.14    | 8.34     |
| Vanguard Target Retirement 2050 Inv / VFIFX   | Mutual Fund        | Target Date         | 0.08%                | Y*               | 12.35   | -17.46  | 3.80    | 5.18    | 8.36     |
| Vanguard Target Retirement 2055 Inv / VFFVX   | Mutual Fund        | Target Date         | 0.08%                | Y*               | 12.35   | -17.46  | 3.79    | 5.18    | 8.34     |
| Vanguard Target Retirement 2060 Inv / VTTSX   | Mutual Fund        | Target Date         | 0.08%                | Y*               | 12.39   | -17.46  | 3.79    | 5.18    | 8.34     |
| Vanguard Target Retirement 2065 Inv / VLXVX   | Mutual Fund        | Target Date         | 0.08%                | Y*               | 12.34   | -17.39  | 3.78    | 5.15    | -        |
| Vanguard Target Retirement 2070 Inv / VSVNX   | Mutual Fund        | Target Date         | 0.08%                | Y*               | 12.39   | -   | -       | -       | -        |

**Other Fees:**

\*Bravera Wealth Fee: 0.60%  
\*Investment/Advisor: 0.50%

**Withdrawal Provisions:**

\*None

Termination/Distribution/In-Service Processing Fee: Paper - \$85; Online - \$50

Transaction fees apply for the following (fee quoted to participant at time of request): Certified mail, express delivery, cashier's check, wire transfers, and returned/lost/stop payment and reissued checks.

QDRO Processing Fees: Review and Communication - \$250; Account Division - \$100; Alternate Payee Distribution - \$85

# BRAVERA WEALTH INVESTMENT OPTIONS

*For more information, call Bravera Wealth at (701) 456-3386 or Refer to of Representatives in Section III*



Bravera Wealth will track the trades and provide a warning notice when the shareholder hits the first violation and will block the second as defined below. The first time a shareholder completes a roundtrip transaction, defined as a buy in and sell out of greater than \$10,000 that occurs within a 30 calendar day period, a warning letter will be sent to the shareholder reminding them of the policy:

VANGUARD GNMA ADM, VANGUARD HEALTH CARE ADM, VANGUARD INDEX 500 ADM, VANGUARD MID CAP INDEX ADM, VANGUARD REIT INDEX ADM, VANGUARD SMALL CAP VALUE INDEX ADM, Life Strategy-CONSERVATIVE, Life Strategy-GROWTH, and Life Strategy-MODERATE, & VANGUARD TARGET DATE INCOME, 2020, 2025, 2030, 2035, 2040, 2045, 2050, 2055, 2060, 2065, & 2070:

A round trip is defined as a buy and sell that occur within 30 days. Excessive trading violation will result in a trading restriction period of 30 days. Maximum of 1 round trip allowed per 30 days period.

## T. ROWE PRICE SCIENCE & TECHNOLOGY

Maximum of 1 round trip allowed per 30 days period. In addition to restricting transactions in accordance with the 30-Day Purchase Block, T. Rowe Price may, in its discretion, reject any purchase or exchange into a fund from a person whose trading activity could disrupt the management of the fund or dilute the value of the fund's shares, including trading by persons acting collectively. Such persons may be barred from further purchases of T. Rowe Price funds for a period longer than 30 calendar days or permanent.

## JPMORGAN EQUITY INCOME R6

Excessive trading violation will result in a trading restriction period of 90 days. Maximum of 1 round trip allowed per 60 days period.

## JPMORGAN SMALL CAP EQUITY R6

Excessive trading violation will result in a trading restriction period of 90 days. Maximum of 1 round trip allowed per 60 days period

## BAIRD MID CAP INST

In addition, if market timing is detected in an omnibus account held by a financial intermediary, the Funds may request that the intermediary restrict or prohibit further purchases or exchanges of Fund shares by any shareholder that has been identified as having violated the Market Timing Policy. The Funds may also request that the intermediary provide identifying information, such as social security numbers, and trading information about the underlying shareholders in the account in order to review any unusual patterns of trading activity discovered in the omnibus account.

## WESTERN ASSET CORE BOND IS

The policies apply to any account, whether a direct account or accounts with financial intermediaries such as investment advisers, broker/dealers or retirement plan administrators, commonly called omnibus accounts, where the intermediary holds fund shares for a number of its customers in one account. The fund's ability to monitor trading in omnibus accounts may, however, be severely limited due to the lack of access to an individual investor's trading activity when orders are placed through these types of accounts. There may also be operational and technological limitations on the ability of the fund's service providers to identify or terminate frequent trading activity within the various types of omnibus accounts. The distributor has entered into agreements with intermediaries requiring the intermediaries to, among other things, help identify frequent trading activity and prohibit further purchases or exchanges by a shareholder identified as having engaged in frequent trading.

## FIDELITY@ BALANCED K

Shareholders with two or more roundtrip transactions in a single fund within a rolling 90-day period will be blocked from making additional purchases or exchange purchases of the fund for 85 days. Shareholders with four or more roundtrip transactions across all Fidelity@ funds within any rolling 12-month period will be blocked for at least 85 days from additional purchases or exchange purchases across all Fidelity@ funds. Any roundtrip within 12 months of the expiration of a multi-fund block will initiate another multi-fund block. Repeat offenders may be subject to long-term or permanent blocks on purchase or exchange purchase transactions in any account under the shareholder's control at any time. In addition to enforcing these roundtrip limitations, the fund may in its discretion restrict, reject, or cancel any purchases or exchanges that, in the Adviser's opinion, may be disruptive to the management of the fund or otherwise not be in the fund's interests.

## MFS GROWTH & MFS INTERNATIONAL DIVERSIFICATION

MFSC will generally restrict, reject or cancel purchase and exchange orders into the fund if MFSC determines that an accountholder has made two exchanges, each in an amount of \$15,000 or more, out of an account in the fund during a calendar quarter ("two exchange limit").

## PRINCIPAL DIVERSIFIED REAL ASSET R6 & PRINCIPAL HIGH YIELD R-6

Principal may require a holding period of a minimum of 30 days before permitting exchanges among the Fund where there is evidence of at least one round-trip exchange (exchange or redemption of shares that were purchased within 30 days of the exchange/redemption).

# NATIONWIDE LIFE INSURANCE INVESTMENT OPTIONS



For more information, call Nationwide Life Insurance at (877) 677-3678 or Refer to List of Representatives in Section III

| Fund / Ticker Symbol  | Investment Type | Objective        | Annual Expense | Other Fees (Y/N) | Return 6 Mos. Ended 06.30.22 | Net Historical Performance as of 12.31.21 |         |         |          |
|---|-----------------|------------------|----------------|------------------|------------------------------|---|---------|---------|----------|
|   |                 |                  |                |                  |                              | 1 Year                                    | 3 Years | 5 Years | 10 Years |
| Nationwide Investor Destination Aggressive (Service Class) NDASX              | VA              | Asset Allocation | 0.90           | Y                | 3.47                         | -18.42                                    | 2.68    | 4.14    | 7.57     |
| Nationwide Investor Destination Moderately Aggressive (Service Class) NDMSX   | VA              | Asset Allocation | 0.90           | Y                | 2.36                         | -17.90                                    | 2.01    | 3.73    | 6.71     |
| Nationwide Investor Destination Moderate (Service Class) NSDMX                | VA              | Asset Allocation | 0.90           | Y                | 1.24                         | -16.14                                    | 1.17    | 3.00    | 5.32     |
| Nationwide Investor Destination Moderately Conservative (Service Class) NSDCX | VA              | Asset Allocation | 0.92           | Y                | .10                          | -14.28                                    | 0.34    | 2.11    | 3.85     |
| Nationwide Investor Destination Conservative (Service Class) NDCSX            | VA              | Asset Allocation | 0.90           | Y                | -1.28                        | -12.56                                    | -0.69   | 1.10    | 2.29     |
| Putnam International Equity Fund (Class A) POVSX                              | VA              | Foreign Stock    | 1.25           | Y                | 7.80                         | -14.81                                    | 1.15    | 0.93    | 4.40     |
| Templeton Foreign Fund (Class A) TEMFX  | VA              | Foreign Stock    | 1.10           | Y                | 7.29                         | -3.59                                     | 0.27    | -0.74   | 2.87     |
| Janus Henderson Global Research (Class T) JAWWX                               | VA              | World Stock      | 0.86           | Y                | 3.95                         | -19.64                                    | 4.37    | 6.38    | 8.64     |
| Invesco Global (Class A) OPPAX  | VA              | World Stock      | 1.04           | Y                | -0.34                        | -32.14                                    | -0.03   | 2.59    | 7.62     |



# NATIONWIDE LIFE INSURANCE INVESTMENT OPTIONS



For more information, call Nationwide Life Insurance at (877) 677-3678 or Refer to List of Representatives in Section III

| Fund / Ticker Symbol   | Investment Type | Objective    | Annual Expense | Other Fees (Y/N) | Return 6 Mos. Ended 06.30.22 | Net Historical Performance as of 12.31.21 |         |         |          |
|--|-----------------|--------------|----------------|------------------|------------------------------|---|---------|---------|----------|
|  |                 |              |                |                  |                              | 1 Year                                    | 3 Years | 5 Years | 10 Years |
| Templeton Global Smaller Companies Fund (Class A) TEMGX            | VA              | World Stock  | 1.31           | Y                | 2.63                         | -23.95                                    | -0.29   | 0.24    | 5.26     |
| Brown Capital Management Small Company Fund (Investor Class) BCSIX | VA              | Small Growth | 1.25           | Y                | -5.66                        | -37.98                                    | -4.78   | 2.07    | 9.86     |
| NVIT Small Company Fund (Class 1)                                  | VA              | Small Blend  | 1.05           | Y                | 3.35                         | -18.77                                    | 9.25    | 7.44    | 10.80    |
| DFA US Micro Cap Portfolio (Institutional Class) DFSCX             | VA              | Small Blend  | 0.40           | Y                | 6.45                         | -12.46                                    | 7.60    | 5.85    | 10.32    |
| American Century Small Cap Value (Investor Class) ASVIX            | VA              | Small Value  | 1.09           | Y                | 2.06                         | -14.72                                    | 8.34    | 7.09    | 10.37    |
| BNY Mellon Mid Cap Index Fund (Investor Class) PESPX               | VA              | Mid Blend    | 0.51           | Y                | 7.74                         | -13.52                                    | 6.69    | 6.18    | 10.26    |
| Nationwide Mellon Dynamic U.S. Core Fund (Class R6) MUIGX          | VA              | Large Blend  | 0.50           | Y                | 1.89                         | -21.87                                    | 6.66    | 10.49   | 13.04    |
| Janus Henderson Research Fund (Class T) JAMRX                      | VA              | Large Growth | 0.77           | Y                | 0.57                         | -30.03                                    | 3.73    | 7.96    | 11.77    |
| Invesco American Franchise Fund (Class A) VAFAX                    | VA              | Large Growth | 0.95           | Y                | -4.49                        | -31.14                                    | 3.07    | 7.54    | 11.47    |

# NATIONWIDE LIFE INSURANCE INVESTMENT OPTIONS



For more information, call Nationwide Life Insurance at (877) 677-3678 or Refer to List of Representatives in Section III

| Fund / Ticker Symbol   | Investment Type | Objective           | Annual Expense | Other Fees (Y/N) | Return 6 Mos. Ended 06.30.22 | Net Historical Performance as of 12.31.21 |         |         |          |
|--|-----------------|---------------------|----------------|------------------|------------------------------|---|---------|---------|----------|
|  |                 |                     |                |                  |                              | 1 Year                                    | 3 Years | 5 Years | 10 Years |
| Invesco Capital Appreciation (Class A) OPTFX                               | VA              | Large Growth        | 0.94           | Y                | -4.07                        | -31.10                                    | 4.73    | 8.01    | 10.80    |
| Aberdeen U.S. Sustainable Leaders Fund (Institutional Service Class) GXXIX | VA              | Large Growth        | 0.97           | Y                | 0.57                         | -26.56                                    | 4.93    | 8.14    | 10.16    |
| Invesco Diversified Dividend Fund (Investor Class) LCEIX                   | VA              | Large Value         | 0.73           | Y                | 6.86                         | -1.57                                     | 5.49    | 6.29    | 9.46     |
| Davis NY Venture Fund (Class A) NYVTX                                      | VA              | Large Blend         | 0.91           | Y                | 3.56                         | -17.47                                    | 1.14    | 3.33    | 9.08     |
| Nationwide Fund (Institutional Service Class) MUIFX                        | VA              | Large Blend         | 0.64           | Y                | 1.88                         | -19.17                                    | 7.39    | 8.74    | 11.66    |
| Neuberger Berman Large Cap Value Fund (Trust Class) NBPTX                  | VA              | Large Value         | 0.96           | Y                | 7.79                         | -1.39                                     | 12.93   | 11.99   | 12.50    |
| American Century Value Fund (Investor Class) TWVLX                         | VA              | Large Value         | 1.01           | Y                | 8.52                         | 0.16                                      | 7.79    | 7.57    | 10.27    |
| Invesco Growth & Income Fund (Class A) ACGIX                               | VA              | Large Value         | 0.78           | Y                | 8.25                         | -5.93                                     | 7.39    | 6.06    | 10.12    |
| BNY Mellon Balanced Opportunity Fund (Class Z) DBOZX                       | VA              | Moderate Allocation | 0.98           | Y                | 2.56                         | -15.81                                    | 2.25    | 4.29    | 7.02     |

# NATIONWIDE LIFE INSURANCE INVESTMENT OPTIONS



For more information, call Nationwide Life Insurance at (877) 677-3678 or Refer to List of Representatives in Section III

| Fund / Ticker Symbol                                     | Investment Type | Objective              | Annual Expense | Other Fees (Y/N) | Return 6 Mos. Ended 06.30.22 | Net Historical Performance as of 12.31.21 |         |         |          |
|--|-----------------|------------------------|----------------|------------------|------------------------------|---|---------|---------|----------|
|  |                 |                        |                |                  |                              | 1 Year                                    | 3 Years | 5 Years | 10 Years |
| MFS Total Return (Class A) MSFRX                         | VA              | Moderate Allocation    | 0.72           | Y                | 3.64                         | -9.66                                     | 4.14    | 5.05    | 7.20     |
| PIMCO Int'l Bond Fund (Class A) PFOAX                    | VA              | World Bond             | 0.91           | Y                | -1.74                        | -10.20                                    | -2.39   | 0.32    | 2.20     |
| Janus Henderson High Yield Fund (Class T) JAHYX          | VA              | High Yield Bond        | 0.87           | Y                | 1.78                         | -14.99                                    | -1.81   | 1.14    | 3.04     |
| Federated Hermes Corporate Bond Fund (Class A) FDBAX     | VA              | Corporate Bond         | 0.86           | Y                | -1.38                        | -14.67                                    | -2.44   | 0.51    | 2.17     |
| PIMCO Total Return Fund (Admin Class) PTRAX              | VA              | Intermediate Term Bond | 0.71           | Y                | -3.26                        | -14.30                                    | -2.72   | -0.22   | 0.86     |
| Franklin U.S. Government Secs (Class A1) FKUSX           | VA              | Intermediate Govt Bond | 0.76           | Y                | -3.31                        | -10.32                                    | -3.14   | -0.80   | 0.09     |
| Nationwide Gvt Money Market Fund (Investor Shares) MIFXX | VA              | Money Market           | 0.56           | Y                | 1.17                         | 1.23                                      | 0.48    | 0.90    | 0.48     |

Past performance is no guarantee of future performance.

Investment returns and principal value will fluctuate and the investors' units, when redeemed, may be worth more or less than their original cost.

**\* New money rates are set every quarter, please call Nationwide to obtain the current new money rate.**



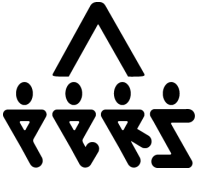
**SECTION III**  
PROVIDER REPRESENTATIVES  
NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM **SECTION**  
**457 DEFERRED COMPENSATION PLAN**

**You are responsible for meeting with your provider to set up your account, monthly payroll contribution, and beneficiaries.**

Use the Investment Provider Listing on the NDPERS web site to find a provider near you:

<https://www.ndpers.nd.gov/sites/www/files/documents/members-additional-information/all-457-deferred-comp/provider-list.pdf>

*Contact the North Dakota Securities Department to check the background of an investment professional before doing business.*



# Memorandum

**TO:** NDPERs Board

**FROM:** Katheryne Korom

**DATE:** September 12, 2023

**SUBJECT:** Recordkeeper Request for Proposal (RFP)

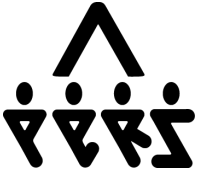
The Recordkeeper RFP was issued on August 16, 2023, and Callan received a total of 32 questions from five vendors by the August 30<sup>th</sup> submission deadline. The responses to these questions were posted on September 8, 2023.

Following are the key dates for the proposal process:

|  | August 2023 | September 2023 | October 2023 | November 2023 | December 2023 |
|--|-------------|----------------|--------------|---------------|---------------|
| RFP Published                                  | 16          |                |              |               |               |
| Recordkeeper discovery questions due           | 30          |                |              |               |               |
| Discovery questions responses posted by Callan |             | 8              |              |               |               |
| RFP online responses due                       |             | 15             |              |               |               |
| Hard copy responses due                        |             | 18             |              |               |               |
| Finalists notified                             |             |                |              | Mid-Nov.      |               |
| Best and final offers submitted                |             |                |              |               | Early Dec.    |
| Finalist Presentations (if applicable)         |             |                |              |               | TBD           |

If you have any questions, we will be available at the NDPERS Board Meeting.

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



# Memorandum

**TO:** NDPERs Board

**FROM:** Katheryne Korom

**DATE:** September 12, 2023

**SUBJECT:** Uniform Group Insurance Consultant Request for Proposal

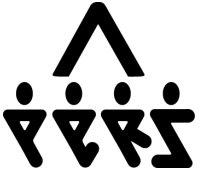
We received eight proposals by the August 29<sup>th</sup> deadline for The Uniform Group Insurance Consultant Request for Proposal (RFP) that was issued on July 3, 2023. These eight proposals were received from: Deloitte, Holmes Murphy, Alliant, Milliman, Lewis & Ellis, Segal, AON, and Buck.

Following are the key dates for the proposal process:

| Date                  | Activity  |
|-----------------------|---|
| July 3, 2023          | RFP is issued.  |
| July 21, 2023         | Written questions regarding proposals must be received by NDPERs no later than 5:00 p.m. (CDT). |
| August 11, 2023       | NDPERs posts responses to all questions received.   |
| August 29, 2023       | Proposals must be received by NDPERs no later than 5:00 p.m. (CDT).                             |
| October 2023          | NDPERs Board review of proposals.   |
| October/November 2023 | Finalist interview, if deemed necessary by the NDPERs Board.                                    |
| November 2023         | Best and Final Offers due, if deemed necessary by the NDPERs Board.                             |
| December 2023         | Selection and award of a contract by NDPERs.  |

If you have any questions, we will be available at the NDPERS Board Meeting.  
This item is informational and does not require any action by the Board.





**North Dakota  
Public Employees Retirement System**  
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# Memorandum

**TO:**                   NDPERS Board

**FROM:**               Rebecca

**DATE:**               September 12, 2023

**SUBJECT:**           **FlexComp – Plan Document**

The IRS has issued guidance, found at <https://www.irs.gov/pub/irs-drop/n-22-41.pdf> , that allows an additional change in status opportunity for medical spending account participants within the FlexComp Plan. Specifically, the guidance provides:

*When a Participant, Participant's Spouse, or Participant's Dependent(s) gains eligibility for coverage under a cafeteria plan or qualified benefit plan of the employer of that Participant's Spouse or Participant's Dependent(s), a Participant may elect to terminate or decrease coverage for that individual only if coverage for that individual becomes effective or is increased under the Participant's Spouse's or Dependent's employer's plan. The Plan Administrator may rely on a Participant's certification that the Participant has obtained or will obtain coverage under the Participant's Spouse's or Dependent's employer's plan unless the Plan Administrator has reason to believe that the Participant's certification is incorrect.*

The attached FlexComp Plan Document has been updated with this change. Staff is requesting approval of the updated Plan Document effective with the new plan year, January 1, 2024.

## **Board Action Requested**

Approve the updates to the NDPERS FlexComp Plan Document effective January 1, 2024.

**STATE OF NORTH DAKOTA  
FLEXCOMP PLAN DOCUMENT**

Effective January 1, 202~~3~~4

**ADOPTION RESOLUTION**

Resolved, that effective January 1, 202~~3~~<sup>4</sup>, the State of North Dakota has adopted the attached amended and restated Section 125 FlexComp Plan. The Plan is intended to satisfy the requirements of Section 125 of the Internal Revenue Code, as amended, and its associated regulations.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

## TABLE OF CONTENTS

|  | <u>Page</u> |
|--|-------------|
| ARTICLE I. PURPOSE OF PLAN .....                     | 4           |
| ARTICLE II. DEFINITIONS .....                        | 5           |
| ARTICLE III. ELIGIBILITY AND PARTICIPATION .....     | 10          |
| ARTICLE IV. BENEFITS .....                           | 22          |
| ARTICLE V. SALARY REDUCTIONS .....                   | 23          |
| ARTICLE VI. SALARY REDUCTION ELECTIONS .....         | 26          |
| ARTICLE VII. PAYMENT OF CLAIMS .....                 | 31          |
| ARTICLE VIII. ADMINISTRATION .....                   | 36          |
| ARTICLE IX. APPEALS PROCEDURE .....                  | 39          |
| ARTICLE X. AMENDMENT OR TERMINATION OF THE PLAN..... | 40          |
| ARTICLE XI. GENERAL PROVISIONS.....                  | 41          |

## **ARTICLE I. PURPOSE OF PLAN**

The purpose of the State of North Dakota FlexComp Plan (“Plan”) is to allow Employees to pay medical, dental, vision, group term life, disability and cancer insurance premiums and other medical and dependent care expenses using pre-tax dollars.

The Board (pursuant to North Dakota Century Code Section 54-52-04) has, therefore, adopted the Plan as set forth herein and as amended from time to time, effective January 1, 202~~3~~4 for the exclusive benefit of those Employees.

The Plan is intended to qualify as a cafeteria plan within the meaning of Code section 125 and shall be construed in a manner consistent with that section such that salary reduction elections will be eligible for exclusion from a Participant’s taxable income. The Dependent Care FSA Plan is intended to qualify as a dependent care assistance program within the meaning of Code section 129, and the Health FSA Plan is intended to qualify as a self-insured medical reimbursement plan under Code section 105. The tax implications of this Plan, however, are subject to rulings, regulations and the application of the tax laws of the state and federal government. Although it may anticipate certain tax consequences as being likely, neither the Board nor an Employer represents or warrants to any Participant that any particular tax consequence will result from participation in this Plan. By participating in the Plan, each Participant understands and agrees that in the event the Internal Revenue Service or any state or political subdivision thereof should ever assess or impose any taxes, charges and/or penalties upon any benefits received under the Plan, the recipient of the benefit will be responsible for those amounts, without contribution from the Board or an Employer.

This Plan is intended not to discriminate as to eligibility or benefits in favor of the prohibited group under Code sections 105, 125, and 129. The Plan provisions shall apply uniformly to all Employees.

## ARTICLE II. DEFINITIONS

The following words and phrases have the following meaning, unless a different meaning is plainly required by the text:

- 2.01 Board.** “Board” means the North Dakota Public Employees Retirement System (PERS) board.
- 2.02 Benefit Package Option.** “Benefit Package Option” means a qualified benefit under Code section 125(f) that is offered under a cafeteria plan or an option for coverage under an underlying accident or health plan
- 2.03 Benefit Plan.** “Benefit Plan” means the life insurance, medical, dental, vision, cancer insurance and in some cases disability plans and any alternate medical coverage under a health maintenance organization approved by the Board.
- 2.04 Code.** “Code” means the Internal Revenue Code of 1986, as amended.
- 2.05 Dependent Care Center.** “Dependent Care Center” means any facility which:
- a. complies with all applicable laws and regulations of the State of North Dakota and unit of local government in which it is located;
  - b. provides care for more than six (6) individuals (other than individuals who reside at the center); and
  - c. receives a fee, payment or grant for providing services for any such individuals (regardless of whether such facility is operated for profit).
- 2.06 Dependent Care FSA Plan.** “Dependent Care FSA Plan” means the dependent care assistance plan under this Plan that permits Employees to receive reimbursements from Qualified Dependent Care Expense accounts.
- 2.07 Dependent Child.** For purposes of payment of the Pre-Tax Premiums to a Benefit Plan, “Dependent Child” means a child who is the Participant’s “qualifying child” or “qualifying relative” as those terms are defined in Code section 152 (determined without regard to subsections (b)(1), (b)(2) and (d)(1)(B) thereof) and subject to the special rule in Code section 152(e) for divorced or separated parents or a child (within the meaning of Code section 152(f)(1)) who has not attained age 27 as of the end of the year. For purposes of the Qualified Health Care Expense accounts, “Dependent Child” means a child (within the meaning of Code section 152(f)(1)) who is either (1) a “qualifying child” as that term is defined in Code section 152 (determined without regard to subsections (b)(1), (b)(2) and (d)(1)(B) thereof) and subject to the special rules in Code section 152(e) for divorced or separate parents or (2) a child (within the meaning of Code section 152(f)(1)) who has not attained age 27 as of the end of the year.

Notwithstanding the foregoing, a child named in a qualified medical child support order (QMCSO) as defined in section 609 of the Employee Retirement Security Income Act (ERISA) shall be a Dependent Child to the extent specified in the QMCSO. The preceding sentence applies only to the Pre-Tax Premiums for a Benefit Plan and the Qualified Health Care Expense accounts under this Plan.

**2.08 Earned Income.** “Earned Income” means earned income as set forth in Code section 32(c)(2), but excluding such amounts paid or incurred by the Employer for dependent care assistance to the Participant.

**2.09 Employee.** “Employee” means employees of the State of North Dakota and district health units that are eligible to participate in the Plan. In addition, members of the Legislative Assembly are considered employees and eligible to participate in the Plan. Employees of higher education and political subdivisions are excluded from participation in the Plan.

Eligible employees who are eighteen (18) years of age, whose services are not limited in duration, who are filling an approved and regularly funded position, and who are employed at least seventeen and one-half (17 ½) hours per week and at least five (5) months each year, or those first employed after August 1, 2003 who are employed at least twenty (20) hours per week and at least twenty (20) weeks each year, are eligible to participate in the Plan.

**2.10 Employer.** “Employer” means the State of North Dakota, excluding higher education, and any participating district health units as defined in Section 54-52.3-01 of the North Dakota Century Code.

**2.11 Grace Period.** “Grace Period” shall mean the period that begins immediately following the close of a Plan Year and ends on the day that is two (2) months plus fifteen (15) days following the close of that Plan Year.

**2.12 Health Care Expense.** “Health Care Expense” means expenses incurred by a Participant for “medical care” within the meaning of Code section 213(d), incurred by a Participant, Spouse, or Dependent Child, but do not include premium payments for other medical plan coverage, including premiums paid for medical coverage under a plan maintained by the employer of a Spouse or Dependent Child or “qualified long-term care services,” as described in Code section 213(d)(1)(C). For over-the-counter (OTC) drugs and medicines (other than insulin) which are for medical care as defined in Code section 213(d) will not be reimbursable as a Health Care Expense unless the Participant, Spouse or Dependent Child has a prescription for such drug or medicine. However, OTC products that are not considered drugs or medicines continue to be reimbursable if the product is for medical care as defined in Code section 213(d) and is not merely for good health or for cosmetic purposes.

**2.13 Health FSA Plan.** “Health FSA Plan” means the health flexible spending arrangement plan under this Plan that permits Employees to receive reimbursements from Qualified Health Care Expense accounts.



- 2.14 Health Savings Account (HSA).** “Health Savings Account” or “HSA” means a health savings account established under Code section 223 as an individual trust or custodial account, each separately established and maintained by an Employee with a qualified trustee or custodian.
- 2.15 Participant.** “Participant” means an Employee who is participating in the Plan.
- 2.16 Plan.** “Plan” means the State of North Dakota FlexComp Plan, as set forth herein.
- 2.17 Plan Administrator.** “Plan Administrator” means the North Dakota Public Employees Retirement System (PERS) with the authority and responsibility to manage and direct the operation and administration of the Plan. Plan Administrator includes any designated agent to which specified administrative functions under the Plan have been delegated, to the extent of such delegation.
- 2.18 Plan Year.** “Plan Year” means a twelve (12) consecutive month period beginning January 1 and ending December 31.
- 2.19 Pre-Tax Premium(s).** “Pre-Tax Premium(s)” means the cost of life, disability, medical, dental, vision and cancer insurance under the Benefit Plan which a Participant is required, as a condition for coverage, to defray. The amount of the Pre-Tax Premium(s) under the Benefit Plan shall be approved by the Board in accordance with the Board’s policies that are applied to all Employees in a consistent manner.
- 2.20 Qualified Beneficiary.** “Qualified Beneficiary” means an individual who, on the day before a Qualifying Event, is a Spouse or Dependent Child of a Participant in the Health FSA Plan. A person who becomes a new Spouse of an existing Qualified Beneficiary during a period of continuation coverage is not a Qualified Beneficiary.

In the case of a Qualifying Event that is termination of employment or reduction in hours, Qualified Beneficiary also includes an individual, who on the day before such Qualifying Event, is a Participant in the Health FSA Plan.

A newborn child or adopted child of a Qualified Beneficiary or a child placed for adoption with a Qualified Beneficiary who was not a covered Employee will be entitled to the same continuation coverage period available to the Qualified Beneficiary, however, such child shall not become a Qualified Beneficiary. A newborn child or adopted child of a Qualified Beneficiary or child placed for adoption with a Qualified Beneficiary who was a covered Employee shall become a Qualified Beneficiary in his/her own right and shall be entitled to benefits as a Qualified Beneficiary.

A Qualified Beneficiary must notify the Board within thirty (30) days of the child’s birth, adoption or placement for adoption in order to add the child to the continuation coverage.

- 2.21 Qualified Dependent Care Expense.** “Qualified Dependent Care Expense” means any employment-related dependent care expense eligible for reimbursement under the Plan as determined under Code sections 129(e)(1) and 21(b)(2). Such expense includes amounts paid for household services and for the care of Qualifying Individuals enabling the Employee and his/her Spouse to be gainfully employed or if the Spouse is physically or mentally unable to care for self, or if the Spouse is a Student.
- 2.22 Qualified Health Care Expense.** “Qualified Health Care Expense” means any Health Care Expense which is not otherwise reimbursable under a Benefit Plan or other plan or entity.
- 2.23 Qualifying Event.** “Qualifying Event” means any of the following with respect to continued participation in the Health FSA Plan under Section 3.07, if it results in termination of coverage:
- a. The death of a Participant.
  - b. The voluntary or involuntary termination of employment (other than by reason of gross misconduct) or reduction in hours of a Participant.
  - c. The divorce or legal separation of a Participant from his/her Spouse.
  - d. A Dependent Child ceasing to be a Dependent Child.
- 2.24 Qualifying Individual.** “Qualifying Individual” means, for purposes of a Qualified Dependent Care Expense account, any individual who is:
- a. The Participant’s dependent child (as defined in Code section 152(a)(1) and who has not attained age thirteen (13); or
  - b. The Participant’s dependent (as defined in Code section 152 (determined without regard to subsections (b)(1), (b)(2) and (d)(1)(B) thereof)), who (i) is physically or mentally incapable of caring for himself or herself; and (ii) has the same principal place of abode as the Participant for more than one-half of the Plan Year; or
  - c. The Participant’s Spouse if the Spouse is physically or mentally incapable of caring for himself or herself and has the same principal place of abode as the Participant for more than one-half of the Plan Year.

Notwithstanding the foregoing, in the case of divorced or separated parents (within the meaning of Code section 152(e) or parents that were never married, a Qualifying Individual who is a child shall, as provided in Code section 21(e)(5), be treated as a Qualifying Individual of the custodial parent (within the meaning of Code section 152(e)) and shall not be treated as a Qualifying Individual with respect to the non-custodial parent.

Expenses incurred outside the Participant’s household for a Qualifying Individual under (b) or (c) above shall constitute Qualified Dependent Care Expenses only if

the Qualifying Individual regularly spends at least eight (8) hours each day in the Participant's household.

- 2.25 Salary Reduction Agreement.** “Salary Reduction Agreement” means an agreement by a Participant to reduce his/her salary or wage to pay for applicable Pre-Tax Premiums, to allocate to a Qualified Health Care Expense account or Qualified Dependent Care Expense account, or to contribute to an HSA.
- 2.26 Spouse.** “Spouse” means the spouse of a Participant but shall not include an individual legally separated from a Participant under a decree of divorce or of separate maintenance. An individual shall be considered lawfully married regardless of where the individual is domiciled if either of the following are true: (1) the individual was married in a state, possession, or territory of the U.S. and the individual is recognized as lawfully married by that state, possession, or territory of the U.S.; or (2) the individual was married in a foreign jurisdiction and the laws of at least one state, possession, or territory of the U.S. would recognize the individual as lawfully married.
- 2.27 Student.** “Student” means an individual who, during each of five (5) calendar months during a taxable year is a full-time student at an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance at the place where its educational activities are regularly carried on.

### **ARTICLE III. ELIGIBILITY AND PARTICIPATION**

**3.01 Eligibility.** All Employees eligible to participate in a Benefit Plan are eligible to participate in the Plan for purposes of payment of Pre-Tax Premiums under section 4.01. All Employees are eligible to participate in the Plan for purposes of payment of eligible Qualified Health Care Expenses under Section 4.02, except that an Employee with any contributions to a Health Savings Account in a Plan Year cannot participate in the Qualified Health Care Expense Account portion of the Plan for such Plan Year. All Employees are eligible to participate in the Plan for purposes of payment of Qualified Dependent Care Expenses under Section 4.03.

An employee who becomes an eligible Employee during the Plan Year shall be allowed to participate the first day of the month following the date he or she becomes an Employee. An Employee shall also be allowed to participate if he or she experiences a change in participation status, as described in section 3.03.

**3.02 Participation.** Participation is established on a Plan Year to Plan Year basis. Each Employee shall be a Participant in the Plan for a Plan Year as follows:

a. For purposes of receiving Pre-Tax Premium benefits under Section 4.01 and HSA benefits under Section 4.04, participation will become effective when the appropriate Salary Reduction Agreement has been submitted as outlined in Article VI.

For the purpose of receiving employee supplemental life insurance Pre-Tax Premium benefits for the first \$50,000 in coverage, participation will be automatic unless an employee elects not to participate under this Plan for the Plan Year for the purpose of Pre-Tax Premium. An Employee who is eligible to participate may elect not to participate by completing and submitting the Premium Conversion declination submitting an appropriate declination form with the Employer within the election period established by the Board. An Employee who elects not to participate with regard to payment of Pre-tax Premiums for life insurance shall pay for such Pre-tax Premiums for life insurance under the Benefit Plan on an after-tax basis.

b. For purposes of receiving reimbursement for Qualified Health Care Expenses and/or Qualified Dependent Care Expenses, participation will begin when the appropriate Salary Reduction Agreement(s) have been submitted and become effective under Article VI.

A Participant's Salary Reduction Agreement shall terminate at the end of the Plan Year. A Participant must make an affirmative election for salary reduction for each Plan Year.

**3.03 Changes in Participation Status.** With respect to the Pre-Tax Premiums, Qualified Health Care Expense accounts, and Qualified Dependent Care Expense accounts, a Participant may revoke or amend participation in the Plan

during a Plan Year only on account of and consistent with a change in status or other circumstances allowed under applicable law or regulation. Unless otherwise specified, a revocation or amendment of participation must be made within thirty-one (31) days after the change in status occurs and will be effective for the balance of the Plan Year in which the election is made, beginning with the first appropriate pay period after the election is received.

A Participant reducing his/her election, based on a change in status, cannot reduce his/her Salary Reduction Agreement election to the point where his/her contributions to a Qualified Health Care Expense account or a Qualified Dependent Care Expense account for the Plan Year are less than the amount already reimbursed for that Plan Year.

With respect to the HSA, a Participant who makes an election to contribute an amount on a pre-tax salary reduction basis to his or her HSA may change such election on a prospective basis at any time during the Plan Year.

- a. Change in Status Events. *(Applies to Pre-Tax Premiums, Qualified Health Care Expense accounts and Qualified Dependent Care Expense accounts.)*
  1. Change in the Participant's legal marital status, including marriage, divorce, death of Spouse, legal separation, or annulment.
  2. Change in number of the Participant's Dependent Children, including birth, adoption, placement for adoption, or death.
  3. Change in the employment status of the Participant, Spouse, or Dependent Child, including the following:
    - (a) Termination or commencement of employment.
    - (b) A reduction or increase in hours of employment by the Employee, the Employee's Spouse or the Employee's Dependent Child, including a switch between part-time and full-time status or commencement of or return from an unpaid leave of absence.
    - (c) A change in employment status that results in the Participant, Spouse, or Dependent Child becoming or ceasing to be eligible for benefits under the individual's plan (such as switching from part-time to full-time or from full-time to part-time employment status).
    - (d) Any situation where the Employee, the Employee's Spouse or the Employee's Dependent Child has special enrollment rights under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) as described in Section 3.04.

4. Dependent Child satisfies (or ceases to satisfy) dependent eligibility requirements, such as attainment of age, Student status or any similar circumstances.
- b. Change in Residence. (*Applies to Pre-Tax Premiums only.*) A change in residence of the Employee, Spouse, or Dependent Child is considered a status change event. An election change is permissible if the change in residence affects the Participant's eligibility for coverage.
- c. Change in Cost. (*Applies to Pre-Tax Premiums and the Dependent Care Expense accounts.*) A Participant may make election changes as a result of changes in cost under the following circumstances:
  1. If the cost of a qualified benefits plan increases (or decreases), the Plan may automatically make a prospective increase (or decrease) in Employee contributions for the Plan.
  2. If the cost of a Benefit Package Option significantly increases or significantly decreases, a Participant may make a prospective increase or decrease in payments or revoke his/her election and, in lieu thereof, choose another Benefit Package Option providing similar coverage, prospectively. This paragraph only applies in the case of the dependent care expense accounts if the cost change is imposed by a dependent care provider who is not a relative of the Employee.

For purposes of the dependent care expense accounts, a change in provider is a significant change in coverage similar to a Benefit Package Option becoming available, and may permit an election change under this Section 3.03.

- d. Change in Coverage. (*Applies to Pre-Tax Premiums*) A Participant may make election changes as a result of changes in coverage under the following circumstances:
  1. If the coverage under the Benefit Plan is significantly curtailed without a loss of coverage, a Participant may revoke his/her election for that coverage. The Participant may make a new prospective election of coverage under another Benefit Package Option providing similar coverage. Coverage is significantly curtailed only if there is an overall reduction in coverage provided to Participants under the Benefit Plan so as to constitute reduced coverage to Participants generally.

If the coverage under the Benefit Plan is significantly curtailed and a loss of coverage occurs, a Participant may revoke his/her election. The Participant may make a new prospective election of coverage under another Benefit Package Option providing similar coverage or to drop coverage if no similar Benefit Package Option is available. A loss of coverage means a complete loss of coverage under the

Benefit Package Option, or other coverage option, or the individual losing all coverage under the option by reason of an overall lifetime or annual limitation.

2. If the Benefit Plan adds a new Benefit Package Option or improves a Benefit Package Option, or other coverage option (or eliminates an existing option) a Participant may elect the newly added option (or elect another option if an option has been eliminated) prospectively and may make corresponding election changes with respect to other Benefit Package Options providing similar coverage. The Plan may permit eligible Employees who have not previously made an election to make an election on a prospective basis for coverage under a new or improved Benefit Package Option.
- e. With the exception of Qualified Health Care Expense accounts, a Participant may make a prospective election change that is on account of and corresponds with a change made under another employer plan, including a plan of the same employer or of another employer, if:
1. The other plan permits the Participant to make an election change that would be permitted under federal regulations; or
  2. The plan permits Participants to make an election for a period of coverage that is different from the period of coverage under this Plan.
- f. A Participant may make an election change on a prospective basis to add coverage under a Benefit Plan for the Employee, Spouse or Dependent Child if the Employee, Spouse or Dependent Child loses coverage under any group health coverage sponsored by a governmental or educational institution, including the following:
1. A state's children's health insurance program (SCHIP) under Title XXI of the Social Security Act;
  2. A medical care program of an Indian Tribal government (as defined in Code section 7701(a)(40)), the Indian Health Service, or a tribal organization;
  3. A state health benefits risk pool; or
  4. A foreign government group health plan.
- g. When a Participant, Participant's Spouse, or Participant's Dependent(s) gains eligibility for coverage under a cafeteria plan or qualified benefit plan of the employer of that Participant's Spouse or Participant's Dependent(s), a Participant may elect to terminate or decrease coverage for that individual only if coverage for that individual becomes effective or is increased under the Participant's Spouse's or Dependent's employer's plan. The Plan Administrator may rely on a Participant's certification that the Participant has obtained or will obtain coverage under the Participant's



Spouse's or Dependent's employer's plan unless the Plan Administrator has reason to believe that the Participant's certification is incorrect.

gh. Judgement, Decrees and Orders. (*Applies to Pre-Tax Premiums and Qualified Health Care Expense accounts.*) In the case of a Benefit Plan that provides health or accident coverage, and for Qualified Health Care Expense accounts, a Participant's revocation or amendment of participation during the Plan Year, and new election for the remainder of the Plan Year, is allowable:

1. If a judgment, decree, or order (collectively, "Order") results from a divorce, legal separation, annulment, or change in legal custody (including a Qualified Medical Child Support Order (QMCSO) defined in ERISA section 609) that requires accident or health coverage for an Employee's Dependent Child or for a foster child who is a dependent of the Employee; and
2. The Employee changes his/her election to provide coverage for the Dependent Child or foster child if the Order requires coverage under the Employee's plan; or
3. The Employee changes his/her election to revoke coverage for the Dependent Child or foster child if the Order requires the former spouse to provide coverage.

ih. Entitlement to Medicare and Medicaid. (*Applies to Pre-Tax Premiums and Qualified Health Care Expense accounts.*) In the case of a Benefit Plan that provides health or accident coverage, a Participant's revocation or amendment of participation during the Plan Year, and new election for the remainder of the Plan Year, is allowable:

1. If the Employee, Spouse, or Dependent Child becomes entitled to coverage under Part A or Part B of Title XVIII of the Social Security Act (Medicare) or Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under Section 1928 of the Social Security Act (the program for distribution of pediatric vaccines); and
2. If the Employee changes his/her election to revoke coverage for that Employee, Spouse or Dependent Child under the Benefit Plan or Qualified Health Care Expense account.

ij. Consistency Rules Applicable to Change in Status Events. A Participant's mid-year election change under this Section 3.03 satisfies the requirements of the consistency rule if the election change is on account of and corresponds with a change in status event that affects the Participant's, Spouse's or Dependent Child's eligibility or loss of eligibility for coverage under an employer's plan.

If the change in status event is the Participant's divorce, annulment or legal separation from a Spouse, the death of a Spouse or Dependent Child, or a Dependent Child ceasing to satisfy the eligibility requirements

for coverage, a Participant may only elect to cancel coverage for the Spouse involved in the divorce, annulment, or legal separation, the deceased Spouse or Dependent Child, or the Dependent Child that ceased to satisfy the eligibility requirements. Canceling coverage for any other individual under these circumstances fails to correspond with the change in status event.

If a Participant, Spouse or Dependent Child gains eligibility for coverage under a cafeteria plan or qualified benefits plan of the employer of the Spouse or Dependent Child as a result of a change in marital status or a change in employment status, a Participant may elect to cease or decrease coverage for that individual only if coverage for that individual becomes effective or is increased under the other plan. The Plan may rely on the Participant's certification that such individual has obtained or will obtain coverage under the other plan unless the Plan has reason to believe that the Participant's certification is incorrect.

Notwithstanding the foregoing, for purposes of the Qualified Dependent Care Expense account, a Participant's mid-year election change under Section 3.03 satisfies the requirements of the consistency rule if the election change is on account of and corresponds with a change in status event that affects expenses described in Code section 129 (including employment-related expenses as defined in Code section 21(b)(1) with respect to dependent care assistance.

The Plan Administrator, in its sole discretion, shall determine, based on the surrounding facts and circumstances and prevailing Internal Revenue Service guidance, whether a requested change is on account of and corresponds with a change in status event.

**3.04 HIPAA Special Enrollment Rights.** *(Applies to Pre-Tax Premiums only.)* A Participant may make a change to an annual election during the Plan Year if the change corresponds to a special enrollment event under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Code section 9801(f), whether or not the change is permitted under any other section of this Plan, as follows:

- a. Acquisition of a new Spouse or Dependent Child as a result of marriage, birth, adoption or placement for adoption.
- b. Loss of eligibility under another group health plan or other health insurance by anyone who would otherwise be eligible under this Plan, including for (but not limited to) the following reasons:
  1. Voluntary or involuntary termination of employment or reduction in hours of employment, or death, divorce or legal separation, cessation of dependent status, or

2. Loss of coverage through an HMO that does not provide benefits to individuals who do not reside, live or work in the service area, or
  3. Termination of employer contributions toward that other coverage, or
  4. If the other coverage was COBRA continuation coverage and the coverage was exhausted.
- c. Loss of eligibility for coverage under Title XIX of the Social Security Act (Medicaid) or under Title XXI of the Social Security Act that is coverage under a state children's health insurance program (SCHIP) or becoming eligible for a premium assistance subsidy from Medicaid or SCHIP. A Participant has sixty (60) days after the date of the event to change his or her election.
- d. For individuals losing other coverage, an Employee may revoke participation in a Benefit Plan and make a new election if the Employee is eligible, but not enrolled, for coverage under the terms of the Benefit Plan (or a Spouse or Dependent Child of such an Employee if the Spouse or Dependent Child is eligible, but not enrolled, for coverage); and
1. The Employee, Spouse or Dependent Child was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the Employee.
  2. The Employee stated in writing at such time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment.
  3. The Employee's, Spouse's or Dependent Child's coverage under a group health plan or health insurance was under a COBRA continuation provision and the coverage under such provision was exhausted, or not under a COBRA continuation provision and either the coverage was terminated as a result of loss of eligibility for the coverage (including as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment) or the Employer contributions towards such coverage were terminated.

Under this subsection d., a revocation or amendment of participation must be made within thirty-one (31) days after the date of exhaustion of coverage described in paragraph 1. or the termination of coverage or Employer contribution described in paragraph 3. and will be effective for the balance of the Plan Year in which the election is made, beginning on the first day of the month following the month in which the election is made.

- e. For acquisition of a Spouse or Dependent Child, an Employee may revoke participation in a Benefit Plan and make a new election if:
  - 1. A person becomes a Spouse or a Dependent Child of the Participant through marriage, birth, or adoption or placement for adoption, and
  - 2. The Participant elects to enroll himself/herself, the Spouse, and/or the Participant's Dependent Child or Children in the Plan, to the extent that the Spouse or Dependent Children are otherwise eligible for coverage.

Under this subsection e., a revocation or amendment of participation must be made within thirty-one (31) days after the date dependent coverage is made available or the date of the marriage, birth, or adoption or placement for adoption and will be effective for the balance of the Plan Year in which the election is made, and in the case of marriage, beginning with the first appropriate pay period after the election is received; or in the case of a Dependent Child's birth, as of the date of such birth; or in the case of a Dependent Child's adoption or placement for adoption, the date of such adoption or placement for adoption.

- f. An election change on account of birth, adoption or placement for adoption will be effective retroactive to the date of birth, adoption or placement for adoption, provided the request to change the annual election is made within thirty-one (31) days of the birth, adoption or placement for adoption. Except as otherwise provided for herein, election changes for other special enrollment events (e.g., marriage or loss of other health coverage) will be effective as soon as practicable once a request for such election changes has been received, provided the request to change the annual election is made within thirty-one (31) (or sixty (60) days, as applicable) of the event.
- g. Retroactive coverage of a newly acquired Dependent Child on account of birth, adoption or placement for adoption applies to the Pre-Tax Premiums under section 4.01, but not to the Qualified Dependent Care Expense accounts. The effective date of coverage of a new Spouse or Dependent Child under the Qualified Dependent Care Expense account in accordance with Section 3.03 will be prospective for the balance of the Plan Year beginning as soon as practicable after the date the new Salary Reduction Agreement is received by the Plan Administrator.
- h. Payroll changes made in accordance with special enrollment under this Section 3.04 will be effective with the first pay period following approval of a request to change a salary reduction election amount even if the effective date of a Dependent Child's coverage is retroactive.

**3.05 Additional Election Change Pursuant to IRS Notice 2014-55.** *(Applies to Pre-Tax Premiums for accident and health coverage only.)* An Employee who is eligible to enroll in a government sponsored exchange (marketplace coverage) during a marketplace special enrollment or open enrollment period may drop Benefit Plan accident and health coverage midyear, but only if the change corresponds to the Employee's intended enrollment (and the intended enrollment of any related individuals whose coverage is being dropped) in marketplace coverage that is effective no later than the day after the last day of the original coverage.

**3.06 Termination of Participation.**

- a. Pre-Tax Premium(s). Participation with regard to Pre-Tax Premium(s) provided under this Plan during a Plan Year terminates on the first to occur of the following:
  - 1. The end of the month following the month of termination of employment;
  - 2. The date the applicable Salary Reduction Agreement is revoked;
  - 3. The date the Plan or applicable Benefit Plan is terminated; or
  - 4. The date of a change in employment status from permanent to temporary or reduction in hours to less than twenty (20) hours per week.
  
- b. Qualified Health Care Expenses. Participation with regard to Qualified Health Care Expenses provided under this Plan during a Plan Year terminates on the first to occur of the following:
  - 1. The last day of month in which a Participant ceases to be an Employee;
  - 2. The date the applicable Salary Reduction Agreement is revoked;
  - 3. The date the Plan or the Health FSA Plan is terminated; or
  - 4. The date of a change in employment status from permanent to temporary or reduction in hours to less than twenty (20) hours per week.
  
- c. Qualified Dependent Care Expenses. Participation with regard to Qualified Dependent Care Expenses provided under this Plan during a Plan Year terminates on the first to occur of the following:

1. Upon exhaustion of the annual election once during the Plan Year in which the Employee ceases employment;
2. The date the applicable Salary Reduction Agreement is revoked;
3. The date the Plan or the Dependent Care FSA Plan is terminated;  
or
4. The date of a change in employment status from permanent to temporary or reduction in hours to less than twenty (20) hours per week.

Notwithstanding any provision of the Plan to the contrary, a former Participant shall be entitled to submit a request for reimbursement of Qualified Health Care Expenses, in accordance with Article VII, as if he/she were a Participant, provided such Qualified Health Care Expenses were incurred while the former Participant participated in the Plan.

If participation terminates because the Participant ceases to be an Employee and the individual returns to eligible employment with the Employer in the same Plan Year within thirty (30) days, and without any other intervening event that would permit a Participant to revoke or amend participation, then the Employee will be required to take the same benefit election for the remaining portion of the Plan Year as he/she had before he/she terminated. Participation shall be effective the first of the month following such election.

If the individual returns to employment, with the Employer, after more than thirty(30) days he/she will not be eligible to participate in the Pre-tax Premium benefit, the Qualified Health Care Expense account or the Qualified Dependent Care Expense account for the remainder of the Plan Year. Notwithstanding the foregoing, an individual who returns to employment with the Employer after more than thirty (30) days and within thirteen (13) weeks is eligible to participate in the Pre-tax Premium benefit with respect to group health plan and life insurance coverage only.

Notwithstanding any provisions of the Plan to the contrary, a Qualified Beneficiary may elect to continue coverage for Qualified Health Care Expenses by electing continuation coverage as set forth in Section 3.07.

### **3.07 Continuation Coverage.**

- a. Eligibility. A Qualified Beneficiary may continue coverage under the Health FSA Plan under this Section 3.07 by making election to do so with the Employer and submitting the applicable continuation coverage contribution, subject to all conditions and limitations under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). The amount of the monthly contribution will be established by the Plan Administrator and will be paid on an after-tax basis on a uniform and consistent basis. However, Qualified Beneficiaries who elect COBRA are permitted to pay the COBRA premiums on a pre-tax basis through the end of the current Plan Year from their final paychecks.



- b. Maximum Self-Payment Period. A Qualified Beneficiary may elect continuation coverage because of a Qualifying Event described in Section 2.23 only for the remainder of the Plan Year in which the Qualifying Event occurs (plus the Grace Period).
- c. Procedures to Elect Continuation Coverage.

- 1. In the case of a Qualifying Event described in Section 2.23, a. or b (death, termination of employment or reduction in hours) a Qualified Beneficiary will receive information concerning continuation coverage, including the rates, within forty-four (44) days of loss of coverage.
- 2. In the case of a Qualifying Event as described in Section 2.23, c. or d, (legal separation or divorce, or a child no longer qualifies as a Dependent Child) a Qualified Beneficiary must notify the Plan Administrator within sixty(60) days of the Qualifying Event. If notice is not received within sixty (60) days of the Qualifying Event, the Qualified Beneficiary will not be eligible for continuation coverage.

Following receipt of timely notice of a Qualifying Event and within fourteen (14) days of receipt of such notice, the Plan Administrator will provide the Qualified Beneficiary with information concerning continuation coverage and rates.

- 3. After notification of continuation coverage, the Qualified Beneficiary will have sixty (60) days to elect continuation coverage, after the **later** of:
  - (a) the date that the Qualified Beneficiary would lose coverage on account of the Qualifying Event; or
  - (b) the date that the Qualified Beneficiary is sent such the COBRA election notice.

If a Qualified Beneficiary chooses to waive coverage, a waiver of continuation coverage will be effective on the date that the waiver is received by the Plan Administrator.

A Qualified Beneficiary who, during the election period, waives continuation coverage can revoke the waiver at any time before the end of the election period. However, if a Qualified Beneficiary who waives continuation coverage later revokes the waiver, coverage will be effective on the date that the revocation of the waiver and election to continue is received by the Plan Administrator.

- 4. The first monthly payment (which will include premiums for all months since coverage terminated) must be received by the Plan Administrator within forty-five (45) days of the date the Qualified Beneficiary elects to continue coverage. Each subsequent payment is due by the first day of the month for which coverage is elected, and shall be considered timely if received within thirty (30) days of the date due.

5. If premiums are not received in a timely manner, coverage will terminate. No claims will be paid until premium payment is received by the Plan Administrator in accordance with paragraph 4. above.
  6. The election must specify which Qualified Beneficiaries are electing COBRA continuation coverage. If it does not specify the Qualified Beneficiaries, the election shall be deemed to be an election on behalf of all Qualified Beneficiaries.
- d. Termination of Continuation Coverage. Continuation coverage as provided under this section will terminate on the **earliest** of the following dates, as applicable:
1. The date after election of continuation coverage that the Qualified Beneficiary first becomes covered under any other group medical coverage as an employee or dependent.
  2. The end of the period for which the last payment was made for coverage in a timely manner.
  3. The end of the Plan Year in which the Qualifying Event occurs (plus the Grace Period).
  4. The date the Qualified Beneficiary becomes entitled to Medicare.
  5. Under any circumstance where a non-COBRA beneficiary would have benefits terminated for cause (e.g., fraud).
  6. The date the Board or the applicable Employer ceases to provide any group health plan.

**3.08 Death of a Participant.** With respect to Qualified Dependent Care Expenses, if a Participant dies, his/her participation in the Plan shall cease. However, such Participant's estate (or the Participant's heirs, if there is no estate) may submit claims for expenses incurred prior to the Participant's death for the remainder of the Plan Year or, if earlier, until the account balance is exhausted.

With respect to Qualified Health Care Expenses, if a Participant dies, his/her participation in the Plan shall cease on the last day of such month. However, there are two ways for a deceased Participant's family members to access the money in the Participant's Qualified Health Care Expense account. Such Participant's estate (or the Participant's heirs, if there is no estate) may submit claims for expenses incurred prior to the Participant's death for the remainder of the Plan Year. In addition, a Qualified Beneficiary may be eligible to elect COBRA continuation coverage in accordance with Section 3.07 and obtain reimbursement for their own health care expenses incurred after the Participant's death through the end of the Plan Year and Grace Period. A copy of the death certificate may need to be provided to the Plan Administrator or designated agent.



## **ARTICLE IV. BENEFITS**

- 4.01 Pre-Tax Premium(s).** An Employee may elect to pay Pre-Tax Premium(s) for a Benefit Plan subject to the provisions of Section 5.01.
- 4.02 Qualified Health Care Expenses.** The Plan Administrator or designated agent shall reimburse a Participant for Qualified Health Care Expenses incurred by the Participant or the Participant's Spouse or Dependent Child in accordance with the provisions of Section 5.02. Reimbursement for Qualified Health Care Expenses during a Plan Year is limited to the annualized amount elected by the Participant to the Qualified Health Care Expense account under a valid Salary Reduction Agreement. The annual amount elected by the Participant for a Qualified Health Care Expense account under a valid Salary Reduction Agreement (minus any reimbursed expenses for the Plan Year) shall be available at all times during the applicable period of coverage regardless of the actual amount deducted from the Participant's salary for the Plan Year. An Employee who is enrolled in a High Deductible Health Plan with contributions to a Health Savings Account cannot participate in the Qualified Health Care Expense account portion of this Plan.
- 4.03 Qualified Dependent Care Expenses.** The Plan Administrator or designated agent shall reimburse a Participant for Qualified Dependent Care Expenses in accordance with the provisions of Section 5.03. Reimbursement for Qualified Dependent Care Expenses during a Plan Year is limited to the amount of expenses incurred, not to exceed the amount in the Participant's account at the time a claim is made.
- 4.04 HSA.** An Employee may elect to contribute on a pre-tax basis to a HSA.
- 4.05 Determination of Noncompliance.** It is the intent of this Plan to provide a benefits plan that is nondiscriminatory and provide benefits to a classification of Employees while not discriminating in favor of any group, as set forth in Code sections 125, 105, and 129. In the event that a determination is made that all or any part of the contributions to the Plan do not qualify as non-taxable contributions under Code sections 125, 105, and/or 129, the affected contributions made by any Participant shall be treated as taxable salary and, to the extent not yet expended, returned to such Participant. The Participant shall pay:
- a. Any state or federal income taxes due with respect to such amount, together with any interest or penalties imposed thereon;
  - b. The Participant's share (as determined in good faith) of any applicable FICA contributions which would have been withheld from such amounts, had such amounts been treated as taxable salary and not as Qualifying Dependent Care Expenses or Qualified Health Care Expenses.

## **ARTICLE V. SALARY REDUCTIONS**

**5.01 Pre-Tax Premium(s).** A Participant agrees to reduce the Participant's salary or wage each month by the amount of the Pre-Tax Premium(s) under the Benefit Plan under a Salary Reduction Agreement.

**5.02 Qualified Health Care Expense Account.**

- a. Qualified Health Care Expenses shall be reimbursed to a Participant to the extent the Participant has elected to reduce the Participant's salary or wage for the Plan Year under a valid Salary Reduction Agreement.
- b. A Participant's salary or wage may be reduced under this Section 5.02 in an amount not to exceed the federally allowed maximum as adopted by the NDPERS Board, as adjusted in accordance with Code section 125(i) to the extent such adjustment is approved by the Board.
  1. The salary reduction amount so elected shall be paid pro rata over the number of consecutive pay periods in the Plan Year. The salary reduction amount for any single pay period may not exceed the amount of the Participant's salary or wage for that period. Salary reduction amounts for a pay period shall be reduced by the amount it exceeds the Participant's salary or wage for that period.
  2. For members of the Legislative Assembly, the salary reduction amount may vary per pay period; however, the total amount of salary reduction must equal the annual election amount.
- c. The Plan Administrator or designated agent shall establish individual Qualified Health Care Expense accounts for each Participant and shall credit to each Participant's account salary reduction amounts elected under this Section 5.02. The Plan Administrator or designated agent shall reimburse Participants for Qualified Health Care Expenses in accordance with Article VII.

**5.03 Qualified Dependent Care Expense Account.**

- a. Qualified Dependent Care Expenses may be reimbursed to a Participant to the extent the Participant has elected to reduce the Participant's salary or wage for the Plan Year under a valid Salary Reduction Agreement, not to exceed the amount in the Participant's account at the time reimbursement is required.
- b. A Participant's salary or wage may be reduced under this Section 5.03 each Plan Year in an amount not to exceed the lesser of (1) the earned income limitation described in Code section 129(b) or (2) \$5,000 or \$2,500 if the Participant is married, but filing separately. In the case of a married Participant who elected an amount in excess of \$2,500, the Plan Administrator shall be entitled to rely on the Participant's election as

constituting a certification by the Participant that he or she will file a joint tax return.

1. The salary reduction amount so elected shall be paid pro rata over the number of consecutive pay periods in the Plan Year. The salary reduction amount for any single pay period may not exceed the amount of the Participant's salary or wage for the pay period. Salary reduction amounts for a pay period shall be reduced by the amount it exceeds the Participant's salary or wage for that period.
  2. For members of the Legislative Assembly, the salary reduction amount may vary per pay period; however, the total amount of salary reduction must equal the annual election amount.
- c. The Plan Administrator or designated agent shall establish individual Qualified Dependent Care Expense accounts for each Participant and shall credit to each Participant's account salary reduction amounts contributed under this Section 5.03. The Plan Administrator or designated agent shall reimburse Participants for Qualified Dependent Care Expenses in accordance with Article VII.

#### **5.04 Funding of Health Savings Accounts (HSA).**

Effective January 1, 2019. An Employee can elect to participate in the Health Savings Account portion of the Plan by electing to make pre-tax contributions to a HSA via a valid Salary Reduction Agreement. Such amounts will be contributed to a Health Savings Account established and maintained outside this Plan by a trustee or custodian. The benefits under the HSA portion of the Plan consist solely of an Employee's ability to make pre-tax contributions to a Health Savings Account. The terms and conditions of each applicable Participant's HSA is governed by the Health Savings Account trust and/or custodial agreement. An Employee's election under a Salary Reduction Agreement to contribute to a Health Savings Account can be increased, decreased or revoked prospectively at any time during the Plan Year. Contributions to an HSA cannot be elected with benefits under a Qualified Health Care Expense account.

A participant who has an election for Qualified Health Care Expenses that is in effect on the last day of a Plan Year cannot elect HSA contributions for any of the first three months following the close of that Plan Year, unless the Participant's Qualified Health Care Expense account balance is \$0 as of the last day of that Plan Year.

In no event shall the amount contributed to a Participant's Health Savings Account, including pre-tax contributions under this Plan, any after-tax employee contributions, and any employer contributions, exceed the maximum amount under Code section 223(b), as prorated for the number of months the Participant is eligible to contribute to a HSA, in accordance with Code section 223(b).

**5.05 Accounting.** The Plan Administrator or designated agent shall maintain complete records of all amounts to be credited as a contribution or debited as a reimbursement of Qualified Health Care Expenses or Qualified Dependent Care Expenses on behalf of any Participant for six (6) years.

## **ARTICLE VI. SALARY REDUCTION ELECTIONS**

### **6.01 Election Period for Salary Reduction.**

- a. In order to contribute to a Qualified Health Care Expense account or a Qualified Dependent Care Expense account for a Plan Year, a Participant must submit to the Plan Administrator an appropriate Salary Reduction Agreement election form within the applicable election period.
- b. An Employee who elects salary reduction for Pre-Tax Premium(s) must submit to the Plan Administrator an appropriate Salary Reduction Agreement within the applicable election period.
- c. For the purpose of employee supplemental life insurance Pre-tax Premium benefits for the first \$50,000 of coverage, an employee may elect not to participate by completing an appropriate Salary Reduction Agreement declination form within the applicable election period.

### **6.02 Termination, Revocation, or Amendment of Salary Reduction Elections.**

- a. A Participant's Salary Reduction Agreement for a Plan Year shall terminate at the end of the Plan Year. A Participant must make an affirmative election for salary reduction for each Plan Year. Failure to make such an election will result in waiving participation in the Plan for the Plan Year.
- b. The employee supplemental life insurance Pre-tax benefits for the first \$50,000 of coverage will be automatic unless an Employee declines this action.
- c. Termination, revocation or amendment of salary reduction elections may only be made by a Participant in accordance with Article III.

### **6.03 Limitations on Exclusion from Gross Income for Dependent Care Expense Account.**

- a. Reimbursements under the Plan for Qualified Dependent Care Expenses shall be excluded from the gross income of a Participant during a Plan Year in accordance with Code section 129. An Employee's exclusion from gross income under the Plan in a calendar year shall not exceed the lesser of:
  1. \$5,000 if the Employee is married and filing a joint return or if the Employee is a single parent or \$2,500 if the employee is married, but filing separately; or
  2. In the case of an Employee who is not married at the close of such Plan Year, the Earned Income of such Employee for such Plan Year; or

3. In the case of an Employee who is married at the close of such Plan Year, the lesser of the Earned Income of such Employee or the Earned Income of the Spouse of such Employee for such Plan Year.

To the extent reimbursements exceed the maximum amount excludable from a Participant's gross income, the reimbursements shall be treated as taxable income to the Participant.

- b. The amount excluded from the income of an Employee under the Plan for any Plan Year shall not include:
  1. Payments made or incurred to an individual who can be claimed as a Dependent Child of the Employee or the Spouse of such Employee; or
  2. Payments made or incurred to an individual who is a child, under the age of nineteen (19), of such Employee or the Spouse of such Employee.

#### **6.04 Forfeiture of Salary Reduction Amounts.**

- a. If a Participant fails to claim any amounts in the Qualified Health Care Expense account or Qualified Dependent Care Expense account by the time allowed in Section 7.04, d., and Section 7.05, d., such amounts shall not be carried over to reimburse the Participant for expenses incurred during a subsequent Plan Year and rights to such amounts shall be forfeited by the Participant.
- b. All forfeitures under this Plan shall be used first to offset any losses experienced by the Board during the Plan Year as a result of making reimbursements with respect to any Participant in excess of the amounts paid by such Participant via salary reductions. Second, forfeitures shall be used to reduce the Board's cost of administering this Plan during the Plan Year.

#### **6.05 Amendment of Salary Reduction Elections Due To Leave of Absence, Family and Medical Leave Act (FMLA) or Military Leave.**

- a. Pre-Tax Premiums and Qualified Health Care Expense Account.
  1. *Leave with taxable compensation.* Pre-tax contributions during a leave will continue to be made if taxable compensation is due to the Participant while on leave of absence, FMLA leave, or military leave.
  2. *Leave without taxable compensation.* An unpaid leave of absence will be considered a change in status, and the Participant may amend salary reduction elections to be consistent with the change in status.

3. *FMLA*. A Participant commencing a qualifying leave under FMLA may, to the extent required by the FMLA, continue to maintain coverage under the Benefit Plan and Qualified Health Care Expense Account under the terms and conditions set forth hereafter.
4. With respect to a Benefit Plan, for unpaid leaves of absence and leaves under FMLA, if no coverage during leave is elected and the Participant returns to active work during the same Plan Year, and the salary reduction election has not been amended, as provided in 6.05, a., 2., then the same election the Participant had before the leave must be maintained for the remainder of the Plan Year upon return from the leave.
  - (a) *“Pre-pay option”*: A Participant may make pre-tax contributions by increasing his/her salary reduction contributions before taking the leave, but only for the portion of the leave that occurs during the Plan Year.
  - (b) *“Catch-up option”*: Employer will continue coverage during the leave. A Participant must make pre-tax contributions after he or she returns from leave to make up missed contributions.
5. A Participant may elect not to continue coverage during the leave. If the Participant does not make the salary reduction on a pre-tax basis or by after tax contributions described in paragraph 4 above, his/her participation will cease the last day of the month in which a contribution is received. The Participant may submit claims for eligible expenses incurred before participation ended, and will be reimbursed for Qualified Health Care Expenses as described in section 4.02 herein.
6. *USERRA*. If a Participant returns from a qualified military leave under the Uniformed Services Employment and Reemployment Rights Act (USERRA) and commences employment again, he/she may choose to become a Participant and salary reduction contributions will be increased to reflect any contributions for the Plan Year not yet paid or to amend the salary reduction election, as provided in paragraph 2 above, or to elect not to participate for the remainder of the Plan Year.
7. For the Qualified Health Care Expense account, if a Participant revokes coverage upon commencement of the leave and elects to be reinstated upon return from the leave, the Participant has a choice between two options:
  - (a) *Full Coverage*: The Participant may maintain the same election the Participant had before the leave and reinstate the level of coverage in effect when the leave began, provided that the Participant makes contributions to reduce his/her salary or



wage to fund the Qualified Health Care Expense account for the contributions that were missed during the leave.

- (b) *Prorated Coverage*: The Participant may reinstate a level of coverage that is reduced by the amount of contributions to reduce his/her salary or wage to fund the Qualified Health Care Expense account that were missed during the leave.

b. Qualified Dependent Care Expense Account.

1. *Leave with taxable compensation.* Pre-tax contributions during a leave may be made if taxable compensation is due to the Participant while on leave of absence, FMLA leave, or military leave and the employee has Qualified Dependent Care Expenses.
2. *Leave without taxable compensation.* An unpaid leave of absence will be considered a change in status, and the Participant may amend salary reduction elections to be consistent with the change in status.
3. *FMLA.* A Participant commencing a qualifying leave under FMLA may continue to maintain coverage under the Qualified Dependent Care Expense Account under the terms and conditions set forth hereafter. For unpaid leaves of absence and leaves under FMLA, if no coverage during leave is elected and the Participant returns to active work during the same Plan Year, and the salary reduction election has not been amended, as provided in paragraph 2 above, then the same election the Participant had before the leave must be maintained for the remainder of the calendar year upon return from the leave.
  - (a) *“Pre-pay option”*: A Participant may make pre-tax contributions by increasing his/her salary reduction contributions before taking the leave, but only for the portion of the leave that occurs during the Plan Year.
  - (b) *“Catch-up option”*: Employer will continue coverage during the leave. A Participant must make pre-tax contributions after he or she returns from the leave to make up missed contributions.
4. A Participant may elect not to continue coverage during the leave. If the Participant does not make the salary reduction on a pre-tax basis described in paragraph 3 above, his/her participation will cease the last day of the month in which a contribution is received. The Participant may submit claims for eligible expenses incurred before participation ended, and will be reimbursed as described in section 4.03 herein. Eligible expenses are only those expenses that enable the Employee or the Employee and the Employee’s Spouse to be gainfully employed

or the Spouse to be a Student. Any other expenses would not be reimbursable during the leave of absence period.

5. *USERRA*. If a Participant returns from a qualified military leave under *USERRA* and commences employment again, he/she may choose to become a Participant and salary reduction contributions will be increased to reflect any contributions for the Plan Year not yet paid or to amend the salary reduction election, as provided in paragraph 2 above, or to elect not to participate for the remainder of the Plan Year.

## **ARTICLE VII. PAYMENT OF CLAIMS**

- 7.01 Determination of Status of Eligible Expenses.** After receiving an appropriately submitted claim and the information required under Section 7.04 or Section 7.05, the Plan Administrator shall determine whether such expenses are Qualified Health Care Expenses or Qualified Dependent Care Expenses. The Plan Administrator may delegate the authority to administer claims under the Plan to a designated agent.
- 7.02 Payment of Claims.** The Plan Administrator will authorize payment of properly submitted claims for reimbursement at such intervals, as it may consider appropriate.
- 7.03 Expenses.** All administrative expenses incurred prior to the termination of the Plan that arise in connection with the administration of the Plan shall be paid as authorized by the Plan Administrator.
- 7.04 Claims Reimbursement for Qualified Health Care Expenses.**
- a. The Participant must submit a properly completed claim form to the Plan Administrator or the designated agent along with written evidence from an independent third party describing the Health Care Expense that has been incurred, the person on whose behalf such Health Care Expense has been incurred, the date such expense was incurred, the amount of such expense, and such other information as the Plan Administrator may find necessary.
  - b. The Participant must submit with other required documents a signed statement in such form as determined by the Plan Administrator certifying that the expenses for which reimbursement is sought are expenses that the Participant believes in good faith are Qualified Health Care Expenses.
  - c. The Plan Administrator reserves the right to verify to its satisfaction all claimed expenses prior to reimbursement and to refuse to reimburse any amounts which are not Qualified Health Care Expenses.
  - d. All claims for reimbursement must be submitted no later than April 30 following the end of the Plan Year in which the expense was incurred.
  - e. Claims reimbursement for Qualified Health Care Expenses using a debit card shall be made in accordance with the terms of the debit card agreement and Proposed Treasury Regulations section 1.125-6 and other applicable IRS rulings.
- 7.05 Claims Reimbursement for Qualified Dependent Care Expenses.**
- a. To make a claim for reimbursement of Qualified Dependent Care Expenses, the Participant shall submit a statement to the Plan

Administrator or the designated agent on an appropriate form adopted by the Plan Administrator which may contain the following information:

1. The Qualifying Individual(s) for whom the Qualified Dependent Care Expenses were incurred;
2. A statement to substantiate that the dependent or dependents are Qualifying Individuals, such as the age of the dependent or a statement as to the physical or mental capacity of the dependent;
3. The nature of the services which will generate the Qualified Dependent Care Expenses;
4. Written evidence from an independent third party stating the expenses have been incurred, the amount of such expense, the date of such expense, and such other information as the Plan Administrator in its sole discretion may request;
5. The name of the person, organization or entity to who the expense was paid, including the taxpayer identification number, and the relationship, if any, of the person performing the services to the Participant;
6. A statement as to where the services were performed;
7. If the services are to be performed in a Dependent Care Center, a statement verifying that each of the requirements for a Dependent Care Center specified in Section 2.05 of the Plan are met;
8. A statement indicating whether the services are necessary to enable the Participant to be gainfully employed;
9. If the Participant is married, a statement:
  - (a) that the Spouse is employed; or
  - (b) if the Spouse is not employed, a statement that he/she is incapacitated or that he/she is a Student within the meaning of Section 2.25 of the Plan.

If an Employee's Spouse is not employed, not incapacitated, nor a Student as defined in Section 2.25 at the time the expense was incurred, the expense is not a Qualified Dependent Care Expense; and
10. A statement that the Qualified Dependent Care Expenses have not been reimbursed and are not reimbursable under any other plan or by any other entity.

- b. The Participant must submit with other required documents a signed statement in such form as determined by the Plan Administrator or designated agent certifying that the expenses for which reimbursement is sought are expenses that the Participant believes in good faith are Qualified Dependent Care Expenses.
- c. The Plan Administrator reserves the right to verify to its satisfaction all claimed expenses prior to reimbursement and to refuse to reimburse any amounts which are not Qualified Dependent Care Expenses.
- d. All claims for reimbursement must be submitted not later than April 30 following the end of the Plan Year in which the expense was incurred.

**7.06 Grace Period for Qualified Health Care Expenses.** Amounts remaining in a Participant's Qualified Health Care Expense account at the end of a Plan Year can be used to reimburse the Participant for Qualified Health Care Expenses that are incurred during Grace Period under the following conditions:

- a. Applicability. In order for an individual to be reimbursed for Qualified Health Care Expenses incurred during a Grace Period from amounts remaining in his or her Qualified Health Care Expense account at the end of the Plan Year to which that Grace Period relates, he or she must be either (1) a Participant with Health Care Expense account coverage that is in effect on the last day of that Plan Year; or (2) a Qualified Beneficiary (as defined under COBRA) who has COBRA coverage under the Health Care Expense account component on the last day of that Plan Year.
- b. No Cash-Out or Conversion. Prior Plan Year Qualified Health Care Expense accounts may not be cashed out or converted to any other taxable or nontaxable benefit. For example, a prior Plan Year Health Care Expense account may not be used to reimburse Qualified Dependent Care Expenses.
- c. Reimbursement of Grace Period Expenses. Qualified Health Care Expenses incurred during a Grace Period and approved for reimbursement in accordance with the Plan's claims procedure for the Qualified Health Care Expense account component will be reimbursed and charged first from any available prior Plan Year Qualified Health Care Expense account balance. If a current Plan Year Qualified Health Care Expense should subsequently be submitted, the claims for reimbursement under the Qualified Health Care Expense account component will be paid in the order in which they are approved. Once paid, a claim will not be reprocessed so as to pay it (or treat it as paid) from amounts attributable to a different Plan Year or period of coverage.
- d. Run-Out Period and Forfeitures. Claims for reimbursement of Qualified Health Care Expenses incurred during a Plan Year or its related Grace Period must be submitted no later than the April 30 following the close of

the Plan Year in order to be reimbursed from prior Plan Year Qualified Health Care Expense account amounts. Any prior Plan Year Qualified Health Care Expense account amounts that remain after all reimbursement have been made for the Plan Year and its related Grace Period shall not be carried over to reimburse the Participant for expenses incurred after the Grace Period ends.

The Participant will forfeit all rights with respect to such balance, which will be subject to the Plan's provisions regarding forfeitures in section 6.04 of the Plan.

- e. Qualified Health Care Expense Account Balance, Grace Period and Health Savings Accounts. This Plan's Qualified Health Care Expense account operates with a Grace Period. Under IRS rules regarding a Qualified Health Care Expense Account's Grace Period, if a Participant's Qualified Health Care Expense Account is in effect with any balance in that account on the last day of a Plan Year, the Participant (and their Spouse, if married), nor an Employer on behalf of the Participant, can contribute to a Health Savings Account during the first three (3) months following the close of the Plan Year.
- f. Employee Participation in a Qualified Health Care Expenses Account Prevents Spouse or Dependent Child from Contributing to an HSA. Since this Plan's Qualified Health Care Expenses account is a general purpose account that permits reimbursement of qualifying medical expenses of Employees, Spouses and Dependent Children, under IRS rules, if the Spouse (or Dependent Child) of the Employee is enrolled in a High Deductible Health Plan with Health Savings Account, the Spouse (and Dependent Child) cannot contribute to an HSA while the Employee is enrolled in a general purpose Qualified Health Care Expenses account.

**7.07 Grace Period for Qualified Dependent Care Expenses.** Amounts remaining in a Participant's Qualified Dependent Care Expense account at the end of a Plan Year can be used to reimburse the Participant for Qualified Dependent Care Expenses that are incurred during the Grace Period under the following conditions:

- a. Applicability. In order for an individual to be reimbursed for Qualified Dependent Care Expenses incurred during a Grace Period from amounts remaining in his or her Qualified Dependent Care Expense Account at the end of the Plan Year to which that Grace Period relates, he or she must be a Participant with Qualified Dependent Care Expense account coverage that is in effect on the last day of that Plan Year.
- b. No Cash-Out or Conversion. Prior Plan Year Qualified Dependent Care Expense accounts may not be cashed out or converted to any other taxable or nontaxable benefit. For example, a Prior Plan Year Qualified Dependent Care Expense account may not be used to reimburse Qualified Health Care Expenses.

- c. Reimbursement of Grace Period Expenses. Qualified Dependent Care Expenses incurred during a Grace Period and approved for reimbursement in accordance with the Plan's claims procedure for the Qualified Dependent Care Expense account will be reimbursed and charged first from any available prior Plan Year Qualified Dependent Care Expense account. If a current Plan Year Qualified Dependent Care Expense should subsequently be submitted, the claims for reimbursement under the Qualified Dependent Care Expense account will be paid in the order in which they are approved. Once paid, a claim will not be reprocessed so as to pay it (or treat it as paid) from amounts attributable to a different Plan Year or period of coverage.
- d. Run-Out Period and Forfeitures. Claims for reimbursement of Qualified Dependent Care Expenses incurred during a Plan Year or its related Grace Period must be submitted no later than the April 30 following the close of the Plan Year in order to be reimbursed from a prior Plan Year Qualified Dependent Care Expense account balance. Any prior Plan Year Qualified Dependent Care Expense account balance that remain after all reimbursements have been made for the Plan Year and its related Grace Period shall not be carried over to reimburse the Participant for expenses incurred after the Grace Period ends.

The Participant will forfeit all rights with respect to such balance, which will be subject to the Plan's provisions regarding forfeitures in Section 6.04 of the Plan.

- e. Grace Period Effect on Dependent Care Expense Account Exclusions. Grace Periods may have an adverse effect on the exclusions or credits that individuals report on their personal income tax return. There may be taxable income to an individual if the Qualified Dependent Care Expense account reimbursements exceed IRS permitted Qualified Dependent Care Expense Account exclusion amounts as a result of the Grace Period. For example, if as a result of the Grace Period, a participant receives Qualified Dependent Care Expense account reimbursements for services incurred in a year that exceed his or her maximum Qualified Dependent Care Expense account exclusion, the excess may be included in the Participant's taxable income. Individuals should be guided by the advice of their tax professional(s).



## **ARTICLE VIII. ADMINISTRATION**

- 8.01 Board Powers and Duties.** The Board shall interpret the Plan and decide all matters arising thereunder, including the right to remedy possible ambiguities, inconsistencies, or omissions. All determinations of the Board with respect to any matter under the Plan shall be conclusive and binding on all persons. The Board shall:
- a. Make and enforce administrative rules or policies.
  - b. Decide questions concerning the Plan.
  - c. Provide a review to any Participant whose claim for benefits has been denied in whole or in part.
- 8.02 Plan Administrator Duties.** The Plan Administrator or designated agent shall manage and administer the Plan. The Plan Administrator shall:
- a. Require any person to furnish such information as it may request for the purpose of the proper administration of the Plan and as a condition to receiving any benefits under the Plan.
  - b. Prescribe the use of administrative policies and procedures as it considers necessary for the efficient administration of the Plan.
  - c. Determine the eligibility of any Employee to participate in the Plan, in accordance with the provisions of the Plan.
  - d. Determine the amount of benefits which are payable to any person in accordance with the provisions of the Plan.
- 8.03 Additional Operating Rules.** A Participant's salary reduction amount will generally not be subject to federal income tax withholding or to applicable Social Security (FICA) tax withholding. Salary reduction amounts will generally not be subject to any state income tax withholding unless otherwise prohibited by applicable state law.
- 8.04 Use and Disclosure of Protected Health Information.** The Health FSA Plan will use protected health information (PHI) only to the extent of and in accordance with the uses and disclosures permitted by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH). Specifically, the Health FSA Plan will use and disclose PHI for purposes related to health care treatment, payment for health care and health care operations. The Health FSA Plan rarely, if ever, uses or discloses PHI for treatment purposes. In addition, the Health FSA Plan does not use or disclose PHI that is genetic information (as defined in 45 CFR 160.103) for underwriting purposes, as set forth in 45 CFR 164.502(a)(5)(1)).

The Health FSA Plan may disclose PHI to a Benefit Plan for purposes related to administration of these plans, as permitted by law.

The Health FSA Plan will disclose PHI to the Employer only upon receipt of a certification from the Employer that the Employer, as Plan sponsor agrees to:

- a. Not use or further disclose PHI other than as permitted or required by the Health FSA Plan document or as required by law;
- b. Ensure that any agents to whom the Health FSA Plan sponsor provides PHI received from the Health FSA Plan agree to the same restrictions and conditions that apply to the Health FSA Plan sponsor with respect to such PHI;
- c. Not use or disclose PHI for employment-related actions and decisions unless authorized by an individual;
- d. Not use or discloses PHI in connection with any other benefit or employee benefit plan of the Health FSA Plan sponsor unless authorized by an individual;
- e. Report to the Health FSA Plan any PHI use or disclosure that is inconsistent with the uses or disclosure provided for of which it becomes aware;
- f. Make PHI available to an individual in accordance with HIPAA's access requirements;
- g. Make PHI available for amendment and incorporate any amendments to PHI in accordance with HIPAA;
- h. Make available the information required to provide an accounting of disclosures;
- i. Make internal practices, books and records relating to the use and disclosure of PHI received from the Health FSA Plan available to the HHS Secretary for the purposes of determining the Health FSA Plan's compliance with HIPAA;
- j. If feasible, return or destroy all PHI received from the Health FSA Plan that the Plan sponsor still maintains in any form, and retain no copies of such PHI when no longer needed for the purpose for which disclosure was made (or if return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction infeasible); and
- k. If a breach of unsecured protected health information (PHI) occurs, the Health FSA Plan will notify affected individuals in accordance with applicable federal law and regulations.

In accordance with HIPAA, only the Executive Director of the Public Employees Retirement System and staff designated by the Executive Director may be given access to PHI. Such persons may only have access to and use and disclose PHI for Health FSA Plan administration functions that the Plan sponsor performs for the Health FSA Plan. If such persons do not comply with this Section 8.04, the Health FSA Plan sponsor shall provide a mechanism for resolving issues of noncompliance, including disciplinary sanctions.

In addition, the Health FSA Plan sponsor will comply with the following HIPAA security standards:

- a. **Safeguards**. The plan sponsor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Health FSA Plan, as required under 45 CFR Part 160 and Subparts A and C of Part 164 (the “HIPAA Security Standards”).
- b. **Agents**. The plan sponsor shall ensure that any agent, including a subcontractor, to whom it provides electronic protected health information agrees to implement reasonable and appropriate safeguards to protect such information
- c. **Security Incidents**. The plans sponsor shall report to the Health FSA Plan any security incident under the HIPAA Security Standards of which it becomes aware.
- d. **Adequate Separation**. The plan sponsor shall establish reasonable and appropriate security measures to ensure adequate separation between the Health FSA Plan and plan sponsor.

## **ARTICLE IX. APPEALS PROCEDURE**

- 9.01 Notice to Employee.** Any person who claims he/she has been denied a benefit under the Plan shall be entitled, upon written request to the Plan Administrator to receive, within sixty (60) days of receipt of such request, a written notice of such action, together with a full and clear statement of the specific reasons therefore, citing pertinent provisions of the Plan and a statement of the procedure to be followed in requesting a review of his/her claim.
- 9.02 Late Claim Appeal.** Claims for the reimbursement of Qualified Health Care Expenses incurred in a Plan Year shall be paid as soon after a claim has been filed as is administratively practicable. If a Participant fails to submit a claim within the four (4) month period immediately following end of the Plan Year, those Health Care Expense claims shall not be considered for reimbursement by the Plan Administrator or designated agent; provided however, after four (4) months from the close of the Plan Year and before the end of three hundred sixty (360) days following the close of the Plan Year, a Participant may request the Board to authorize reimbursement of a Qualifying Health Care Expense incurred during the Plan Year by the Participant. The Participant must submit a written request to the Board specifying the request and the reason(s) why the Qualifying Health Care Expense was not submitted on or before the end of the 4th month following the close of the Plan Year. The Board may authorize payment for any reason constituting good cause not involving fault on the part of the Participant if such payment would be permitted under the Plan. Upon authorization of the Board, the Plan Administrator or designated agent shall reimburse the Participant for the amount not to exceed the Qualified Health Care Expense account balance for that Plan Year. The decision of the Board shall be final.
- 9.03 Appeal of Denial of Benefit.** If the claimant wishes further consideration of his/her claim, he/she may request a review. The Plan Administrator shall schedule a review by the Board on the issue within sixty (60) days following receipt of the claimant's request for such review. The decision following such review shall be communicated in writing to the claimant and, if the claim is denied, shall set forth the specific reasons for such denial, citing the pertinent provisions of the Plan. The decision of the Board as to all claims shall be final.

## **ARTICLE X. AMENDMENT OR TERMINATION OF THE PLAN**

The Board reserves the power at any time and from time to time (and retroactively if necessary or appropriate to meet the requirements of the Code) to modify or amend, in whole or in part, any or all of the provisions of the Plan provided, however, that no such modifications or amendment shall divest a Participant of a right to a benefit to which he becomes entitled in accordance with the Plan. The Board reserves the power to discontinue or terminate the Plan at any time. Any such amendment, discontinuance or termination shall be effective as of such date as the Board shall determine.

## ARTICLE XI. GENERAL PROVISIONS

- 11.01 No Right to be Retained in Employment.** Nothing contained in the Plan shall give any Employee the right to be retained in the employment of any Employer or affect the right of the Employer to dismiss any Employee.
- 11.02 Alienation of Benefits.** No benefit under the Plan is subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt to do so is void.
- 11.03 Use of Form Required.** All communications in connection with the Plan made by a Participant are effective only when submitted to the Plan Administrator or designated agent.
- 11.04 Applicable Law.** The provisions of the Plan shall be construed, administered and enforced according to applicable federal law and the laws of the State of North Dakota.
- 11.05 Statement of Benefits.** On or before January 31 of each year, the Board or a designated agent will furnish each Participant who received Qualified Dependent Care Expense account benefits under the Plan a written statement on appropriate forms required by the Internal Revenue Service, showing the amounts paid or incurred by the Plan in providing reimbursement under the Plan for Qualified Dependent Care Expenses with respect to the Participant for the prior Plan Year.
- 11.06 Effect of Mistake.** In the event of a mistake as to the eligibility or participation of an Employee, the allocations made to the account of a Participant, or the amount of benefits paid or to be paid to a Participant or other person, the Plan shall, to the extent it deems administratively possible and otherwise permissible under Code section 125 or the regulations issued thereunder, cause to be allocated or cause to be withheld or accelerated, or otherwise make adjustment of, such amounts as it will in its judgment accord to such Participant or other person the credits to the account or distributions to which he/she is properly entitled under the Plan. Such actions by the Plan may include withholding any amounts due to the Plan or the Employer from compensation paid by the Employer.



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# Memorandum

**TO:**                   NDPERS Board

**FROM:**               Rebecca

**DATE:**               September 12, 2023

**SUBJECT:**           Medicare Part D Contract Amendment

At the August meeting, the Board approved renewing the NDPERS Medicare Part D Plan with Humana for the 2024 calendar year. Attached is the contract amendment prepared by NDPERS legal counsel and signed by Humana.

## **Board Action Requested**

Approve the contract amendment for the NDPERS Medicare Part D Plan for the 2024 calendar year for signature by Chairperson Rindy.



**Second Amendment to Medicare Part D Employer Sponsored Group Waiver Plan Prescription Drug Services Agreement**

This Second Amendment is between the State of North Dakota, acting through its North Dakota Public Employees Retirement System (Group), and Humana Medical Advantage Organization (MAO).

GROUP and MAO entered into an Agreement for Medicare Part D Employer Sponsored Group Waiver Plan Prescription Drug Services (Agreement) on September 21, 2021. The initial plan year was from January 1, 2022, until December 31, 2022. The Agreement provides Group may renew the Agreement for successive January 1 to December 31 periods (renewal plan years).

GROUP and MAO renewed the Agreement for the January 1, 2023, to December 31, 2023, renewal plan year.

In August 2023, MAO proposed renewal terms for the January 1, 2024, to December 31, 2024, plan year, incorporated into this Amendment as Attachments A, B, and C. Group reviewed the renewal terms, considered the matter, and passed a motion to renew the Agreement for the January 1, 2024, to December 31, 2024, plan year.

Group and MAO therefore agree:

- 1) Pursuant to Article IV, Section 4.2 of the Agreement, to renew the Agreement for one year. The amended renewal plan year is January 1, 2024, until December 31, 2024.
- 2) To incorporate the amended terms in Attachments A, B, and C into the Agreement.

Attachment A – Humana Medicare Employer PDP Plan - 2024 PDP for NDPERS Plan 037 Option 161

Attachment B – Humana Medicare Employer Plan – Premium Information (2024)


Attachment C – 2024 Group Medicare Performance Standards for PDP Only

- 3) All other terms of the Agreement remain in effect.

This Second Amendment is effective, on the date of the most recent signature, when executed by both Parties.

HUMANA

State of North Dakota through NDPERS

Signature:  \_\_\_\_\_

Printed: Tim Snyder \_\_\_\_\_

Title: SVP \_\_\_\_\_

Date: 8/30/2023 \_\_\_\_\_

Signature: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

90 Day Supplies

| PDP Option Number | 90 Day Standard Retail (4) from \$0 to ICL (1)         |   |   |        | 90 Day Standard Retail from ICL to Catastrophic (2) "Coverage Gap" |   |   |        | 90 Day Standard Retail Cost Sharing from Catastrophic to Unlimited | Out-of-Pocket that triggers Catastrophic | 90 Day Standard Retail Home Infusion Drugs (3)         |   |   |        |
|-------------------|--|---|---|--------|--|---|---|--------|--|--|--|---|---|--------|
|                   | Tier 1*  | Tier 2  | Tier 3  | Tier 4 | Tier 1*  | Tier 2  | Tier 3  | Tier 4 |  |  | Tier 1*  | Tier 2  | Tier 3  | Tier 4 |
| PDP 157           | \$5 copayment; 15% coinsurance of remaining cost share | \$15 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 50% coinsurance of remaining cost share | N/A    | \$5 copayment; 15% coinsurance of remaining cost share             | \$15 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 25% coinsurance of remaining cost share | N/A    | \$0 copay  | \$8,000                                  | \$5 copayment; 15% coinsurance of remaining cost share | \$15 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 25% coinsurance of remaining cost share | N/A    |

| PDP Option Number | 90 Day Standard Mail Order (4) from \$0 to ICL (1)     |   |   |        | 90 Day Standard Mail Order from ICL to Catastrophic (2) "Coverage Gap" |   |   |        | 90 Day Standard Mail Order Cost Sharing from Catastrophic to Unlimited | Out-of-Pocket that triggers Catastrophic | 90 Day Standard Mail Order Home Infusion Drugs (3)     |   |   |        |
|-------------------|--|---|---|--------|--|---|---|--------|--|--|--|---|---|--------|
|                   | Tier 1*  | Tier 2  | Tier 3  | Tier 4 | Tier 1*  | Tier 2  | Tier 3  | Tier 4 |  |  | Tier 1*  | Tier 2  | Tier 3  | Tier 4 |
| PDP 157           | \$5 copayment; 15% coinsurance of remaining cost share | \$15 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 50% coinsurance of remaining cost share | N/A    | \$5 copayment; 15% coinsurance of remaining cost share                 | \$15 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 25% coinsurance of remaining cost share | N/A    | \$0 copay  | \$8,000                                  | \$5 copayment; 15% coinsurance of remaining cost share | \$15 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 25% coinsurance of remaining cost share | N/A    |

Note: Part D vaccines recommended by the Advisory Committee on Immunization Practices (ACIP) for adults may be available at no cost.

**Footnotes:**

- 1 ICL (Initial Coverage Limit): When total drug cost (the amount the member pays plus the amount Humana pays) reaches \$5,030.
- 2 Catastrophic: When a member's True Out-of-Pocket (TrOOP) cost reaches \$8,000.
- 3 Home Infusion Drugs: After the deductible has been met, these drugs will be covered at the specified cost shares in the Coverage Gap.
- 4 Retail and Mail Order: The benefit for a 90-day supply is limited to Rx formulary Tiers 1-2 and most drugs on Tier 3. Regardless of tier placement, Specialty drugs are limited to a 30-day supply.

**Out of Network: Emergency Situations**

When a member purchases a drug at an out-of-network pharmacy in an emergency situation:

- a. the member will pay the same coinsurance as would have applied at a network pharmacy, but at the out-of-network pharmacy price, and/or,
- b. the member will pay the same copayment as would have applied at a network pharmacy, plus the difference between the out-of-network pharmacy price and the network pharmacy price.



**HUMANA MEDICARE EMPLOYER PDP PLAN**

2024 PDP for North Dakota Public Employees Retirement System Plan 037 Option 161

Group Plus Formulary - PDG 49

With Package(s): 2 (Cough/Cold) & 7 (Erectile Dysfunction)

Effective Date: 01/01/2024 - 12/31/2024

**30 Day Supplies**

| PDP Option Number | 30 Day Standard Retail from \$0 to ICL (1)             |   |   |   | 30 Day Standard Retail from ICL to Catastrophic (2) "Coverage Gap" |   |   |   | 30 Day Standard Retail Cost Sharing from Catastrophic to Unlimited | Out-of-Pocket that triggers Catastrophic | 30 Day Standard Retail Home Infusion Drugs (3)         |   |   |   |
|-------------------|--|---|---|---|--|---|---|---|--|--|--|---|---|---|
|                   | Tier 1*  | Tier 2  | Tier 3  | Tier 4  | Tier 1*  | Tier 2  | Tier 3  | Tier 4  |  |  | Tier 1*  | Tier 2  | Tier 3  | Tier 4  |
| PDP 157           | \$5 copayment; 15% coinsurance of remaining cost share | \$15 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 50% coinsurance of remaining cost share | \$25 copayment; 50% coinsurance of remaining cost share | \$5 copayment; 15% coinsurance of remaining cost share             | \$15 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 25% coinsurance of remaining cost share | \$0 copay  | \$8,000                                  | \$5 copayment; 15% coinsurance of remaining cost share | \$15 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 25% coinsurance of remaining cost share |

| PDP Option Number | 30 Day Standard Mail Order from \$0 to ICL (1)         |   |   |   | 30 Day Standard Mail Order from ICL to Catastrophic (2) "Coverage Gap" |   |   |   | 30 Day Standard Mail Order Cost Sharing from Catastrophic to Unlimited | Out-of-Pocket that triggers Catastrophic | 30 Day Standard Mail Order Home Infusion Drugs (3)     |   |   |   |
|-------------------|--|---|---|---|--|---|---|---|--|--|--|---|---|---|
|                   | Tier 1*  | Tier 2  | Tier 3  | Tier 4  | Tier 1*  | Tier 2  | Tier 3  | Tier 4  |  |  | Tier 1*  | Tier 2  | Tier 3  | Tier 4  |
| PDP 157           | \$5 copayment; 15% coinsurance of remaining cost share | \$15 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 50% coinsurance of remaining cost share | \$25 copayment; 50% coinsurance of remaining cost share | \$5 copayment; 15% coinsurance of remaining cost share                 | \$15 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 25% coinsurance of remaining cost share | \$0 copay  | \$8,000                                  | \$5 copayment; 15% coinsurance of remaining cost share | \$15 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 25% coinsurance of remaining cost share | \$25 copayment; 25% coinsurance of remaining cost share |

Note: Part D vaccines recommended by the Advisory Committee on Immunization Practices (ACIP) for adults may be available at no cost.

Plan covered insulin products will not exceed \$35 for a one-month supply no matter what cost-sharing tier it's on

- \*Tier 1: Generic or Preferred Generic - Generic or brand drugs that are available at the lowest cost share for this plan.
- Tier 2: Preferred Brand - Generic or brand drugs that Humana offers at a lower cost than Tier 3 Non-Preferred Drug.
- Tier 3: Non-Preferred Drug - Generic or brand drugs that Humana offered at a higher cost than Tier 2 Preferred Brand drugs.
- Tier 4: Specialty Tier - Some injectables and other higher-cost drugs.

Extra Services

The benefit and discount information presented here are current as of the date of this document. If a change should occur prior to implementation, Humana will clarify any change and notify the group sponsor. The products and services described below are neither offered nor guaranteed under our contract with the Medicare program. In addition, they are not subject to the Medicare appeals process. Any disputes regarding these products and services should be addressed with Customer Care by calling the number on the back of the member's Humana membership card. CMS does not permit discussing the below services with potential enrollees prior to enrollment.

|  |   |
|--|---|
| •Complementary and Alternative Medicine and Weight Management Discount (Trivity)<br>- Not available in Puerto Rico | Members receive discounts for complementary alternative medicine and weight management services including discounted rates for: specialists, Nutrisystem, The Vitamin Shoppe, Fitbit, and United Pet Care. Services must be received from participating Tivity Health providers.                                      |
| • Dental Discount (HumanaDental)<br>- Not available in Florida or Puerto Rico                                      | Members can receive discounts on dental services when services are received from participating HumanaDental providers.  |
| • Dental Discount (Florida GoldPlus)<br>- Available in Florida only  | Members can receive discounts on dental services when services are received from participating Florida GoldPlus providers.  |
| • Healthy Hearing Discount (HearUSA)<br>- Available in Florida only  | Discounts on hearing aids, accessories and hearing assistance products.   |
| • Hearing Discount (TruHearing)<br>- Not available in Florida or Puerto Rico                                       | Hearing aid discounts are available to members who purchase hearing aids at any TruHearing Hearing Center. Members must schedule appointments with TruHearing before seeing a clinician.  |
| • Personal Emergency Response System (Lifeline® Medical Alert Systems)   | Discounts available to members when purchasing Lifeline medical alert systems and medication dispensers.  |
| • Meal Delivery Discount (Mom's Meals)   | Members receive discounts on home delivered meals to help support nutritional needs.  |
| • Prescription Medication Discount   | Lifeline may help members live independently with a peace of mind. Personal emergency response services connect members to caregivers and emergency services when an incident occurs. Wireless or landline options available.   |
| • Bill Management Service (Silver Bills)   | Members can receive a discount on monthly bill management services.   |
| • Dental Health (Truthbrush)   | Discounts on toothbrush tracking devices that monitors dental habits and performance through the use of an app.   |
| • Vision Discount (EyeMed)   | Discounts from participating EyeMed Vision Care Select network providers on routine vision services such as: Exam, contact lens fitting and follow-up, lenses, frames and laser vision correction. Discounts are taken at point of sale. Discount and funded benefits cannot be utilized within the same transaction. |

This information is not a complete description of benefits. Contact the plan for more information. Limitations, copayments and restrictions may apply. Benefits, premiums and/or member cost-share may change each year. Part D benefit parameters, regulated by the Centers for Medicare and Medicaid Services (CMS), can impact Part D benefits on an annual basis. The formulary and pharmacy network may change at any time. The member will receive notice when necessary. Please refer to the Evidence of Coverage for additional information regarding covered services and limitations or any other contractual conditions. For a complete description of benefits, exclusions and limitations please refer to the actual Evidence of Coverage. If a discrepancy arises between this information and the actual Evidence of Coverage, the Evidence of Coverage will prevail in all instances.

Humana is a Medicare Employer Prescription Drug plan with a Medicare contract. Enrollment in this Humana plan depends on contract renewal.



**Humana Medicare Group Plan – Premium Information**

**NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM - PDP**

**BAFO**

**Date:** 8/7/2023  
**Plan Names:** Humana Medicare Group Plan  
 Custom PDP  
**Rx Formulary:** Group Plus Formulary - 24800  
**Additional Medication Buy-Ups:** Coughs and Colds, EDs Enhanced

| Plan Year             | Final Billed Premium<br>(Per Member Per Month) |
|-----------------------|--|
| 1/1/2024 - 12/31/2024 | \$64.72  |

**PDP 037 161 Rx Benefit Overview**

Prescription Drugs (Retail 30 day supply)

Custom Rx \$5 copay plus 15% coinsurance/\$15 copay plus 25% coinsurance/\$25 copay plus 50% coinsurance/\$25 copay plus 50% coinsurance from \$0 to ICL; \$5 copay plus 15% coinsurance/\$15 copay plus 25% coinsurance/\$25 copay plus 25% coinsurance/\$25 copay plus 25% coinsurance from ICL to Catastrophic

\*\*\*See attached sheet for rating assumptions and stipulations. The benefits presented above are a high-level summary. Please consult the Plan Design Exhibit for a more detailed list of covered services, member cost shares, services subject to deductibles and any plan limitations.\*\*\*

## Humana's Group Medicare Performance Guarantee Agreement

## North Dakota Public Employees Retirement Systems



2024 Group Medicare Performance Standards for PDP Only

Effective January 1, 2024 through December 31, 2024

Minimum Annual Average Membership Requirement: None

| PG# | Category  | Target   | Standard & Measurement Criteria  | Amount at Risk   |
|-----|---|--|--|--|
| 1   | Plan Performance Review                           | Measurement methodology shall be measured from date of delivery of the plan performance review in calendar days  | Within ten (10) calendar days following delivery of performance reviews to NDPERS, vendor shall develop and submit a corrective action plan (CAP) of issues identified for approval by NDPERS, and implement such plan within the time prescribed in the approved CAP.   | Semi- annually<br>\$1,000 per calendar day beyond the due date |
| 2.1 | Customer Satisfaction Surveys                     | Vendor will provide annual survey results to confirm compliance with performance standard  | Member satisfaction surveys will be designed by the vendor and approved by NDPERS. Vendor will invite a random sample of members to participate in the survey to collect a statistically significant number of completed surveys.<br><br>Member satisfaction rate will meet 90% or higher using a 1-5 scale of Completely Satisfied, Very Satisfied, Satisfied, Dissatisfied, Very Dissatisfied.<br><br>Final survey questions and methodology will be agreed upon by vendor and NDPERS. | Annually<br>\$25,000 per year                                  |
| 2.2 | Customer Satisfaction Surveys - Illustrative Only | Illustrative Group Specific Results Only - see 2.1   | Illustrative Group Specific Results Only - see 2.1   | Illustrative Group Specific Results Only - see 2.1             |
| 3   | Team Meetings                                     | Compliance to be monitored and assessed by NDPERS  | NDPERS requires monthly team meetings to address all planning / implementation, business, financial, clinical / formulary (including new drug review) and operational needs  | Monthly<br>\$5,000 for each meeting missed                     |
| 4   | NDPERS board meetings                             | Compliance to be monitored and assessed by NDPERS  | Vendor will participate in quarterly performance reviews to examine operational and financial performance  | Quarterly<br>\$5,000 for each quarter missed                   |
| 5   | Electronic Eligibility                            | Vendor will provide quarterly reports to confirm compliance with performance standard  | Eligibility files will be installed in an electronic medium, logged within eight (8) hours and status will be effective within vendor's system within eighteen (18) hours from date of receipt, seven (7) days per week.   | Quarterly<br>\$500 for each missed file deadline               |
| 6   | Manual Eligibility                                | Vendor will provide quarterly reports to confirm compliance with performance standard  | Manual eligibility will be loaded within eight (8) hours upon receipt or notification and must be applied and active in the vendor's system within one (1) business day.   | Quarterly<br>\$500 for each missed file deadline               |
| 7   | Error Reports                                     | Vendor will provide quarterly reports to confirm compliance with performance standard  | An error report on all eligibility file updates will be produced within eighteen (18) hours from the update.   | Quarterly<br>\$500 for each missed file deadline               |
| 8   | Data Files  | Will be available to NDPERS on request   | Monthly data files (membership, medical, pharmacy) will be available by the 15th of the following month.   | Monthly<br>\$1,000 for each month not met                      |
| 9   | Claims Financial Accuracy                         | Claims Financial Accuracy will be 99% or greater, each year of the biennium. Measured as the absolute value of financial errors divided by the total paid value of audited dollars paid based on quarterly internal audit of statistically valid sample. | Vendor will provide annual reports to confirm compliance with performance standard   | Annually<br>\$12,500 per year                                  |
| 10  | Claims Payment Accuracy                           | Vendor will provide annual reports to confirm compliance with performance standard   | Claims Payment incidence Accuracy will be 98% or greater, each year of the biennium. Measured as the percent of Claims processed without financial payment error.  | Annually<br>\$12,500 per year                                  |



North Dakota Public Employees Retirement Systems



2024 Group Medicare Performance Standards for PDP Only

Effective January 1, 2024 through December 31, 2024

Minimum Annual Average Membership Requirement: None

| PG#  | Category  | Target   | Standard & Measurement Criteria   | Amount at Risk                                      |
|------|---|--|---|---|
| 11   | Claims Processing Accuracy                              | Claims Procedural Accuracy will be 95% or greater, each year of the biennium. Measured as the percent of Claims processed without non-financial error.                         | Vendor will provide annual reports to confirm compliance with performance standard  | Annually<br>\$12,500 per year                       |
| 12   | Claim Timeliness  | Clean claims processing within 14 calendar days will be 95% or greater, each year of the biennium. Measured from the date the claim is received to the date claim is processed | Vendor will provide annual reports to confirm compliance with performance standard  | Annually<br>\$12,500 per year                       |
| 13   | Average Speed to Answer (ASA)                           | Vendor will provide semi-annual reports to confirm compliance with performance standard  | Average Speed of Answer will be 30 seconds or less, each year of the biennium. Vendor will have an established measurement process that shall be reviewed with NDPERS   | Semi-annually<br>\$10,000 per year                  |
| 14   | Call Abandonment  | Vendor will provide annual reports to confirm compliance with performance standard   | Call Abandonment rate will be 5% or less, each year of the biennium   | Annually<br>\$10,000 per year                       |
| 15 a | Accuracy and Timelines/                                 | Vendor must evaluate a statistically valid sample of inquiries with reports provided.  | a.) 95% percent of callers receive accurate information. Calls requiring additional research is excluded from the computation of this metric.   | 15a, 15b, and 15c<br>Annually<br>\$12,500 per year  |
| 15 b | First Call Resolution                                   | Vendor must evaluate a statistically valid sample of inquiries with reports provided.  | b.) 95% percent of inquiries must be resolved during the initial call (excluding appeals, billing, errors and escalations).   | 15a, 15b, and 15c<br>Annually<br>\$12,500 per year  |
| 15 c | Written Inquiry Response Time                           | Vendor must evaluate a statistically valid sample of inquiries with reports provided.  | c.) ≥ 90% response to written inquiries within 30 calendar days   | 15a, 15b, and 15c<br>Annually<br>\$12,500 per year  |
| 16   | Prescription drug turnaround time – clean prescriptions | Vendor will provide quarterly reports to confirm compliance with performance standard  | 98% within two (2) business days if no intervention required  | Quarterly<br>\$1,000 for each point below standard- |
| 17   | Prescription drug mail dispensing accuracy              | Vendor will provide annual reports to confirm compliance with performance standard   | 99.9% Mail service dispensing accuracy rate. Fields measured include member name, drug strength, directions, quantity and prescriber name.  | Annually<br>\$12,500 per year                       |
| 18   | Prescription drug home delivery member notifications    | Vendor will provide annual reports to confirm compliance with performance standard   | Vendor is required to notify a member when a mail service prescription is changed or there is any expected shipping delay and provide reporting details to NDPERS capturing all occurrences by member/DOS/Issue | Annually<br>\$12,500 per year                       |



North Dakota Public Employees Retirement Systems



2024 Group Medicare Performance Standards for PDP Only

Effective January 1, 2024 through December 31, 2024

Minimum Annual Average Membership Requirement: None

| PG# | Category                                      | Target   | Standard & Measurement Criteria  | Amount at Risk                |
|-----|---|--|--|-------------------------------|
| 19  | Prescription drug specialty pharmacy delivery | Vendor will provide annual reports to confirm compliance with performance standard | 98% of prescriptions will be delivered and received by patients on the specified date of delivery  | Annually<br>\$12,500 per year |
| 20  | Network Pharmacy Access                       | Vendor will provide annual reports to confirm compliance with performance standard | Pharmacy network composition will not be reduced by more than 5% in North Dakota compared to the network submitted in the RFP  | Annually<br>\$12,500 per year |
| 21  | Data Systems Availability and Adjudication    | Book of business level   | Guarantees an annual average 99% system availability of the point-of-sale adjudication system on a book of business basis. This standard excludes downtime attributed to regularly scheduled systems maintenance or systems downtime | Annually<br>\$12,500 per year |

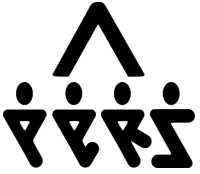
Humana agrees to meet the performance standards as outlined above in providing administrative services for North Dakota Public Employees Retirement Systems. This agreement is contingent upon Humana being the only Part D Prescription Drug option for Medicare eligible retirees. The agreement will be for the 12 month contract period beginning January 1, 2024 and ending December 31, 2024. This Performance Guarantee offering is based on a PDP Only plan offering. Performance results will be reported quarterly based upon center results for the member and claims services categories, not client specific results (except where otherwise stated) within 60 days after the end of the reporting period. Results will be assessed based on the annual results with payment of any penalties due following the end of the plan year. Please note that the performance standards are influenced by key market indicators (including changes in rules and standards from CMS) which could impact our performance standard metrics.

During implementation if significant changes to the Client's Plan, or in the event a benefit change notification is not received from the Client on a timely basis, Humana will not be responsible for performance results or penalty amounts as described within this Agreement.

ACCEPTED AND AGREED:

By: \_\_\_\_\_ Date: \_\_\_\_\_

In order for this contract to be binding, signatures are required from the client. This signed exhibit must be returned to the Humana Account Executive prior to implementation and no later than 30 days post effective date.



# Memorandum

**TO:** NDPERs Board

**FROM:** Rebecca

**DATE:** September 12, 2023

**SUBJECT:** Legislation Implementation

As reported in June, staff have been working on efforts to implement bills passed during the 68<sup>th</sup> Legislative Assembly that impact the NDPERs benefits. The following grid provides the bills that staff is tracking and working on:

|         | Description   | Effective Date |
|---------|---|----------------|
| HB 1411 | Requires NDPERs health insurance to cover prosthetic repairs and replacements if medically necessary  | 7/1/2023       |
| HB 1095 | Comprehensive medication management program required of all insurers within the state   | 1/1/2025       |
| SB 2140 | Sets a cap of \$25/month that a member on NDPERs health insurance, excluding Medicare Part D, can be charged towards insulin and diabetic supplies. Pilot program for the biennium.                       | 8/1/2023       |
| SB 2158 | CHAND Study – requires NDPERs participation in a study during interim to explore dissolving CHAND   | 8/1/2023       |
| HB 1014 | Industrial Commission splitting into two agencies   | 7/1/2023       |
| HB 1183 | Expands definition of peace officer for eligibility in the State Law Enforcement Plan   | 8/1/2023       |
| HB 1309 | Modifies the benefit multiplier for BCI agents to be a two-tier multiplier based upon years of service and increases the vesting for new BCI agents hired, essentially requiring a new Public Safety plan | 8/1/2023       |

|         |   |          |
|---------|---|----------|
| HB 1501 | Soybean Council privatization   | 7/1/2024 |
| HB 1040 | Closed the Defined Benefit Plan to new hires and establishes a new Defined Contribution Plan tier for new hires after the effective date of the closure | 1/1/2025 |

**HB 1411**

NDPERS and Sanford Health Plan (SHP) updated the Certificate of Insurance to appropriately outline the new coverage requirements. This change brings our policy in-line with industry standards and SHP’s other book of business. As discussed previously, this item was not funded and, therefore, the cost will be taken from reserves. NDPERS has asked SHP to track any claims, including amount of claims, related to this enhanced coverage.

**HB 1095**

There is not an update since last reported in June given the effective date of January 1, 2025. As a reminder, SHP will determine what updates they will need to do in order to provide this program to NDPERS members. Discussion with NDPERS will take place as needed as the launch of the program approaches. As discussed previously, this item was not funded and, therefore, the cost will be taken from reserves.

**SB 2158**

NDPERS provided input at the Health Services Committee on August 31, 2023, regarding NDPERS and whether the participants of CHAND that are on Medicare could be transitioned to NDPERS should CHAND be dissolved.

**HB 1014**

Staff have updated our business system records and worked with our applicable vendors to ensure that updates were appropriately made to their systems.

**HB 1183**

NDPERS staff validated the list from state agencies that indicated they had eligible peace officers within their agency. The business system has been updated to reflect enrollment in the State Law Enforcement Plan and accounts have been transferred from the Main to their new plan. Additional reviews of the records are being done to ensure that the records are accurate, appropriate contributions are posting, and that various functions on the system are working as expected.

**HB 1309**

The business system has been updated to reflect the necessary changes for the impacted population from the Bureau of Criminal Investigation (BCI). Testing has been done, with

ongoing reviews, to ensure that the system is working accurately and as expected for various functions.

### **HB 1501**

Staff met with representatives from the Soybean Council to discuss steps necessary to remove the entity as a state agency as of July 1, 2024, as it relates to NDPERS benefits. This includes terminating the entity as the organization level and also updating their employee records to reflect they will no longer be participants in any of the NDPERS benefits. Staff provided information for the plans as far as the process and options for staff that will be available. We also discussed the requirement that they pay their unfunded liability as part of the withdrawal. Additional discussions will take place with the Soybean Council as the effective date approaches.

### **HB 1040**

The updates on implementation include:

- Met with GRS to discuss the special election window transfer calculation
  - Staff asked GRS to provide a cost proposal for developing a table of factors that could be programmed into the business system for use in the estimate calculations and final transfer amounts. GRS has provided a cost proposal of \$9,000. Given the amount is less than the threshold that requires Board approval, Scott will approve so GRS can begin developing the factor tables unless the Board has any specific concerns
- Record-keeper RFP released on August 16
- Advertised the Defined Contribution Retirement Programs Manager position through HRMS
  - Interviews to be held and hopefully completed in September
  - Hope to have position filled in October or November at the latest
- Continued discussions with Sagitec, our business system vendor, regarding requirements of bill and updates needed for programming
  - Continued documentation on section by section overview of what enhancements or changes are needed for the new DC plan tier
  - Developed at request of Sagitec a comparison of current DC plan tiers and new DC plan tier differences
- Provided list of needed modifications to administrative rules to legal counsel.
  - The list includes new rules that have been identified as necessary to administer the new plan.
  - It also includes existing rules that will need to be repealed or changed as of January 1, 2025.
  - It was necessary to reach out to Legislative Council to request a delay in our rules effective date in order to coincide with January 1, 2025, as we'll need old rules to remain effective through December 31, 2024, and then transition to the new rules on January 1, 2025.
- Scott presented at the Interim Retirement Committee meeting on August 22 and provided an update on efforts related to implementation.

## **SB 2140**

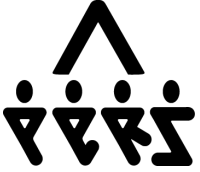
NDPERS and SHP updated the Certificate of Insurance and other documents to appropriately outline the new coverage requirements. As discussed previously, this item was not funded and, therefore, the cost will be taken from reserves. NDPERS has asked SHP to track any claims, including amount of claims, related to this enhanced coverage. This information will be used in preparation of the report back to Legislative Management on the NDPERS pilot and whether the enhanced coverage should be rolled out to all insurances.

Recently, a question was raised regarding how the change was implemented related to diabetic supplies. The NDPERS plan previously required members to pay a 25% coinsurance, but were not subject to copayments for these supplies. With the implementation of the bill, programming and materials were updated to reflect a \$25 copayment per 30 day supply, and the removal of coinsurance. Upon discussion, it was found that this could result in the member being responsible for a higher out-of-pocket, which was not the intent of the legislation. Staff asked SHP if they can apply the new cap requirement to the prior plan design of applying 25% coinsurance, up to the cap of \$25 per month. SHP has confirmed with OptumRx that this can be done. There is an additional cost that would need to be pulled from reserves in order for this update to be made. SHP has indicated the additional cost needed would be \$250,000.00 for the 2023-2025 biennium. In addition, the change will require approval by the ND Insurance Department and, once approved, notice will need to be provided to the impacted members. SHP has provided that the cost of the mailing will be \$30,000. However, NDPERS is exploring whether the required notification can be an electronic distribution or a one-page notice that directs the member to the NDPERS website where the updated materials are posted, which would significantly reduce this expense.

At this time, staff recommends that to ensure the intent of the legislation is followed, that the prior plan design should continue to apply the 25% coinsurance rather than a copayment, up to the cap of \$25 per month for diabetic supplies for the 2023-2025 biennium. Therefore, we ask for the Board's approval to use the additional funding from reserves to ensure that the correct NDPERS plan design is being followed and to cover the cost of the required mailing to the impacted members should an electronic distribution not be an option.

### **BOARD ACTION REQUESTED:**

Approve the use of reserves in the amount of \$250,000 for the 2023-2025 biennium (July 1, 2023 through June 30, 2025) to ensure the correct out-of-pocket expense is being applied for members that receive diabetic supplies. Also approve the use of reserves to cover the expense of the required mailing, which is expected to be no more than \$30,000, in the event an electronic distribution does not meet notification requirements.



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

**Scott A. Miller**  
Executive Director  
(701) 328-3900  
1-800-803-7377

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Fax (701) 328-3920    Email [ndpers-info@nd.gov](mailto:ndpers-info@nd.gov)    Website [www.ndpers.nd.gov](http://www.ndpers.nd.gov)

# Memorandum

**TO:**                   NDPERS Board

**FROM:**               Shawna Piatz

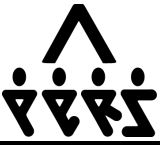
**DATE:**               September 12, 2023

**SUBJECT:**           Audit Committee Minutes

Attached are the approved minutes for the May 8, 2023 meeting. The minutes may also be viewed on the NDPERS web site at [www.nd.gov/ndpers](http://www.nd.gov/ndpers).

The next regular audit committee meeting is scheduled virtually and in person for November 13, 2023 at 2:00 pm. This is for your information.

Attachment



**North Dakota  
Public Employees Retirement System**

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Website [www.ndpers.nd.gov](http://www.ndpers.nd.gov)

# Attachment

## MEMORANDUM

**TO:** Audit Committee  
Mona Rindy  
Adam Miller  
Joe Morrisette  
Scott Miller  
Derrick Hohbein  
Rebecca Fricke  
Dean DePountis  
Shannon Ennen

**FROM:** Shawna Piatz, Chief Audit Officer

**DATE:** Monday May 8, 2023

**SUBJECT:** **May 8, 2023 Audit Committee Meeting**

In Attendance:

Adam Miller  
Jason Grueneich  
Dirk Wilke  
Dean DePountis  
Shawna Piatz  
Scott Miller  
Rebecca Fricke  
Derrick Hohbein  
Steve Webster

The meeting was called to order at 3:01 p.m. by Mr. Miller.

### **I. Approval of prior Audit Committee Minutes**

A. The Audit Committee minutes from the prior Audit Committee meeting held on February 13, 2023 and the Special Audit Committee meeting held on March 15, 2023 were examined. Mr. Wilke moved approval of the minutes. The motion was seconded by Mr. Grueneich. This was followed and approved by voice vote.

### **II. External Audit Report**

A. ND PERS Prescription Drug Coverage Performance Audit Review – The auditing firm hired by the State Auditor’s Office, Myers and Stauffer LC, has provided their final report of the NDPERS Prescription Drug Coverage Performance Audit. The

| Group Insurance | Retirement Plans | Other Programs                         |
|-----------------|------------------|--|
| Health & Life   | Public Employees | Flexible Spending Account (FlexComp)   |
| Dental & Vision | Law Enforcement  | Retiree Health Insurance Credit (RHIC) |
|                 | Public Safety    | Employee Assistance Program (EAP)      |
|                 | Judges           |  |
|                 | Job Service      |  |
|                 | Highway Patrol   |  |





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report was presented to the NDPERS Board on February 3, 2023 at which time it was referred to the Audit Committee for their review and guidance on the audit findings. The Audit Committee met on March 15, 2023 to review the report and discuss responses to propose to the Board for their consideration. The Chief Audit Officer presented the Memo drafted to present to the May Board. Mr. Wilke moved approval of Audit Report and Letter for discussion at Board Meeting May 9, 2023. The motion was seconded by Mr. Grueneich and carried by roll call vote.

**III. Internal Audit Reports**

- A. Sanford 2022 Claims Audit – NDPERS performed a review of a sample of the Sanford health plan and medical and pharmacy claims and the Humana Medicare Part-D prescription drug plan claims. Findings were presented to and discussed by the Audit Committee.
- B. Quarterly Audit Plan Status Report – A summary of the Internal Audit staff time spent for the past quarter along with a status update on each area of the 2022 – 2023 Audit Plan was included with the Audit Committee materials. Of the total hours reported, 56.02% was spent in audit, 8.5% in consulting, and 35.48% in administrative hours. The general hours were spent training new Internal Auditor staff and on legislation and other various meetings. The audit hours were spent on the monthly retirement program audit, Pop-up Benefit verifications, the Sanford and Humana Claims Audit, and the Service Purchases Audit. The consulting hours were attributable to a number of clean-up projects, PIR testing, the external PBM audit, HR/staffing support and various reviews and reconciliations for the Benefits and Accounting divisions.
- C. Retirement Benefit Payment Status Report – Information was provided to the Audit Committee, which summarizes the accuracy percentages of the new monthly retirement benefit and refund payments. The report shows the number of new retirees or refunds each month, the total number of new retirees or refunds audited and whether issues identified were procedural, system or compliance issues. In fiscal year 2023, to date a total of 527 out of 911 new retirees were audited, which equates to \$2,372,725 of \$3,929,305 being audited. An internal calculation accuracy rate of 85.20% was achieved fiscal year to date as of April 2023 for new retirement benefit payments, which is below the 97% goal. The fiscal year to date compliance/other accuracy rate is 94.12% resulting in an overall accuracy rate of 79.32% for FY 2023.

In fiscal year 2023, to date a total of 109 of the 1,782 refunds issued were audited, which equates to \$4,396,844 of \$16,140,090. An internal calculation accuracy rate of 90.83% was achieved fiscal YTD as of April 2023 for retirement refunds. This falls below the 97% accuracy rate goal. The fiscal year to date compliance/ other accuracy rate is 98.17% resulting in an overall accuracy rate of 88.99% for FY 2023. A limited number of retirement refunds were audited and a portion of the sample continues to be focused on those refunds in which a known system issue is likely to have occurred.

| Group Insurance | Retirement Plans | Other Programs                         |
|-----------------|------------------|--|
| Health & Life   | Public Employees | Flexible Spending Account (FlexComp)   |
| Dental & Vision | Law Enforcement  | Retiree Health Insurance Credit (RHIC) |
|                 | Public Safety    | Employee Assistance Program (EAP)      |
|                 | Judges           |  |
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- D. Benefit/Premium Adjustments Report – The quarterly benefit adjustment report was provided to the Audit Committee. The report is in several sections, each representing the type of corrections. The dollar amount and the number of errors has increased slightly over the last quarter. There were 17 adjustments that were new this quarter and 17 previously reported adjustments remain outstanding. The new adjustments were due to the untimely notification of changes in membership status or information, system programming errors and processing errors.
- E. Outstanding Issues Status Report – The Outstanding Issues Status report has been updated to reflect new and outstanding issues as of April 30, 2023. There were four existing recommendations where progress was made, three existing recommendation with no change, three existing recommendations that were closed from the prior quarter, and twenty-four new recommendations added to this report. Staff continue to be proactive about addressing recommendations as they are made. Any recommendations made in the previous quarter that have already been addressed would not be included in this report.

**IV. Administrative**

- A. Audit Committee Members Update – Per the Audit Committee Charter, “The audit committee will consist of two to five members with the majority of the members selected from the Board of Directors, and one may be selected from outside the organization.” With Julie Dahle’s notice of resignation as of May 2023, Nina Strand was recommended for the open Audit Committee position by Mona Rindy. The motion to approve this nomination was made by Mr. Grueneich. The motion was seconded by Mr. Wilke. This was followed and approved by a voice vote. The nomination will be presented to and voted on by the Board at the next Board meeting.
- B. Audit Committee Charter Updates – The Audit Committee Charter was established in 1993 and last updated in 2014. The Chief Audit Officer has reviewed the Charter and provided suggested updates and edits that the Audit Committee discussed. A motion was made by Mr. Wilke to approve the changes as presented. The motion was seconded by Mr. Grueneich. This was followed and approved by a voice vote. The approved changes will be presented to the Board for approval at the June Board meeting.
- C. Audit Committee Charter Matrix – In order to confirm all responsibilities outlined in the Audit Committee Charter are carried out annually, a matrix was developed to review each objective quarterly and ensure that the Audit Committee is meeting its responsibilities. The matrix was reviewed and discussed for progress made over the past quarter.
- D. Internal Audit Charter Matrix – A summary matrix of the progress made and activities completed by the Internal Audit division through April 2023 was presented to the Audit Committee for review. The proposed updates to the Internal Audit Charter approved at the February 2023 Audit Committee meeting

| Group Insurance | Retirement Plans |                | Other Programs                         |
|-----------------|------------------|----------------|--|
| Health & Life   | Public Employees | Judges         | Flexible Spending Account (FlexComp)   |
| Dental & Vision | Law Enforcement  | Job Service    | Retiree Health Insurance Credit (RHIC) |
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will be taken to the June 2023 Board meeting for their review and approval. Once approved the matrix will be updated to reflect any changes.

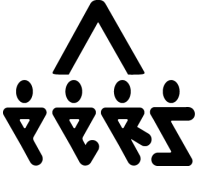
- E. 2022 CAO Annual Performance Evaluation – The Chief Audit Officer discussed the process and timing for staff annual evaluations. The final CAO evaluation was presented at the Audit Committee meeting for their final review and approval. A motion was made by Mr. Wilke that the process being followed for other staff members for the equity increases be followed for the CAO as well and that she be considered a higher performer related to performance increases. The motion was seconded by Mr. Grueneich and approved by roll call vote.

**V. Miscellaneous**

- A. Risk Management Report – During a previous review of the Audit Committee’s charter, it was determined that a Risk Management Policy for PERS would not be necessary because we have a Loss Control Committee in place to manage risk for the agency. The Audit Committee decided in May 2022 to review the Loss Control Committee minutes annually, unless major areas of risk arise. Approved minutes for the Loss Control Committee over the previous year were presented and discussed.
- B. Travel Expenditures – There were no out-of-state travel expenditures incurred by the Board or Executive Director for the period of February 1, 2023 through April 30, 2023. This was provided for the Audit Committee’s information.
- C. CPE, Training and Webinars – A report on the training and education, including continuing professional education (CPE) webinars and seminars Internal Audit participated in for the period February 1, 2023 through April 30, 2023 was provided to the committee for their review.
- D. Audit Committee Meeting Dates & Times – The next Audit Committee meeting is scheduled for August 14, 2023 at 3 pm. It will be held both in person and with an option for virtual attendance.

The meeting adjourned at 4:54 p.m, by Mr. A Miller.

| Group Insurance | Retirement Plans | Other Programs                         |
|-----------------|------------------|--|
| Health & Life   | Public Employees | Flexible Spending Account (FlexComp)   |
| Dental & Vision | Law Enforcement  | Retiree Health Insurance Credit (RHIC) |
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# Memorandum

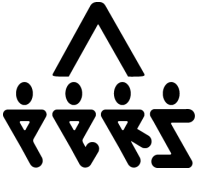
**TO:**                   NDPERS Board

**FROM:**               Scott

**DATE:**               September 12, 2023

**SUBJECT:**           Litigation Update

This is a placeholder to provide the Board with an update on the litigation regarding the Board makeup.



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# Memorandum

**TO:**                   NDPERS Board

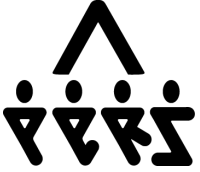
**FROM:**               Scott

**DATE:**               September 12, 2023

**SUBJECT:**           Open Records Request

Board Member Jeffry Volk requested a copy of the recording of the executive sessions on May 9 and May 12, 2023, where the Board discussed whether to initiate litigation against the Legislative Assembly regarding the Board makeup change and then considered what attorneys to retain. Allyson Hicks from the Attorney General's Office advised me that those recordings are "exempt" records, which require Board action to approve the release. Since Mr. Volk is a current Board member, he will be required to maintain the exempt status of the record in his possession, as well, if the Board releases the recordings to him.

**BOARD ACTION:** Approve or deny Mr. Volk's request of a copy of the executive session recordings described in this memo.



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# Memorandum

**TO:**                   NDPERS Board

**FROM:**               Scott Miller

**DATE:**               September 12, 2023

**SUBJECT:**           Contracts under \$10,000

Attached is a document that shows the contracts under \$10,000 that I have signed since the last update. Please let me know if you have any questions on any of these contracts.

This topic is informational only.

**Contracts Signed During 2023:**

| Vendor            | Amount      | Notes   |
|-------------------|-------------|---|
| NDIT              | \$ -        | Service Level Agreement (January 2023)          |
| Spherion Staffing | ~ \$7,200   | Temporary Staffing for Admin Services           |
| Marco             | \$ 3,654.49 | Replacement of North & Batch Printers           |
| Inter Office      | \$ 1,179.44 | Chair   |
| Central Services  | \$ -        | Staff authorization to pickup printed materials |
| Inter Office      | \$ 280.00   | Adjust height of workstation in scanning room   |
| NDIT              | \$ -        | Service Level Agreement (June 2023)             |
| Callan            | \$ -        | Recordkeeper RFP scope of work.                 |
| ND Safety Council | \$ 874.00   | AED/CPR training for 19 staff                   |
| Inter Office      | \$ 2,323.88 | Chairs x 2                                      |

**Contracts Signed Since Last Reported:**

| Vendor       | Amount    | Notes       |
|--------------|-----------|-------------|
| Inter Office | \$ 824.76 | Rising Desk |





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# Memorandum

**TO:**                   NDPERS Board

**FROM:**               Scott

**DATE:**               September 12, 2023

**SUBJECT:**           Legislative Relations Update

This is a placeholder to provide the Board with an update on legislative activities since the last Board meeting.

## **VII. MEMBER \*\*EXECUTIVE SESSION**

### **A. Hardship Withdrawal Case #816 -- MaryJo (Board Action)**

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

**Confidential material will be sent  
under separate cover**