

# NDPERS BOARD MEETING

# Agenda

NDPERS Conference Room  
1600 E Century Ave, Suite 2  
Bismarck, North Dakota

To attend by phone: 701.328.0950  
Conference ID: 355 443 04#

**Tuesday, September 14, 2021**

**Time: 8:30 AM**

**I. MINUTES**

- A. August 17, 2021

**II. PRESENTATIONS**

- A. Investment Update – Eric Chin, Retirement & Investment Office
- B. Actuarial Primer – Scott Miller

**III. DEFERRED COMPENSATION**

- A. TIAA Update – Rebecca (Information)
- B. TIAA Administration Fees – Bryan (Board Action)

**IV. RETIREMENT**

- A. Job Service Assumed Rates of Return – Scott (Board Action)
- B. Retirement Consultant Renewal – Scott (Board Action)
- C. Investment Options Summary Book – Bryan (Information)
- D. 457 Companion Plan & 401(a) Plan 2nd Quarter 2021 Report – Bryan (Board Action)

**V. GROUP INSURANCE**

- A. FlexComp Vendors – Voluntary Products – Rebecca (Board Action)
- B. Medicare Part D Plan Update – Bryan (Board Action)
- C. Value Based Care – Scott (Board Action)

**VI. MISCELLANEOUS**

- A. Audit Committee May 2021 Minutes – Shawna (Information)
- B. Office Relocation Update – Derrick (Board Action)
- C. Board Elections – Aime (Information)
- D. Board Planning Meeting – Scott (Board Action)
- E. Administrative Rules – Scott (Board Action)
- F. Assurance NM Testing – Scott (Information)

**VII. MEMBER \*EXECUTIVE SESSION**

- A. Retiree Health Insurance Credit (RHIC) Member Appeal Case # 698
- B. Retiree Health Insurance Credit (RHIC) Member Appeal Case # 699  
MaryJo (Board Action)
- C. Insurance Member Appeal Case #700 – Lindsay (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.



**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

---

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:** Bryan Reinhardt

**DATE:** September 14, 2021

**SUBJECT:** Investment Update

---

The *Statement of Investment Objectives and Policies*, adopted by the Board, states the following:

*An annual performance report must be provided to the Board by the State Investment Officer at a regularly scheduled NDPERS Board meeting. The annual performance report must include asset returns and allocation data as well as information regarding all significant or material matters and changes pertaining to the investment of the Fund, including:*

- *Changes in asset class portfolio structures, tactical approaches and market values.*
- *All pertinent legal or legislative proceedings affecting the SIB.*
- *Compliance with these investment goals, objectives and policies.*
- *A general market overview and market expectations.*
- *A Review of fund progress and its asset allocation strategy.*
- *A report on investment fees and the SIB's effort relating to Section 6. To measure investment cost PERS requires as part of the annual review information from an investment consultant showing the value added versus the cost.*

Eric Chin, the Retirement and Investment Office Interim Chief Investment Officer, will be at the meeting to provide the annual report to the PERS Board.

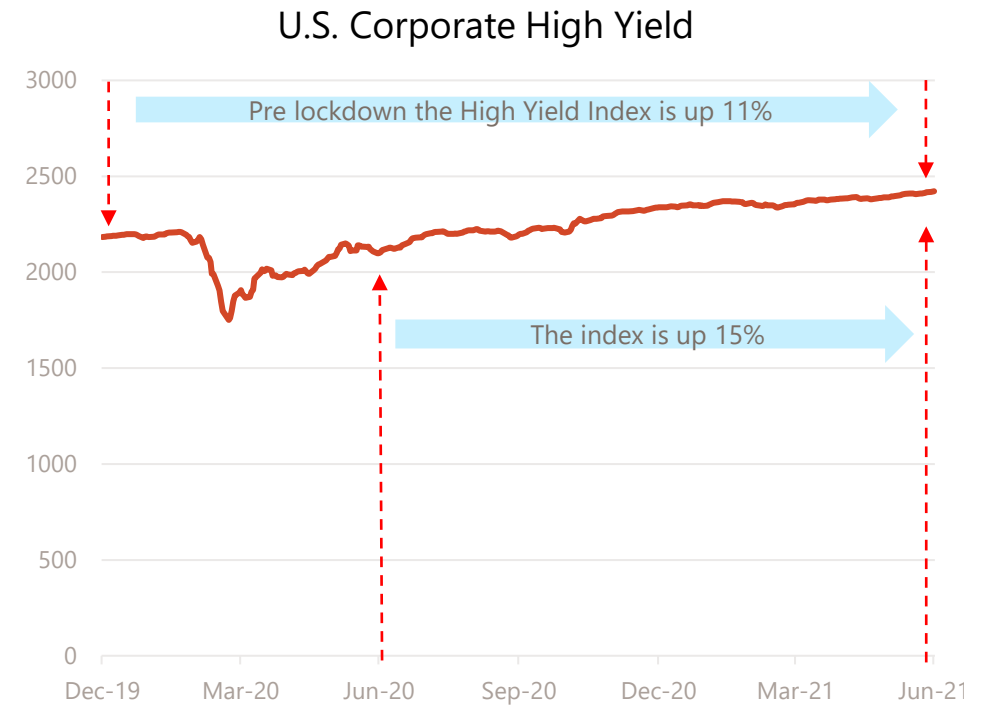
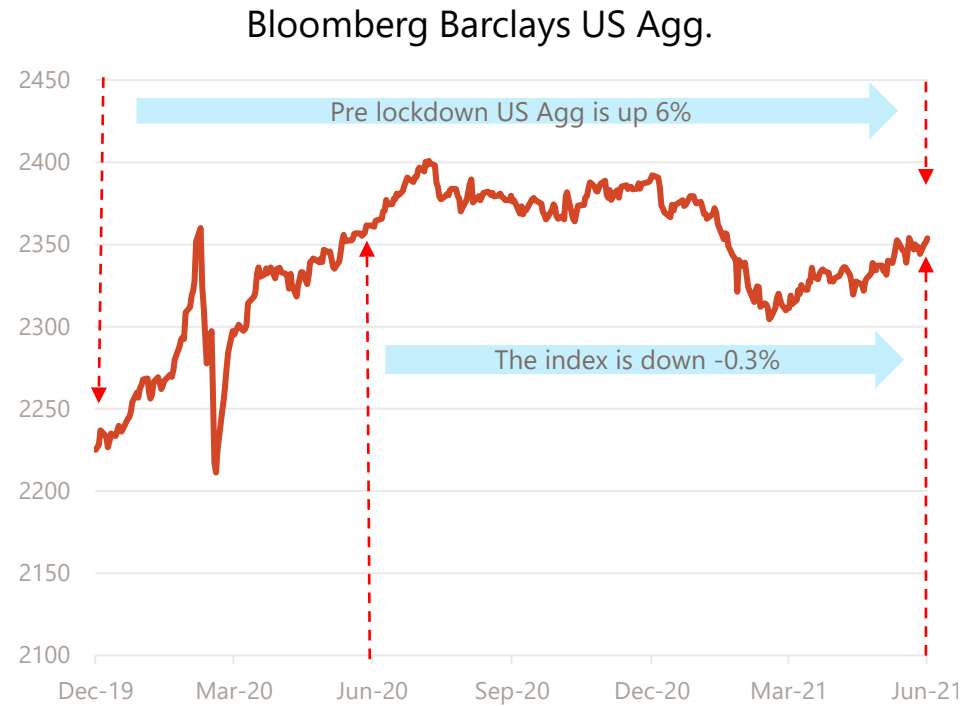
## NDPERS INVESTMENT AND PERFORMANCE UPDATE AS OF JUNE 30, 2021

# STRONG PERFORMANCE ACROSS EQUITIES



- Pandemic drawdown for both the MSCI World Index and the S&P 500 was -34%
- Despite the correction, equities have been strong reaching new highs
- From the low point of the correction, from March 23, 2020 to June 30, 2021 the S&P 500 is up 92%

# FIXED INCOME PERFORMANCE



Surprisingly both equities and fixed income have generated positive returns despite the pandemic

SIB clients should receive net investment returns consistent with their written investment policies and market variables. This “End” is evaluated based on comparison of each client’s (a) actual net investment return, (b) standard deviation and (c) risk adjusted excess return, to the client’s policy benchmark over 5 years.

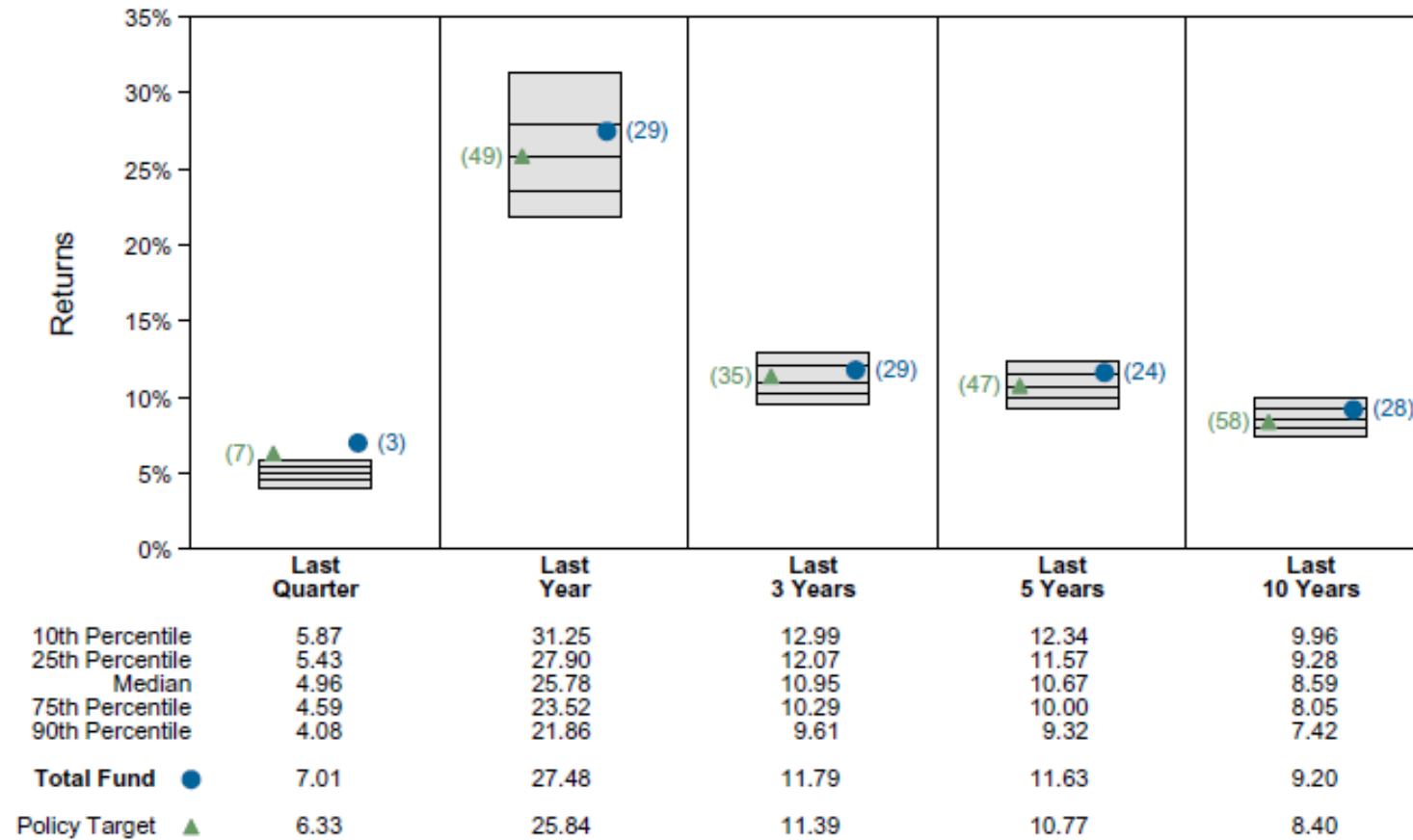
	<u>1 Yr Ended 6/30/2021</u>	<u>3 Yrs Ended 6/30/2021</u>	<u>5 Yrs Ended 6/30/2021</u>	<b>Risk 5 Yrs Ended 6/30/2021</b>	<b>Risk Adj Excess Return 5 Yrs Ended 6/30/2021</b>
<b>PERS \$4.0 billion</b>					
<b>Total Fund Return - Net</b>	<b>27.15%</b>	<b>11.53%</b>	<b>11.36%</b>	<b>10.4%</b>	<b>0.24%</b>
<b>Policy Benchmark Return</b>	<b>25.84%</b>	<b>11.39%</b>	<b>10.77%</b>	<b>10.1%</b>	
<b>Total Relative Return</b>	<b>1.31%</b>	<b>0.15%</b>	<b>0.59%</b>	<b>104%</b>	

- PERS outperformed the policy benchmark in each of the 1, 3, and 5 year periods ended June 30, 2021
- Active management has enhanced net investment returns by roughly \$88.5 million for the 5-years ended June 30, 2021 *(PERS investments averaged over \$3.0 billion the last 5-years and Excess Return has averaged 0.59% per annum: \$3.0 billion x 0.59% = \$17.7 million x 5 years = \$88.5 million. These returns were achieved while adhering to prescribed risk limits: 104% versus a policy limit of 115%)*

# PERS FUND RANKING

AS OF JUNE 30, 2021

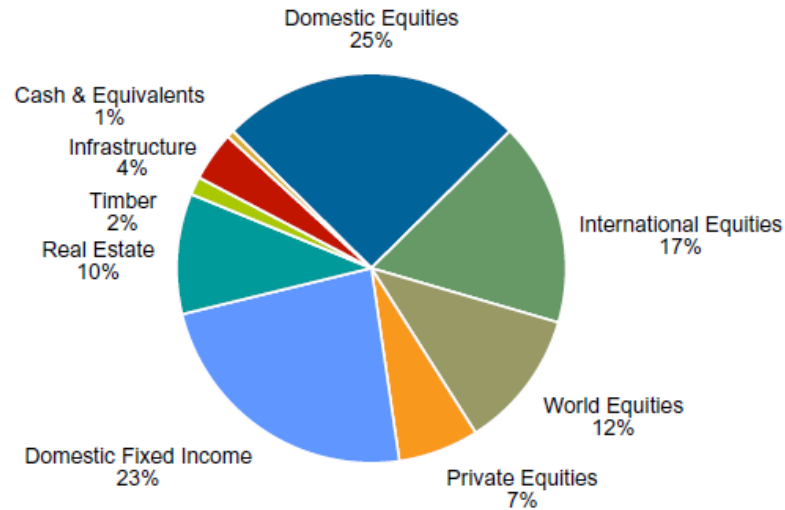
Callan Public Fund Sponsor Database



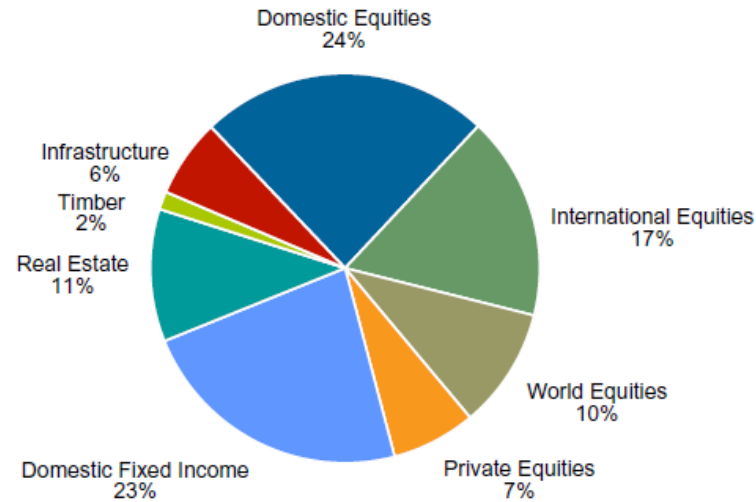
# PERS ASSET ALLOCATION

AS OF JUNE 30, 2021

**Actual Asset Allocation**



**Target Asset Allocation**



Asset Class	\$000s Actual	Weight Actual	Target	Percent Difference	\$000s Difference
Domestic Equities	1,014,356	25.2%	24.1%	1.1%	43,499
International Equities	681,167	16.9%	16.9%	0.0%	1,571
World Equities	464,163	11.5%	10.0%	1.5%	61,611
Private Equities	267,988	6.7%	7.0%	(0.3%)	(13,798)
Domestic Fixed Income	944,360	23.5%	23.0%	0.5%	18,492
Real Estate	402,937	10.0%	11.0%	(1.0%)	(39,869)
Timber	61,213	1.5%	1.5%	(0.0%)	0
Infrastructure	164,602	4.1%	6.5%	(2.4%)	(96,227)
Cash & Equivalents	24,727	0.6%	0.0%	0.6%	24,727
Total	4,025,513	100.0%	100.0%		



# PERS ATTRIBUTION

AS OF JUNE 30, 2021

## One Year Relative Attribution Effects

Asset Class	Effective Actual Weight	Effective Target Weight	Actual Return	Target Return	Manager Effect	Asset Allocation	Total Relative Return
Domestic Equities	25%	23%	42.65%	47.15%	(0.89%)	0.40%	(0.49%)
International Equities	16%	16%	40.14%	35.51%	0.64%	0.05%	0.69%
World Equities	14%	12%	43.85%	39.04%	0.60%	0.01%	0.61%
Private Equities	5%	7%	48.81%	48.81%	0.00%	(0.34%)	(0.34%)
Domestic Fixed Income	23%	23%	5.20%	4.23%	0.27%	(0.10%)	0.16%
Real Estate	11%	11%	9.56%	7.37%	0.25%	0.02%	0.27%
Timber	2%	2%	4.87%	3.10%	0.03%	(0.02%)	0.01%
Infrastructure	5%	6%	14.96%	5.27%	0.49%	0.35%	0.84%
Cash & Equivalents	1%	0%	0.11%	0.11%	0.00%	(0.11%)	(0.11%)
Total			27.48% = 25.84% + 1.39% + 0.25%				1.64%

# PERS ATTRIBUTION

AS OF JUNE 30, 2021

## Five Year Annualized Relative Attribution Effects

Asset Class	Effective Actual Weight	Effective Target Weight	Actual Return	Target Return	Manager Effect	Asset Allocation	Total Relative Return
Domestic Equities	23%	21%	18.21%	17.68%	0.09%	0.10%	0.19%
International Equities	16%	15%	13.35%	11.07%	0.35%	(0.01%)	0.34%
World Equities	16%	15%	13.22%	14.83%	(0.24%)	(0.01%)	(0.25%)
Private Equities	4%	7%	14.27%	14.27%	0.00%	(0.11%)	(0.11%)
Domestic Fixed Income	21%	21%	5.98%	4.35%	0.35%	(0.04%)	0.31%
International Fixed Incom	2%	2%	-	-	0.05%	0.01%	0.06%
Real Estate	11%	11%	7.30%	6.13%	0.13%	(0.05%)	0.08%
Timber	2%	2%	0.48%	2.65%	(0.08%)	0.00%	(0.07%)
Infrastructure	5%	6%	8.54%	3.07%	0.26%	0.07%	0.33%
Cash & Equivalents	1%	0%	1.22%	1.22%	0.00%	(0.03%)	(0.03%)
Total			11.63% = 10.77% + 0.93% + (0.06%)				0.86%

# PERS ATTRIBUTION

AS OF JUNE 30, 2021

## Ten Year Annualized Relative Attribution Effects

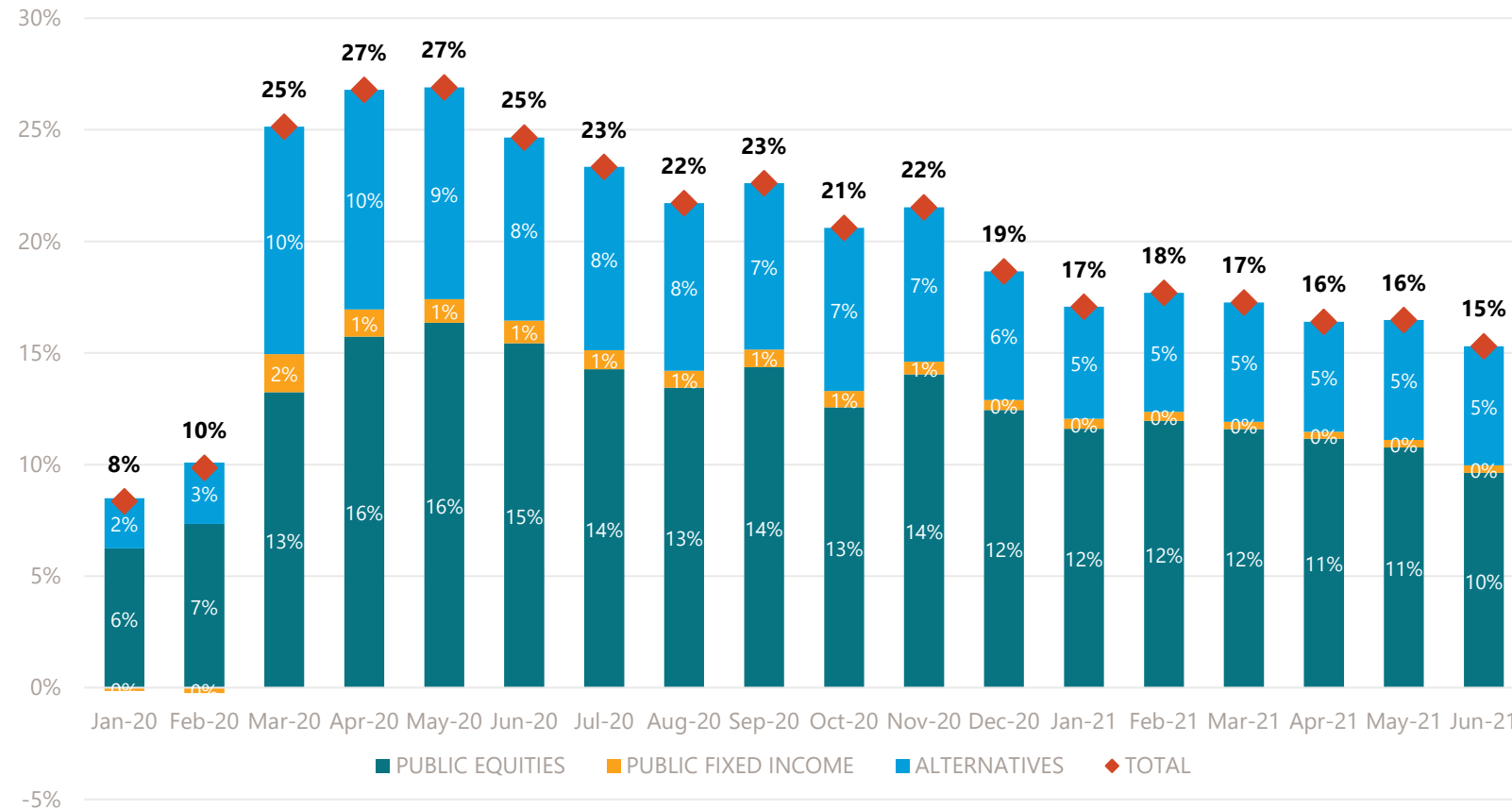
Asset Class	Effective Actual Weight	Effective Target Weight	Actual Return	Target Return	Manager Effect	Asset Allocation	Total Relative Return
Domestic Equities	24%	23%	15.08%	14.41%	0.12%	0.12%	0.23%
International Equities	16%	15%	7.68%	5.58%	0.32%	(0.04%)	0.28%
World Equities	14%	14%	-	-	(0.14%)	(0.03%)	(0.17%)
Private Equities	4%	6%	7.15%	7.15%	0.00%	(0.07%)	(0.07%)
Domestic Fixed Income	20%	19%	5.89%	4.51%	0.24%	(0.01%)	0.22%
International Fixed Incom	3%	3%	-	-	0.08%	(0.00%)	0.08%
Real Estate	10%	10%	10.44%	8.79%	0.17%	(0.01%)	0.15%
Timber	3%	4%	-	-	(0.18%)	(0.03%)	(0.21%)
Infrastructure	4%	5%	-	-	0.22%	0.08%	0.30%
Cash & Equivalents	1%	1%	0.66%	0.65%	0.00%	(0.02%)	(0.02%)
Total			9.20% = 8.40% + 0.83% + (0.02%)				0.80%

## ND Public Employees Retirement System Schedule of Investment Expenses

	FY 2021			FY 2020		
	Average Market Value	Fees in \$	Fees in %	Average Market Value	Fees in \$	Fees in %
Investment managers' fees:						
Global equity managers	488,909,963	1,800,784	0.37%	485,070,888	1,725,269	0.36%
Domestic large cap equity managers	721,614,081	2,020,676	0.28%	538,727,614	866,175	0.16%
Domestic small cap equity managers	190,498,604	1,162,895	0.61%	154,426,333	749,559	0.49%
Developed international equity managers	462,994,616	1,207,041	0.26%	355,650,613	1,010,346	0.28%
Emerging markets equity managers	154,629,023	1,379,264	0.89%	118,858,324	1,209,758	1.02%
Investment grade domestic fixed income managers	618,723,692	2,158,022	0.35%	517,520,736	1,322,086	0.26%
Below investment grade fixed income managers	244,968,143	5,256,829	2.15%	219,778,283	2,773,765	1.26%
Real estate managers	380,942,342	5,522,645	1.45%	372,120,559	2,777,426	0.75%
Timber managers	61,487,808	374,513	0.61%	64,192,382	401,374	0.63%
Infrastructure managers	164,649,497	6,333,020	3.85%	172,482,350	2,254,747	1.31%
Private equity managers	196,006,756	7,863,594	4.01%	133,355,925	2,801,672	2.10%
Cash & equivalents managers	22,236,958	21,674	0.10%	15,802,189	11,291	0.07%
<b>Total investment managers' fees</b>	<b>3,707,661,483</b>	<b>35,100,957</b>	<b>0.95%</b>	<b>3,147,986,196</b>	<b>17,903,468</b>	<b>0.57%</b>
Custodian fees		303,861	0.01%		281,417	0.01%
Investment consultant fees		132,818	0.00%		130,304	0.00%
Administrative fees		552,926	0.01%		469,933	0.01%
<b>Total investment expenses</b>		<b>36,090,562</b>	<b>0.97%</b>		<b>18,785,122</b>	<b>0.60%</b>
<b>Actual Investment Performance (Net of Fees)</b>			<b>27.15%</b>			<b>3.41%</b>
<b>Policy Benchmark</b>			<b>25.84%</b>			<b>3.21%</b>
<b>Outperformance</b>			<b>1.31%</b>			<b>0.20%</b>

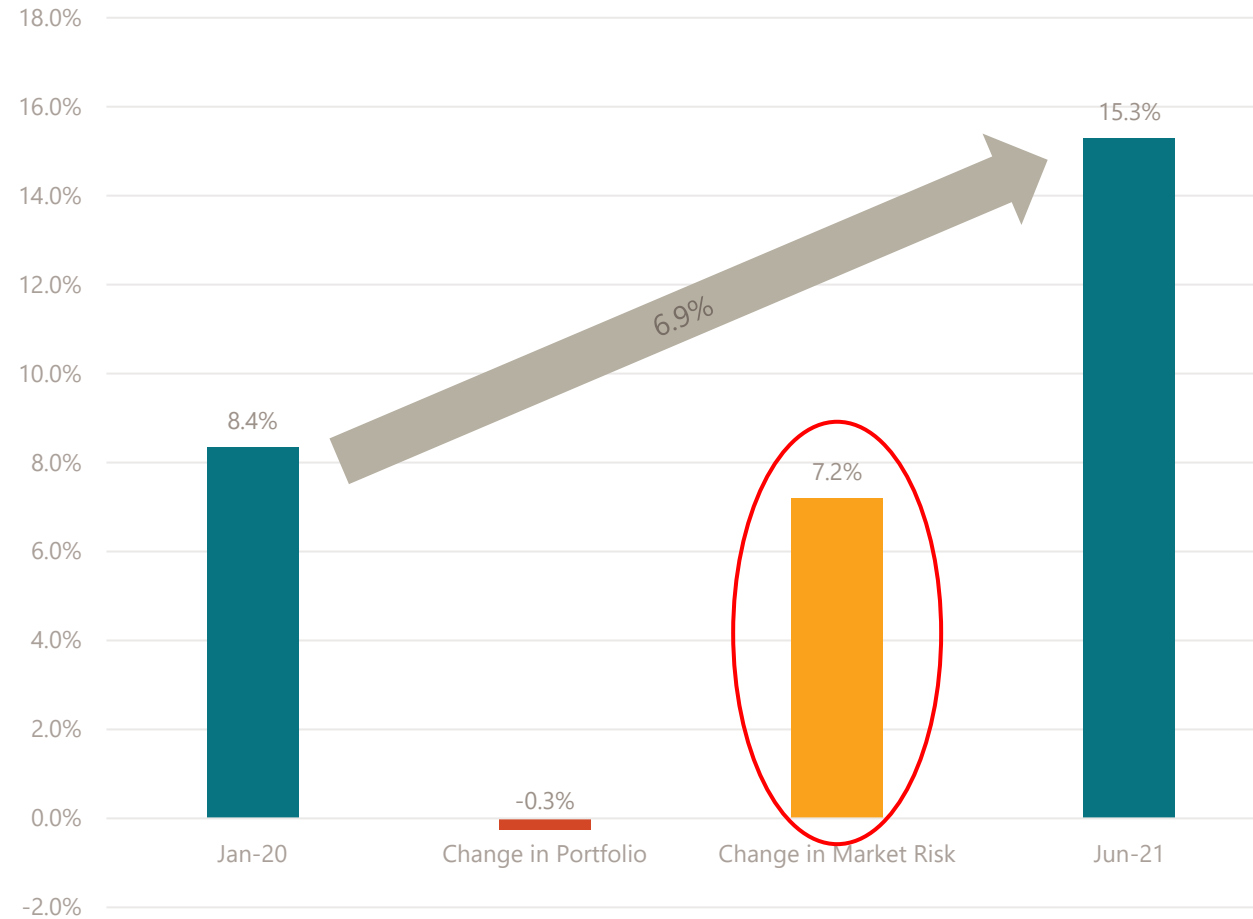
# RISK CONTRIBUTION OVER TIME

PENSION POOL AS OF JUNE 30, 2021



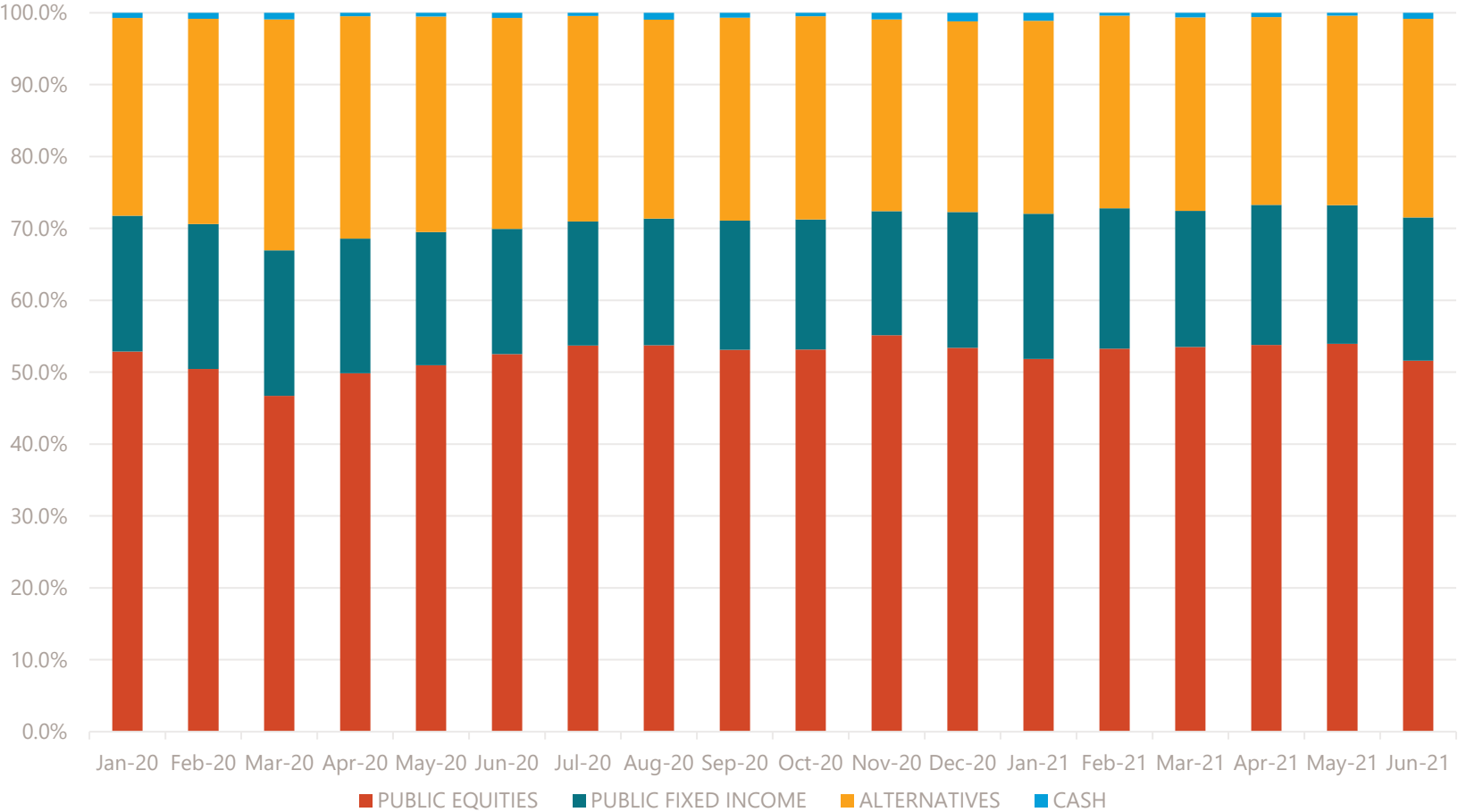
# RISK ATTRIBUTION

PENSION POOL AS OF JUNE 30, 2021



# ASSET ALLOCATION OVER TIME

PENSION POOL AS OF JUNE 30, 2021



- Staff is evaluating the relative underperformance of Job Service and has held initial conversations with SEI
- Group Insurance (90% Short-Term Bonds/10% cash) outperformed policy benchmarks for the 1, 3 and 5 years ended June 30, 2021
- Retiree Health (60% Equity/40% Bonds) outperformed policy benchmarks for the 1, 3 and 5 years ended June 30, 2021

	1 Yr Ended 6/30/2021	3 Yrs Ended 6/30/2021	5 Yrs Ended 6/30/2021	Risk 5 Yrs Ended 6/30/2021	Risk Adj Excess Return 5 Yrs Ended 6/30/2021
<b>Job Service \$96.7 million</b>					
Total Fund Return - Net	6.48%	5.37%	4.97%	4.2%	-1.56%
Policy Benchmark Return	7.97%	6.58%	6.34%	3.9%	
Total Relative Return	-1.49%	-1.21%	-1.37%	105%	

	1 Yr Ended 6/30/2021	3 Yrs Ended 6/30/2021	5 Yrs Ended 6/30/2021	Risk 5 Yrs Ended 6/30/2021	Risk Adj Excess Return 5 Yrs Ended 6/30/2021
<b>PERS Group Insurance \$34.6 million</b>					
Total Fund Return - Net	3.63%	3.39%	2.12%	2.6%	-0.23%
Policy Benchmark Return	0.41%	2.78%	1.80%	1.1%	
Total Relative Return	3.22%	0.61%	0.32%		
<b>PERS Retiree Health \$180.2 million</b>					
Total Fund Return - Net	25.67%	12.03%	10.99%	12.3%	-0.58%
Policy Benchmark Return	23.83%	11.63%	10.66%	11.2%	
Total Relative Return	1.84%	0.40%	0.33%		





- PERS and TFFR earned a net investment return of 27.15% and 26.55% respectively for the year ending June 30, 2021
- For the 5-year period ending June 30, 2021, PERS and TFFR earned a net investment return of 11.36% and 11.23% respectively
- Job Service, a de-risked pension plan, failed to exceed policy benchmark returns for the 1, 3 and 5 year periods ending June 30, 2021. Staff will reach out to SEI to better understand the underperformance.

	1 Yr Ended 6/30/2021	3 Yrs Ended 6/30/2021	5 Yrs Ended 6/30/2021	Risk 5 Yrs Ended 6/30/2021
<b>PERS \$4.0 billion</b>				
Total Fund Return - Net	27.15%	11.53%	11.36%	10.4%
Policy Benchmark Return	25.84%	11.39%	10.77%	10.1%
Total Relative Return	1.31%	0.15%	0.59%	
<b>TFFR \$3.2 billion</b>				
Total Fund Return - Net	26.55%	11.38%	11.23%	10.4%
Policy Benchmark Return	26.26%	11.49%	10.79%	10.3%
Total Relative Return	0.28%	-0.10%	0.44%	
<b>Bismarck Employees \$128.4 million</b>				
Total Fund Return - Net	21.89%	10.24%	10.03%	8.6%
Policy Benchmark Return	20.55%	9.96%	9.29%	8.5%
Total Relative Return	1.35%	0.28%	0.73%	
<b>Bismarck Police \$51.9 million</b>				
Total Fund Return - Net	23.97%	10.68%	10.52%	9.3%
Policy Benchmark Return	22.80%	10.42%	9.88%	9.3%
Total Relative Return	1.18%	0.26%	0.65%	
<b>Grand Forks Pension \$81.8 million</b>				
Total Fund Return - Net	27.55%	12.10%	11.72%	10.9%
Policy Benchmark Return	26.91%	11.89%	11.21%	10.9%
Total Relative Return	0.63%	0.21%	0.51%	
<b>Grand Forks Parks \$9.4 million</b>				
Total Fund Return - Net	26.46%	11.65%	11.40%	10.0%
Policy Benchmark Return	24.54%	11.21%	10.69%	9.5%
Total Relative Return	1.92%	0.43%	0.71%	
<b>Job Service \$96.7 million</b>				
Total Fund Return - Net	6.48%	5.37%	4.97%	4.2%
Policy Benchmark Return	7.97%	6.58%	6.34%	3.9%
Total Relative Return	-1.49%	-1.21%	-1.37%	

- WSI and Legacy Fund earned a net investment return of 11.57% and 22.68% respectively for the year ended June 30, 2021
- For the 5-year period ended June 30, 2021, WSI and Legacy Fund earned a net investment return of 7.59% and 10.10% respectively
- Budget Stabilization's relative performance has materially improved from the prior fiscal year, outperforming in each the 1 year, 3 year and 5 year periods

	1 Yr Ended 6/30/2021	3 Yrs Ended 6/30/2021	5 Yrs Ended 6/30/2021	Risk 5 Yrs Ended 6/30/2021
<b>WSI \$2.3 billion</b>				
Total Fund Return - Net	11.57%	8.12%	7.59%	6.2%
Policy Benchmark Return	9.19%	7.62%	6.35%	4.6%
Total Relative Return	2.38%	0.50%	1.24%	
<b>Legacy Fund \$9.0 billion</b>				
Total Fund Return - Net	22.68%	10.31%	10.10%	10.7%
Policy Benchmark Return	20.64%	10.15%	9.36%	9.6%
Total Relative Return	2.04%	0.17%	0.74%	
<b>Budget Stabilization \$749.6 million</b>				
Total Fund Return - Net	3.92%	3.59%	2.37%	2.8%
Policy Benchmark Return	0.44%	2.94%	1.87%	1.1%
Total Relative Return	3.48%	0.65%	0.49%	
<b>Fire &amp; Tornado \$22.8 million</b>				
Total Fund Return - Net	15.64%	8.91%	8.26%	8.5%
Policy Benchmark Return	13.71%	8.76%	7.41%	6.8%
Total Relative Return	1.93%	0.15%	0.85%	
<b>State Bonding \$3.9 million</b>				
Total Fund Return - Net	1.64%	4.13%	3.16%	2.5%
Policy Benchmark Return	-0.13%	3.54%	2.21%	2.1%
Total Relative Return	1.77%	0.59%	0.95%	
<b>Insur. Reg. Trust \$7.1 million</b>				
Total Fund Return - Net	12.75%	7.91%	7.13%	6.1%
Policy Benchmark Return	11.59%	7.07%	6.18%	5.7%
Total Relative Return	1.16%	0.84%	0.94%	

- Over 98% of the SIB Pension clients earned net returns which exceeded their respective policy benchmarks for the 5 year period ending June 30, 2021 (based on AUM)
- All of our SIB Non-Pension clients earned net returns which exceeded their respective policy benchmarks for the 5 year period ending June 30, 2021 (based on AUM)

	1 Yr Ended	3 Yrs Ended	5 Yrs Ended	Risk 5 Yrs Ended
<b>Petrol. Tank Release \$6.3 million</b>				
Total Fund Return - Net	1.56%	3.85%	2.97%	2.2%
Policy Benchmark Return	-0.11%	3.34%	2.11%	1.9%
Total Relative Return	1.67%	0.51%	0.86%	
<b>State Risk Mgmt \$4.4 million</b>				
Total Fund Return - Net	14.48%	9.28%	8.24%	7.8%
Policy Benchmark Return	12.56%	9.23%	7.47%	6.2%
Total Relative Return	1.92%	0.05%	0.77%	
<b>State Risk W/C \$4.3 million</b>				
Total Fund Return - Net	17.28%	10.08%	9.12%	9.1%
Policy Benchmark Return	15.74%	10.23%	8.55%	7.5%
Total Relative Return	1.54%	-0.16%	0.57%	
<b>NDACo \$7.7 million</b>				
Total Fund Return - Net	15.72%	9.42%	8.19%	8.7%
Policy Benchmark Return	13.49%	9.10%	7.28%	6.8%
Total Relative Return	2.23%	0.32%	0.91%	
<b>Bismarck Def. Sick \$0.8 million</b>				
Total Fund Return - Net	13.81%	8.65%	7.88%	7.8%
Policy Benchmark Return	11.44%	8.31%	6.76%	6.0%
Total Relative Return	2.37%	0.34%	1.12%	
<b>FargoDome \$49.8 million</b>				
Total Fund Return - Net	22.07%	10.03%	9.99%	11.2%
Policy Benchmark Return	21.23%	10.44%	9.51%	9.9%
Total Relative Return	0.84%	-0.41%	0.48%	
<b>Cultural Endowment \$0.6 million</b>				
Total Fund Return - Net	24.21%	11.02%	10.80%	11.9%
Policy Benchmark Return	23.49%	11.60%	10.66%	10.6%
Total Relative Return	0.73%	-0.58%	0.14%	

Note: Amounts are unaudited and subject to change.

- Strong absolute returns were primarily driven by public equities. Excess returns were driven by active managers in international equities and domestic fixed income

	1 Yr Ended 6/30/2021	3 Yrs Ended 6/30/2021	5 Yrs Ended 6/30/2021	Risk 5 Yrs Ended 6/30/2021
<b>Board of Medicine \$2.8 million</b>				
Total Fund Return - Net	12.58%	7.65%	6.26%	6.6%
Policy Benchmark Return	10.46%	7.08%	5.60%	4.9%
Total Relative Return	2.12%	0.57%	0.65%	
<b>PERS Group Insurance \$34.6 million</b>				
Total Fund Return - Net	3.63%	3.39%	2.12%	2.6%
Policy Benchmark Return	0.41%	2.78%	1.80%	1.1%
Total Relative Return	3.22%	0.61%	0.32%	
<b>Lewis &amp; Clark \$0.9 million</b>				
Total Fund Return - Net	15.45%	9.30%	N/A	
Policy Benchmark Return	13.24%	8.88%	N/A	
Total Relative Return	2.21%	0.42%	N/A	
<b>AG Settlement \$0.9 million</b>				
Total Fund Return - Net	2.25%	N/A	N/A	
Policy Benchmark Return	0.21%	N/A	N/A	
Total Relative Return	2.04%	N/A	N/A	
<b>Veterans' Cemetery \$0.4 million</b>				
Total Fund Return - Net	21.96%	N/A	N/A	
Policy Benchmark Return	20.72%	N/A	N/A	
Total Relative Return	1.24%	N/A	N/A	
<b>PERS Retiree Health \$180.2 million</b>				
Total Fund Return - Net	25.67%	12.03%	10.99%	12.3%
Policy Benchmark Return	23.83%	11.63%	10.66%	11.2%
Total Relative Return	1.84%	0.40%	0.33%	
<b>Tobacco Prev \$0.0 million</b>				
Total Fund Return - Net	0.17%	2.76%	2.31%	1.5%
Policy Benchmark Return	0.07%	2.71%	2.29%	1.4%
Total Relative Return	0.10%	0.05%	0.02%	

Note: Amounts are unaudited and subject to change.



**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

---

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:** Scott

**DATE:** September 14, 2021

**SUBJECT:** Actuarial Primer

GRS, the Board's actuarial firm, will present the actuarial valuation for the various retirement plans during the October Board meeting. The Board previously agreed that having a primer on actuarial theories and language before receiving the valuation would be helpful for it to understand the upcoming valuations. To aid in doing so, I have provided some information for your use. Below are several screenshots out of last year's Main PERS Plan's valuation. Those screenshots contain some of the important information from within the valuation. We will go through that information to help clarify your understanding of the actuarial issues discussed.

	<u>Main System</u>	<u>%</u>
Total Actuarial Accrued Liability	\$ 4,557,679,020	
Actuarial Value of Assets (AVA)	3,112,920,033	
Unfunded Actuarial Accrued Liability (UAAL)	1,444,758,987	
Funded Ratio (Actuarial Value of Assets)	68.3%	
Total Annual Gross Normal Cost	132,492,248	11.33%
Employee Contribution	<u>81,838,631</u>	<u>7.00%</u>
Annual Employer Normal Cost	50,653,617	4.33%
Amortization of Unfunded Liability <sup>1</sup>	<u>100,626,735</u>	<u>8.61%</u>
Actuarial Contribution	\$ 151,280,352	12.94%
Statutory Employer Contribution	<u>83,709,228</u>	<u>7.16%</u>
Statutory Contribution Deficit/(Surplus)	67,571,124	5.78%
Employer UAAL Contribution from Statutory Rate	33,055,611	2.83%
Amortization Period from Statutory Rate (Years)	100+	
Market Value of Assets (MVA)	\$ 3,011,499,294	
Unfunded Actuarial Accrued Liability (UAAL)	1,546,179,726	
Funded Ratio (Market Value of Assets)	66.1%	
Actuarial Contribution		13.54%
Amortization Period from Statutory Rate (Years)	100+	

### Single Discount Rate

Projected benefit payments are required to be discounted to their actuarial present values using a Single Discount Rate that reflects (1) a long-term expected rate of return on pension plan investments (to the extent that the plan's fiduciary net position is projected to be sufficient to pay benefits) and (2) a tax-exempt municipal bond rate based on an index of 20-year mixed maturity general obligation bonds with an average Standard & Poor's Corp.'s AA credit rating (which is published by Fidelity) as of the measurement date (to the extent that the contributions for use with the long-term expected rate of return are not met).

For the purpose of this actuarial valuation, the expected rate of return on pension plan investments is 7.00%; the municipal bond rate is 2.45% (based on the most recent date available on or before the measurement date of the "20-year Municipal GO Index" from Fidelity); and the resulting Single Discount Rate is 4.64%.

### Net Pension Liability

Total Pension Liability	\$ 6,157,520,698
Plan Fiduciary Net Position	<u>3,011,499,294</u>
Net Pension Liability	\$ 3,146,021,404





**North Dakota  
Public Employees Retirement System**  
1600 E Century Ave, Suite 2 • Box 1657  
Bismarck, North Dakota 58502-1657

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

---

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

# Memorandum

**TO:** NDPERS Board

**FROM:** Rebecca

**DATE:** September 14, 2021

**SUBJECT:** TIAA Update

Staff have been tracking an item with TIAA due to an article (<https://www.nytimes.com/2017/11/09/business/tiaa-subpoena.html>) that appeared in the New York Times in November 2017 regarding TIAA's sales practices. Following this article, the New York Attorney General's Office and the Securities and Exchange Commission (SEC) opened an investigation of these practices.

Since that time, TIAA has provided periodic updates to staff and the NDPERS Board, but has been waiting for final findings from this investigation. NDPERS has received notice that TIAA has reached a settlement with both parties. Attached is information provided by TIAA that outlines the details of the findings, the settlement and also information on the number of NDPERS members that may have been impacted.

Representatives from TIAA have been invited to discuss the information with the Board and to answer any questions the Board may have.





# Portfolio Advisor Account Update

## North Dakota Public Employees

Portfolio Advisor (PA) is TIAA's discretionary Managed Account service. It offers a professionally managed model portfolio that is customized to meet individual investment objectives and goals and subject to rigorous monitoring and evaluation. Since June 2020, advisor recommendations to open a PA account have been under a fiduciary standard. These accounts are offered for both qualified (IRA) and non-qualified after-tax assets.

### Summary for 1/1/2012 – 3/31/2018

- 42 participants worked with us to create or update a financial plan
- 3 participant(s) transferred retirement assets from your plan to their Portfolio Advisor managed account\*
- \$526K from your institution's retirement plan was transferred to these accounts\*
- 100% of the 3 still have assets in a retirement plan or have annuitized as of 3/31/21
- 0 currently actively contributing to your plan as of 3/31/21

### Summary for 2018 – 1Q21

	2018	2019	2020	1Q2021
Participants worked with us to create or update a financial plan	23	24	19	5
Participants who transferred retirement assets from your plan to their Portfolio Advisor managed account**	2	1	0	0

\*This population is limited to participants who opened a PA account with plan assets between 1/1/2012 and 3/31/2018. TIAA will return to these participants a portion of managed account fees earned during the time period.

\*\*This population includes any participant who opened a PA account between 1/1/2018 and 3/31/2021.

This material is for informational or educational purposes only and does not constitute investment advice under ERISA. This material does not take into account any specific objectives or circumstances of any particular investor, or suggest any specific course of action. Investment decisions should be made based on the investor's own objectives and circumstances.

TIAA managed account services provide discretionary investment management services for a fee. Investing involves risk and the value of your investments may gain or lose value and fluctuate over time. Investments in managed accounts should be considered in view of a larger, more diversified investment portfolio.

TIAA-CREF Individual & Institutional Services, LLC, Member FINRA, distributes securities products as a broker-dealer and provides investment advisory services as a registered investment adviser. Annuity contracts and certificates are issued by Teachers Insurance and Annuity Association of America (TIAA) and College Retirement Equities Fund (CREF), New York, NY. Each is solely responsible for its own financial condition and contractual obligations.

©2021 Teachers Insurance and Annuity Association of America-College Retirement Equities Fund, 730 Third Avenue, New York, NY 10017

September 2021 Board Book Page 25 of 125



XXXX XX, 2021

Re Portfolio Advisor Account Number: <<AccountNumber>>

Dear <<ClientName>>:

We are writing to make you aware that TIAA-CREF Individual & Institutional Services, LLC ("TC Services"), TIAA's registered broker-dealer and investment adviser, reached settlements with the Securities and Exchange Commission and the New York Attorney General on XXXX XX, 2021 that resolve regulatory investigations.

The SEC order can be found on the SEC's website: <https://www.sec.gov/litigation/admin/2021/33-10954.pdf>. If you would like a paper copy of the SEC order please call our settlement administrator (Rust Consulting) at (866) 683-8516 between 9:00 a.m. and 7:00 p.m. (EDT), Monday to Friday.

**What this means for you**

- The Portfolio Advisor account referenced above is entitled to a payment from a fund established by TC Services in accordance with the settlement.
- You will receive a refund of a portion of your Portfolio Advisor fees by way of a credit to your account. We will inform you of the specific amount you are entitled to after the SEC staff has reviewed and approved our calculations.
- If you hold other Portfolio Advisor accounts opened with assets from TIAA-administered retirement plans between January 2012 and March 2018, you will receive a separate letter for each of those accounts.

TIAA remains dedicated to helping our nearly five million participants create secure retirements and long-term financial success, as we have for more than 100 years. We greatly value our relationship with you and we will keep making the ongoing improvements necessary to continue delivering on our mission of serving you.

Sincerely,

Angela Kahrmann  
President & CEO  
TIAA-CREF Individual & Institutional Services, LLC

TIAA-CREF Individual & Institutional Services, LLC, FINRA Member, distributes securities products. Annuity contracts and certificates are issued by Teachers Insurance and Annuity Association of America (TIAA) and College Retirement Equities Fund (CREF), New York, NY. Each is solely responsible for its own financial condition and contractual obligations.

Advisory services provided by Advice & Planning Services, a division of TIAA-CREF Individual & Institutional Services, LLC, a registered investment adviser.

© 2021 Teachers Insurance and Annuity Association of America-College Retirement Equities Fund, 730 Third Avenue, New York, NY 10017

July 14, 2021

## **A TIAA RESOURCE FOR PLAN SPONSORS**

---

We understand that settlements with TC Services, TIAA's registered broker-dealer and investment adviser, may cause some of your employees to have questions about their Portfolio Advisor (PA) managed accounts. To help you, below is some basic information, and a questions-and-answers section. For further assistance, plan sponsors can contact their TIAA relationship manager.

### **OVERVIEW**

- The settlements cover controls, disclosures and communications relating to recommendations made between January 2012 and March 2018 by wealth management advisors to individual clients to open TIAA Portfolio Advisor managed accounts with assets from TIAA-administered retirement plans.
- As part of the settlements, clients who opened PA accounts with assets from TIAA-administered retirement plans during that covered time period are expected to be reimbursed a portion of their PA account fees.
- TIAA will communicate with eligible PA account-holders who are current TIAA clients about their payment following the settlements' announcement. A settlement administrator will seek to locate former clients who may be eligible for a payment.
- For more information about the settlements, PA account-holders can call the following toll free number: (866) 683-8516.
- The settlements only apply to prior PA recommendations as described above. Other services and solutions are not at issue.

### **QUESTIONS AND ANSWERS**

#### **Am I going to receive money?**

If you opened a PA managed account with assets from a TIAA-administered retirement plan in the time period covered, you are expected to receive a payment without taking any action. TIAA will communicate with eligible PA account-holders who are current TIAA clients. A settlement administrator will seek to locate former TIAA clients. Anyone with

questions about their settlement eligibility can call the following toll free number: (866) 683-8516.

#### **What amount of money should eligible individuals expect and when?**

Those amounts are being calculated and will be approved by the regulators. TIAA will communicate with eligible PA clients about their payments and when they can expect to receive them.

#### **How will I know if I am eligible for payment?**

If you opened a PA managed account with assets from a TIAA-administered retirement plan in the time period covered, you are expected to receive payment and will be contacted with more information.

#### **What if I have not been notified but believe I am eligible to receive a payment?**

If you believe that you are eligible to receive a payment and have not been contacted within 45 days after the settlements have been announced, you can call the following toll free number: (866) 683-8516.

#### **How will funds be paid to managed account clients receiving restitution?**

The payment process depends on whether clients have a closed or active PA account. If the PA account is currently closed, eligible clients will receive a refund of fees by check. If the PA account is active, they will receive a refund of fees by way of a credit to their account.

#### **Will the money provided in restitution to eligible clients be a taxable event?**

If the money is provided to a qualified account, it is not a taxable event. Such amounts will increase the account balance, which may be subject to tax when distributed. Account-holders may wish to consult a tax advisor about any potential tax effect.

#### **Why is this only for managed account clients?**

The issues in the settlement pertain only to PA managed accounts opened with assets from a TIAA-administered retirement plan between January 2012 and March 2018. Other services and solutions are not at issue.

#### **Can clients who have a PA managed account get out of them should they choose?**

Yes, clients can close their managed accounts at any time. They can call their advisor or transfer the account to other investment options at TIAA or

to another firm. Accrued advisory fees would be deducted from the account before it closes.

**Did the settlements cost me any money?**

No. As part of the settlement, TIAA agreed to return a portion of fees to those clients who opened a PA managed account with assets from a TIAA-administered retirement plan between January 2012 and March 2018. TIAA will communicate with eligible PA account-holders who are current clients of the firm. A settlement administrator will seek to locate former clients who may be eligible for a payment.

**Do I need to opt in or opt out of the settlement?**

No. TIAA will make payments to eligible clients and communicate with PA account-holders who are current TIAA clients. A settlement administrator will seek to locate former clients who may be eligible for a payment.

**One of the regulators in the settlements is the New York Attorney General. Does it matter if I'm not a New York resident?**

No, the combined settlement is not limited to N.Y. residents.

**When the settlement references managed accounts, does this also apply to Retirement Plan Portfolio Manager (RPPM - Plan managed accounts)?**

No, RPPM is an in-plan managed account service and is not part of the settlements.

**I have a Private Asset Management (PAM) account; will I be receiving anything as a result of the settlement?**

No, the combined settlement does not apply to PAM accounts.

TIAA-CREF Individual & Institutional Services, LLC, Member FINRA, distributes securities products as a broker-dealer and provides investment advisory services as a registered investment adviser. Annuity contracts and certificates are issued by Teachers Insurance and Annuity Association of America (TIAA) and College Retirement Equities Fund (CREF), New York, NY. Each is solely responsible for its own financial condition and contractual obligations.

© 2021 Teachers Insurance and Annuity Association of America-College Retirement Equities Fund, 730 Third Avenue, New York, NY 10017

For institutional investor use only. Not for use with or distribution to the public.

1644356

This material is for informational or educational purposes only and does not constitute investment advice under ERISA. This material does not take into account any specific objectives or circumstances of any particular investor, or suggest any specific course of action. Investment decisions should be made based on the investor's own objectives and circumstances.



**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

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:** NDPER Board

**FROM:** Bryan Reinhardt

**DATE:** September 14, 2021

**SUBJECT:** TIAA DC Plan Fees

The TIAA fees for the DC plans are .23% (23 basis points) of assets. This is generated by revenue sharing from the administration fees of the funds in the plan. The amount of revenue sharing is not the same across all the funds. The amount varies from zero to .50%. Below is the contract language for the plan administration fees:

TIAA Record Keeping Agreement...pdf - Adobe Acrobat Pro DC

File Edit View Window Help

Home Tools Document

5 / 37 157%

## 8. FEES & COMPENSATION FOR SERVICES

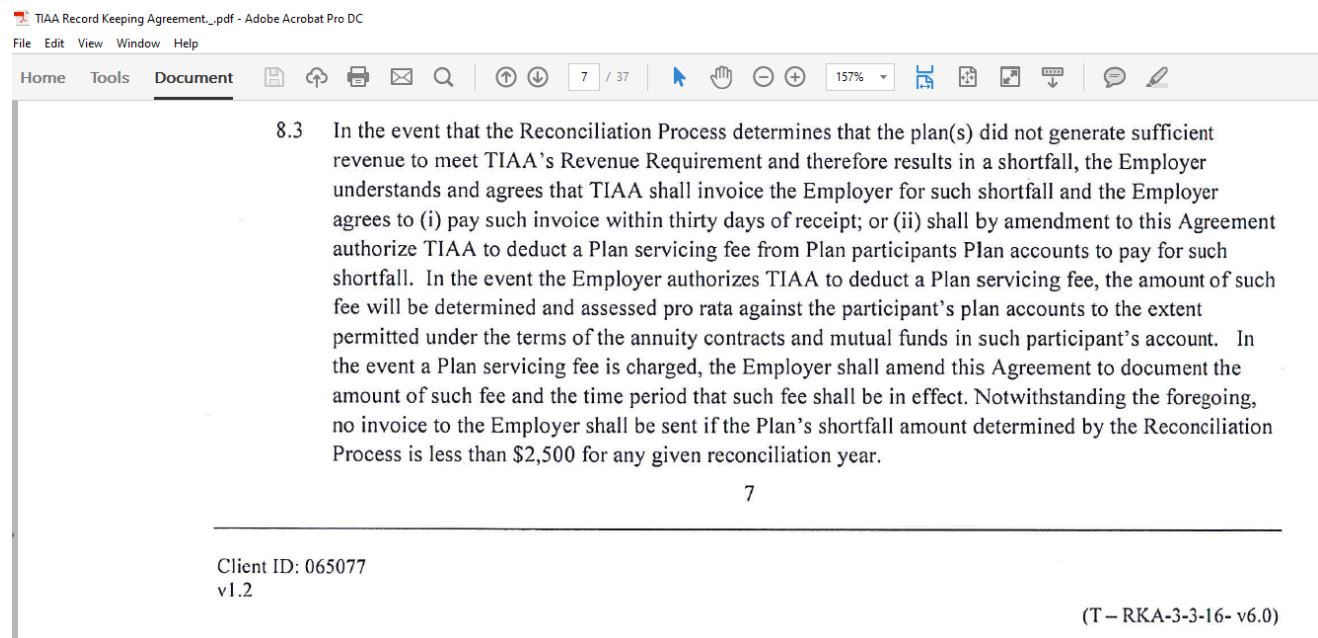
8.1 TIAA's annual revenue requirement for the services under this Agreement is .23% (23 basis points multiplied by plan assets equals, the "Revenue Requirement") per Plan. TIAA's Revenue Requirement for the Plan(s) will remain in effect for a two (2) year period beginning July 1, 2017 (ending June 30, 2019) (the "Revenue Requirement Term"). If however this Agreement is executed and received within thirty (30) calendar days of when the first scheduled reconciliation would have been performed then the terms of the Reconciliation Process will begin in the next available reconciliation period. In the event that the Revenue Requirement has not been adjusted after the end of the Revenue Requirement Term, the current Revenue Requirement and how such Revenue Requirement shall be paid will remain in

5

Client ID: 065077  
v1.2

(T - RKA-3-3-16- v6.0)

Lately the revenue sharing has not generated the .23% of assets required. The amount of the deficit in the last year was about \$17,300. Note that there are about 8,600 accounts. The contract language below addresses the event of a shortfall.



The NDPERS Investment Subcommittee has worked with staff, Callan, and TIAA to look at options to address the administrative fee shortfall. The attached document from Callan looks at four scenarios to resolve the issue.

The NDPERS Investment Subcommittee met on August 27<sup>th</sup> and analyzed the options. The subcommittee recommends Scenario #1 which is to have TIAA spread the shortfall evenly across all the accounts. With the figures for the last year shown above, this would be just over a \$2 charge to each account.

### **BOARD ACTION:**

Approve a method to address the shortfall in TIAA administration fees.

## Attachment 1 – Callan Fee Analysis

Callan



August 27, 2021

**North Dakota Public Employees  
Retirement System  
457(b) and 401(a) Plans  
Fee Structure Options**

Callan LLC

---

**Paul Erlendson**  
Senior Vice President

**Alexander Browning**  
Senior Vice President

**Ben Taylor**  
Senior Vice President



## Current Fee Details

### North Dakota Fee Details

**Today's Task: Review the options to address the shortfall and inequality of revenue-sharing. These include:**

**To charge participant accounts the gap periodically:** confusing and this will be different amounts over time – **not recommended**

**To move to the lowest revenue-sharing share class and charge 23 bps to all funds:** This unnecessarily raises total plan fees – **not recommended.**

**To add a different fee to each fund to get all funds to 23 basis points:** This is unnecessarily confusing, and could require adjustment over time if revenue-sharing amounts change – **not recommended.**

**To (i) change the fund lineup to the lowest net-of-revenue-sharing share class, and (ii) retain or refund any remaining revenue-sharing as desired by the plan, and (iii) directly charge participants a total fee of 23 basis points – **Recommended.****

### Current State

Contracted rate of compensation to TIAA: 23 basis points

Revenue is generated by revenue-sharing from the fund lineup

The current lineup does not produce the required level of revenue

The amount of revenue-sharing paid by the options today varies significantly



## Scenario #1 – Periodically Charge the Shortfall

By determining the shortfall and then assessing the shortfall to plan participants, the plan can meet the contractual payment level.

Doing so will result in small amounts being charged to each participant account on a periodic basis, and this will involve administrative actions and plan communications.

Recent shortfalls have been on the order of \$1-2 per participant (roughly) per year.

Confusion and the cost of assessing these monies likely outweigh any benefits associated with this method.



## Scenario #2 – Move to Lowest Revenue-Sharing Class and Charge the Fee

### Discussion:

This process would mostly remove revenue-sharing from the plan lineup, and allow for direct assessment of the plan fees.

The downside to this method is that not all investment options lower the total investment option fee by the same amount that revenue-sharing is reduced. As a result, total plan investment fees under this method would increase.

In the example, changing to the cheapest share class would raise overall fees paid by 8 basis points once revenue-sharing is accounted for.

### Example:

Invesco/Oppenheimer Developing Markets Y shares:

Current fee: 1%

Current revenue-sharing paid: 25 bps

Net of revenue-sharing fee: 75 bps

Invesco/Oppenheimer Developing Markets R6 shares:

Current fee: 83 bps

Current revenue-sharing paid: 0 bps

Net of revenue-sharing fee: 0 bps

Net loss: 8 bps.

---

### **Scenario #3 – Add a different amount to each fund to arrive at 23 bps**

Following this process would result in participants – who do not see all forms of revenue-sharing – seeing variable amounts added to some, but not all funds. It has significant potential to create confusion.

Additionally, some funds would still pay in excess of 23 basis points, and no revenues would be charged to balances within the brokerage window.

The majority of the added special fees would be for the Vanguard options, which would also risk causing the perception that these index options are being targeted.

---

## **Scenario #4 – Move to Lowest Net of Revenue-Sharing Share Class & Charge the Fee on Total Plan Balance**

This process would mostly remove revenue-sharing from the lineup, but would not increase investment management fees unnecessarily. Additionally, revenues would be generated on balances in the brokerage window.

The plan would communicate a new fee structure, which would be durable for remainder of the current fee contract term with TIAA (2 more years).

For a small number of funds, additional revenue-sharing would be generated, which the plan can either refund or retain.





**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

---

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:** Scott

**DATE:** September 14, 2021

**SUBJECT:** Job Service Assumed Rate of Return

Staff met with Bonnie Wurst from GRS on Thursday, September 9, to discuss the valuations that are in progress. Bonnie advised us at that time that GRS' analysis of the asset allocation for the Job Service plan resulted in a reduction in the projected assumed rate of return that put the current actuarial assumed rate of return above a reasonable range of returns. Bonnie advised us that the current assumed rate of return for the Main PERS plan and the other defined benefit plans (7.0%) was still within a reasonable range, although at the upper edge of that reasonable range.

The current assumed rate of return and the recommended assumed rate of return are as follows:

Current – 4.25%  
Recommended – 3.75%

The Actuarial Standards of Practice (ASOPs) require actuaries to use reasonable and appropriate actuarial assumptions, including assumed rates of return, in their valuations. Because the current assumed rate of return exceeds a reasonable range, GRS recommends that the Board adopt the new recommended rate above.

If the Board were to decline to change the assumed rate, the ASOPs require GRS to provide that information in a statement within the valuation, and that statement may result in an audit finding from our outside auditors. As such, staff recommends that the Board adopt the new recommended assumed rate of return for the Job Service plan. GRS will be available for questions.

**Board Action:** Adopt the recommended assumed rate of return for the Job Service plan.



**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

---

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:** Scott

**DATE:** September 14, 2021

**SUBJECT:** Retirement Consultant Renewal

We are currently in the final two-year contract period with Gabriel, Roeder, Smith & Co. (GRS), the Board's Retirement Consultant/Actuary; the contract is set to expire June 30, 2022. We would typically begin our RFP process for this service in October of 2021, for a new contract start date of July 1, 2022.

However, if GRS were to lose the bid, and the Board chose another actuarial firm, we would be switching our actuary in the middle of the HB 1209 study on how to close the DB plan. While I do not anticipate the Legislative Retirement Committee will use the services of GRS to assist its study, there is some discomfort in losing GRS' services in the middle of that study, and just prior to the next legislative session. As such, I would propose that we consider renewing GRS for an additional two years, until June 30, 2023. That will get us through the study and through the next legislative session.

I have reached out to GRS for their input on a renewal, including proposed fees for that time period. Their proposed fees are attached.

**Board Action Requested:** Determine whether to extend the current GRS contract or, alternatively, begin the RFP process.

**FIXED FEE:****Retirement:**

Fixed Annual Fee	7/1/2019 to 6/30/2020:	\$71,000
	7/1/2020 to 6/30/2021:	\$73,000
	7/1/2021 to 6/30/2022:	\$75,000
	7/1/2022 to 6/30/2023:	\$77,000
	7/1/2023 to 6/30/2024:	\$77,000

**Retiree Health Insurance Credit:**

Fixed Annual Fee	7/1/2019 to 6/30/2020:	\$13,200
	7/1/2020 to 6/30/2021:	\$13,600
	7/1/2021 to 6/30/2022:	\$14,000
	7/1/2022 to 6/30/2023:	\$14,400
	7/1/2023 to 6/30/2024:	\$14,400

**GASB 67 and 68 Work:**

Fixed Annual Fee	7/1/2019 to 6/30/2020:	\$43,000
	7/1/2020 to 6/30/2021:	\$44,000
	7/1/2021 to 6/30/2022:	\$45,000
	7/1/2022 to 6/30/2023:	\$46,000
	7/1/2023 to 6/30/2024:	\$46,000

**GASB 74 and 75 Work:**

Fixed Annual Fee	7/1/2019 to 6/30/2020:	\$8,000
	7/1/2020 to 6/30/2021:	\$8,250
	7/1/2021 to 6/30/2022:	\$8,500
	7/1/2022 to 6/30/2023:	\$8,750
	7/1/2023 to 6/30/2024:	\$8,750

**FEE FOR SERVICE:**

NDPERS is requesting a flat rate fee per hour for work efforts relating to general consulting, Legislative Work, and Defined Contribution/Deferred Comp consulting based on a July – June fiscal year (FY)

**Retirement and Retiree Health General Consulting<sup>(1)</sup>:**

Flat Rate Per Hour	7/1/2019 to 6/30/2020:	\$330
	7/1/2020 to 6/30/2021:	\$340
	7/1/2021 to 6/30/2022:	\$350
	7/1/2022 to 6/30/2023:	\$360
	7/1/2023 to 6/30/2024:	\$370

**Legislative Work<sup>(1)</sup>:**

Flat Rate Per Hour	7/1/2019 to 6/30/2020:	\$310
	7/1/2020 to 6/30/2021:	\$320
	7/1/2021 to 6/30/2022:	\$330
	7/1/2022 to 6/30/2023:	\$340
	7/1/2023 to 6/30/2024:	\$350

**Defined Contribution/Deferred Compensation Consulting<sup>(2)(3)</sup>:**

Flat Rate Per Hour	7/1/2019 to 6/30/2020:	\$450
	7/1/2020 to 6/30/2021:	\$475
	7/1/2021 to 6/30/2022:	\$500
	7/1/2022 to 6/30/2023:	\$525
	7/1/2023 to 6/30/2024:	\$550

**Flex Comp Consulting<sup>(2)(3)</sup>:**

Flat Rate Per Hour	7/1/2019 to 6/30/2020:	\$450
	7/1/2020 to 6/30/2021:	\$475
	7/1/2021 to 6/30/2022:	\$500
	7/1/2022 to 6/30/2023:	\$525
	7/1/2023 to 6/30/2024:	\$550

<sup>(1)</sup> To be provided by Gabriel, Roeder, Smith & Company

<sup>(2)</sup> To be provided by Groom Law Group

<sup>(3)</sup> For consulting provided by Groom Law Group, the quoted Flat Rate is applicable for a maximum of 45 hours per fiscal year. Rates are subject to change for hours above the maximum.





**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

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:** Bryan Reinhardt

**DATE:** September 14, 2021

**SUBJECT:** Updated Investment Options Summary

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 web site 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 located on the NDPERS web site at:

<https://www.ndpers.nd.gov/sites/www/files/documents/about/investments/investment-options.pdf>





# Memorandum

**TO:** NDPERS Board

**FROM:** Bryan Reinhardt

**DATE:** September 14, 2021

**SUBJECT:** 457 Companion Plan & 401(a) Plan 2nd Quarter 2021 Report

Here is the 2nd quarter 2021 investment report for the 401(a) & 457 Companion Plans. The reports are available separately on the NDPERS website. The NDPERS Investment Sub-committee reviewed the 2nd quarter reports. The two plans have 8,827 participants with \$206.2 million in assets.

Assets in the 401(a) plan increased to \$19.6 million on June 30, 2021. The number of active participants is at 90. The TIAA-CREF Target Date funds have 59% of the plan assets.

Assets in the 457 Companion Plan increased to \$186.5 million on June 30, 2021. The number of active participants is increasing and is now at 6,098. The TIAA-CREF Target Date funds have 71% of the plan assets.

## Benchmarks:

Fund returns for the quarter were positive for all the funds in the core lineup. Core fund performance was mixed when compared to benchmarks and peer funds. Only 9 of the 36 core funds beat both their benchmarks and peer funds in the second quarter 2021. Fund performance in the 3-year & 5-year periods were mostly good. 19 of the 36 core funds beat their benchmarks and peer funds for the 5-year average returns. 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 2021 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 – TGBAX and Prudential Mid Cap Growth – PEGZX). The Subcommittee marked Templeton Global Bond – TGBAX and Northern Small Cap Value – NOSGX as underperforming for the quarter. There is no recommended action at this time. The subcommittee reviewed a defined contribution investment structure report from Callan. Callan will review the NDPERS core fund offerings next quarter. The investment subcommittee reviewed the TIAA administration fee and discussed options. The next investment subcommittee meeting is scheduled for November 18<sup>th</sup>.

**NDPERS**  
**Quarterly Investment**  
**Report**  
**2<sup>nd</sup> Quarter**  
**4/1/2021 – 6/30/2021**



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

# NDPERS 401(a) Defined Contribution Plan & 457 Companion Plan - TIAA-CREF

<b>INITIAL OFFERING:</b>				
	Hartford Dividend & Growth T.Rowe Price Equity Income	Vanguard 500 Index Vanguard Dividend Growth	Franklin Growth Adv Wells Fargo Adv Growth Adm	<b>LARGE</b>
	Virtus Mid Cap Value Equity I	Columbia Mid Cap Index	Prudential Jennison Mid Cap Growth Z	<b>MEDIUM</b>
	Northern Small Cap Value	DFA US Small Cap	Brown Capital Mgmt Small Co Inv	<b>SMALL</b>
	<b>VALUE</b>	<b>BLEND</b>	<b>GROWTH</b>	
BALANCED FUND:	T.Rowe Price Capital Appreciation			
INCOME FUNDS:	Wells Fargo Stable Value Fund J	Vanguard Prime Money Market		
BOND FUNDS:	Baird Core Plus Bond Fund	Vanguard Total Bond Index Fund	Templeton Global Bond	
	Mass Mutual Inflation Protected Bond Fund	Prudential High Yield Z		
REAL ESTATE:	Cohen & Steers Realty Shares			
INTERNATIONAL FUNDS:	American Funds New Perspective	Vanguard Total Intl Stock Index	Oppenheimer Developing Markets Y	
LIFESTYLE FUNDS:	TIAA-CREF Lifecycle Ret Income	TIAA-CREF Lifecycle 2025	TIAA-CREF Lifecycle 2045	
	TIAA-CREF Lifecycle 2010	TIAA-CREF Lifecycle 2030	TIAA-CREF Lifecycle 2050	
	TIAA-CREF Lifecycle 2015	TIAA-CREF Lifecycle 2035	TIAA-CREF Lifecycle 2055	
	TIAA-CREF Lifecycle 2020	TIAA-CREF Lifecycle 2040	TIAA-CREF Lifecycle 2060	
<b>FUND STYLE CHANGES:</b>				
				<b>LARGE</b>
		Virtus Mid Cap Value Equity I		
			Brown Capital Mgmt Small Co Inv	<b>MEDIUM</b>
				<b>SMALL</b>
	<b>VALUE</b>	<b>BLEND</b>	<b>GROWTH</b>	
<b>OTHER FUNDS:</b>				
<b>CURRENT LINEUP:</b>				
	Hartford Dividend & Growth T.Rowe Price Equity Income	Vanguard 500 Index Vanguard Dividend Growth	Franklin Growth Adv Wells Fargo Adv Growth Adm	<b>LARGE</b>
		Columbia Mid Cap Index Virtus Mid Cap Value Equity I	Prudential Jennison Mid Cap Growth Z	<b>MEDIUM</b>
			Brown Capital Mgmt Small Co Inv	
	Northern Small Cap Value	DFA US Small Cap		<b>SMALL</b>
	<b>VALUE</b>	<b>BLEND</b>	<b>GROWTH</b>	
BALANCED FUND:	T.Rowe Price Capital Appreciation			
INCOME FUNDS:	Wells Fargo Stable Value Fund J	Vanguard Treasury Money Market		
BOND FUNDS:	Baird Core Plus Bond Fund	Vanguard Total Bond Index Fund	Templeton Global Bond	
	Mass Mutual Inflation Protected Bond Fund	Prudential High Yield Z		
REAL ESTATE:	Cohen & Steers Realty Shares			
INTERNATIONAL FUNDS:	American Funds New Perspective	Vanguard Total Intl Stock Index	Oppenheimer Developing Markets Y	
LIFESTYLE FUNDS:	TIAA-CREF Lifecycle Ret Income	TIAA-CREF Lifecycle 2025	TIAA-CREF Lifecycle 2045	
	TIAA-CREF Lifecycle 2010	TIAA-CREF Lifecycle 2030	TIAA-CREF Lifecycle 2050	
	TIAA-CREF Lifecycle 2015	TIAA-CREF Lifecycle 2035	TIAA-CREF Lifecycle 2055	
	TIAA-CREF Lifecycle 2020	TIAA-CREF Lifecycle 2040	TIAA-CREF Lifecycle 2060	

<b>NDPERS Investment Benchmarks - 2nd Quarter 2021</b>					
	<b>Quarter</b>	<b>Y-T-D</b>	<b>1-Year</b>	<b>3-Year</b>	<b>5-Year</b>
<u>Stable Value / Money Market Fund</u>					
<b>Vanguard Treasury Money Market - VUSXX</b>	0.00%	0.01%	0.04%	1.21%	1.06%
<b>Wells Fargo Stable Return Fund J - WFSJ#</b>	0.30%	0.63%	1.41%	1.54%	1.37%
3 Month T-Bill Index	0.01%	0.03%	0.08%	1.31%	1.14%
<u>Fixed Income Fund</u>					
<b>Mass Mutual Income Bond Fund - MIPYX</b>	3.41%	2.09%	8.17%	6.53%	4.26%
<b>Baird Core Plus Bond Fund - BCOSX</b>	2.06%	-1.19%	1.52%	5.99%	3.76%
<b>Vanguard Total Bond Market Index Fund - VBTX</b>	2.00%	-1.69%	-0.42%	5.38%	2.99%
US Aggregate Bond Index	1.96%	-1.67%	-0.33%	5.44%	3.07%
Taxable Corporate Bond Fund Universe	3.14%	-0.67%	4.42%	7.37%	4.80%
<b>Prudential High Yield Z - PHYX</b>	2.85%	4.51%	16.20%	7.89%	7.80%
BofA High Yield Bond Fund Index	2.77%	3.70%	15.62%	7.15%	7.30%
High Yield Bond Fund Universe	2.50%	3.62%	14.69%	6.16%	6.21%
<b>Templeton Global Bond Adv - TGBAX &lt;ON WATCH&gt;</b>	0.30%	-2.48%	-2.33%	-1.07%	0.96%
World Govt Bond Index	0.98%	-4.75%	0.76%	3.59%	1.66%
World Bond Fund Universe	1.24%	-2.30%	4.82%	3.59%	2.35%
<u>Real Estate Fund</u>					
<b>Cohen &amp; Steers Realty Shares - CSRSX</b>	12.01%	21.62%	35.75%	14.05%	9.18%
FTSE NAREIT Equity REITs Index	12.03%	21.35%	32.80%	11.97%	8.10%
Real Estate Fund Universe	11.34%	20.43%	36.79%	10.81%	7.03%
<u>Balanced Fund</u>					
<b>T.Rowe Price Capital Appreciation - PACLX</b>	5.53%	9.79%	29.33%	16.33%	13.75%
60% Large Cap Value Univ & 40% Taxable Bond Universe	4.56%	10.24%	27.50%	10.11%	9.16%
60% Russell 1000 Value & 40% Agg Bond Index	3.91%	9.56%	26.08%	9.63%	8.35%
<u>Large Cap Equities - Value</u>					
<b>Hartford Dividend &amp; Growth - HDGTX</b>	6.06%	17.16%	41.90%	15.59%	14.86%
<b>T.Rowe Price Equity Income - PRFDX</b>	4.48%	18.46%	47.77%	11.46%	12.33%
Russell 1000 Value Index	5.21%	17.05%	43.68%	12.42%	11.87%
Large Cap Value Fund Universe	5.51%	17.52%	42.88%	11.93%	12.07%
<u>Large Cap Equities - Blend</u>					
<b>Vanguard Institutional Index - VINIX</b>	8.54%	15.24%	40.77%	18.65%	17.62%
<b>Vanguard Dividend Growth Fund - VDIGX</b>	6.56%	11.10%	33.04%	17.04%	14.69%
S&P 500 Index	8.55%	15.25%	40.79%	18.67%	17.65%
Large Cap Blend Fund Universe	7.55%	14.84%	40.47%	16.77%	16.15%
<u>Large Cap Equities - Growth</u>					
<b>Wells Fargo Adv Growth Adm - SGRKX</b>	10.64%	8.01%	42.87%	25.25%	24.95%
Russell 3000 Growth Index	11.38%	12.71%	42.99%	24.47%	23.31%
<b>Franklin Growth Adv - FCGAX</b>	9.48%	11.66%	40.64%	21.49%	20.66%
Russell 1000 Growth Index	11.93%	12.99%	42.50%	25.14%	23.66%
Large Cap Growth Fund Universe	10.28%	12.38%	41.70%	22.56%	21.98%
<u>Mid Cap Equities - Value</u>					
<b>Virtus Mid Cap Value Equity I - SMVTX</b>	7.25%	19.56%	49.24%	12.09%	13.15%
Russell Mid Cap Value	5.66%	19.45%	53.06%	11.86%	11.79%
Mid Cap Value Fund Universe	4.90%	21.28%	55.83%	11.08%	11.93%
<u>Mid Cap Equities - Blend</u>					
<b>Columbia Mid Cap Index A - NTIAX</b>	3.51%	17.31%	52.49%	12.62%	13.74%
S&P Mid Cap 400	3.64%	17.59%	53.24%	13.17%	14.29%
Mid Cap Blend Fund Universe	5.47%	17.04%	50.44%	13.15%	13.75%
<u>Mid Cap Equities - Growth</u>					
<b>Prudential Jennison Mid Cap Growth - PEGZX &lt;ON WATCH&gt;</b>	7.16%	8.33%	48.79%	23.70%	19.88%
Russell Mid Cap Growth	11.07%	10.44%	43.77%	22.39%	20.52%
Mid Cap Growth Fund Universe	7.00%	10.80%	48.17%	21.26%	20.18%
<b>Fund Returns in RED do not meet both benchmarks. Fund Returns in BLACK meet both benchmarks.</b>					

## NDPERS Investment Benchmarks - 2nd Quarter 2021

	Quarter	Y-T-D	1-Year	3-Year	5-Year
<u>Small Cap Equities - Value</u>					
<b>Northern Small Cap Value Fund - NOSGX</b>	1.71%	20.93%	57.06%	6.51%	9.81%
Russell 2000 Value Index	4.56%	26.69%	73.28%	10.27%	13.62%
Small Value Fund Universe	4.45%	26.79%	71.02%	9.35%	12.17%
<u>Small Cap Equities - Blend</u>					
<b>DFA US Small Cap - DFSTX</b>	4.21%	23.34%	65.00%	11.23%	14.04%
Russell 2000 Index	4.29%	17.54%	62.03%	13.52%	16.47%
Small Blend Fund Universe	4.36%	20.19%	60.18%	11.32%	13.88%
<u>Small Cap Equities - Growth</u>					
<b>Brown Capital Mgmt Small Co Inv - BCSIX</b>	3.97%	-2.40%	22.89%	15.70%	20.15%
Russell 2000 Growth Index	3.92%	8.98%	51.36%	15.94%	18.76%
Small Growth Fund Universe	4.88%	12.40%	55.69%	19.34%	20.72%
<u>International Equity Funds</u>					
<b>American Funds New Perspective Fund - RNPEX</b>	8.20%	10.57%	45.76%	19.98%	19.22%
<b>Vanguard Total Intl Stock Index Inv - VTIAI</b>	5.52%	9.68%	36.51%	9.60%	11.10%
MSCI ACWI Index	5.48%	9.16%	35.72%	9.38%	11.08%
International Stock Fund Universe	5.12%	9.07%	33.76%	8.50%	10.08%
<b>Invesco Developing Markets Y - ODVYX</b>	5.62%	6.49%	37.16%	11.49%	13.82%
MSCI Emerging Markets Index	5.05%	7.45%	40.90%	11.27%	13.03%
Diversified Emerging Mkts Universe	5.47%	8.73%	41.79%	11.48%	12.18%
<u>Asset Allocation Funds:</u>					
<b>TIAA-CREF Lifecycle Ret Income - TLIRX</b>	3.90%	4.86%	16.29%	8.65%	7.97%
Income Benchmark	4.22%	4.98%	16.07%	9.06%	7.62%
<b>TIAA-CREF Lifecycle 2010 - TCLEX</b>	3.83%	4.78%	16.33%	8.67%	8.20%
2010 Benchmark	4.14%	4.79%	15.70%	8.98%	7.53%
<b>TIAA-CREF Lifecycle 2015 - TCLIX</b>	4.11%	5.37%	18.14%	9.17%	8.83%
2015 Benchmark	4.48%	5.56%	17.75%	9.55%	8.16%
<b>TIAA-CREF Lifecycle 2020 - TCLTX</b>	4.48%	6.04%	20.07%	9.66%	9.58%
2020 Benchmark	4.79%	6.29%	19.84%	10.16%	8.84%
<b>TIAA-CREF Lifecycle 2025 - TCLFX</b>	4.92%	7.05%	23.29%	10.44%	10.61%
2025 Benchmark	5.29%	7.51%	23.28%	11.12%	9.93%
<b>TIAA-CREF Lifecycle 2030 - TCLNX</b>	5.48%	8.24%	26.80%	11.28%	11.64%
2030 Benchmark	5.83%	8.84%	27.05%	12.15%	11.12%
<b>TIAA-CREF Lifecycle 2035 - TCLRX</b>	5.94%	9.39%	30.25%	12.04%	12.64%
2035 Benchmark	6.37%	10.18%	30.82%	13.19%	12.32%
<b>TIAA-CREF Lifecycle 2040 - TCLOX</b>	6.41%	10.59%	33.89%	12.78%	13.62%
2040 Benchmark	6.88%	11.54%	34.58%	14.15%	13.47%
<b>TIAA-CREF Lifecycle 2045 - TTFRX</b>	6.90%	11.87%	37.57%	13.54%	14.34%
2045 Benchmark	7.38%	12.92%	38.38%	15.11%	14.63%
<b>TIAA-CREF Lifecycle 2050 - TLFrx</b>	7.00%	12.14%	38.33%	13.71%	14.51%
2050 Benchmark	7.54%	13.34%	39.56%	15.41%	14.99%
<b>TIAA-CREF Lifecycle 2055 - TTRLX</b>	7.05%	12.30%	38.80%	13.78%	14.64%
2055 Benchmark	7.61%	13.53%	40.08%	15.54%	15.15%
<b>TIAA-CREF Lifecycle 2060 - TLXRX</b>	7.19%	12.55%	39.31%	13.92%	14.76%
2060 Benchmark	7.68%	13.72%	40.61%	15.67%	15.31%
Income Benchmark is comprised of 24.5% Wilshire 5000, 10.5% MSCI ACWI, 50.0% Ag Bond, 5.0% REIT Index, 10.0% 3 Month T-Bill					
2010 Benchmark is comprised of 24.15% Wilshire 5000, 10.35% MSCI ACWI, 51.0% Ag Bond, 4.5% REIT Index, 10.0% 3 Month T-Bill					
2015 Benchmark is comprised of 27.3% Wilshire 5000, 11.7% MSCI ACWI, 47.6% Ag Bond, 5.0% REIT Index, 8.4% 3 Month T-Bill					
2020 Benchmark is comprised of 30.8% Wilshire 5000, 13.2% MSCI ACWI, 44.6% Ag Bond, 5.0% REIT Index, 6.4% 3 Month T-Bill					
2025 Benchmark is comprised of 36.54% Wilshire 5000, 15.66% MSCI ACWI, 38.4% Ag Bond, 5.0% REIT Index, 4.4% 3 Month T-Bill					
2030 Benchmark is comprised of 42.84% Wilshire 5000, 18.36% MSCI ACWI, 31.4% Ag Bond, 5.0% REIT Index, 2.4% 3 Month T-Bill					
2035 Benchmark is comprised of 49.14% Wilshire 5000, 21.06% MSCI ACWI, 24.4% Ag Bond, 5.0% REIT Index, 0.4% 3 Month T-Bill					
2040 Benchmark is comprised of 55.4% Wilshire 5000, 23.76% MSCI ACWI, 15.8% Ag Bond, 5.0% REIT Index, 0% 3 Month T-Bill					
2045 Benchmark is comprised of 61.74% Wilshire 5000, 26.46% MSCI ACWI, 6.8% Ag Bond, 5.0% REIT Index, 0% 3 Month T-Bill					
2050 Benchmark is comprised of 63.7% Wilshire 5000, 27.3% MSCI ACWI, 4.0% Ag Bond, 5.0% REIT Index, 0% 3 Month T-Bill					
2055 Benchmark is comprised of 64.58% Wilshire 5000, 27.67% MSCI ACWI, 2.75% Ag Bond, 5.0% REIT Index, 0% 3 Month T-Bill					
2060 Benchmark is comprised of 65.45% Wilshire 5000, 28.05% MSCI ACWI, 1.5% Ag Bond, 5.0% REIT Index, 0% 3 Month T-Bill					
Wilshire 5000 Index	8.42%	15.45%	44.24%	18.89%	17.96%
FTSE NAREIT Equity REITs Index	12.03%	21.35%	32.80%	11.97%	8.10%
MSCI ACWI Index	5.48%	9.16%	35.72%	9.38%	11.08%
US Aggregate Bond Index	1.96%	-1.67%	-0.33%	5.44%	3.07%
3 Month T-Bill Index	0.01%	0.03%	0.08%	1.31%	1.14%

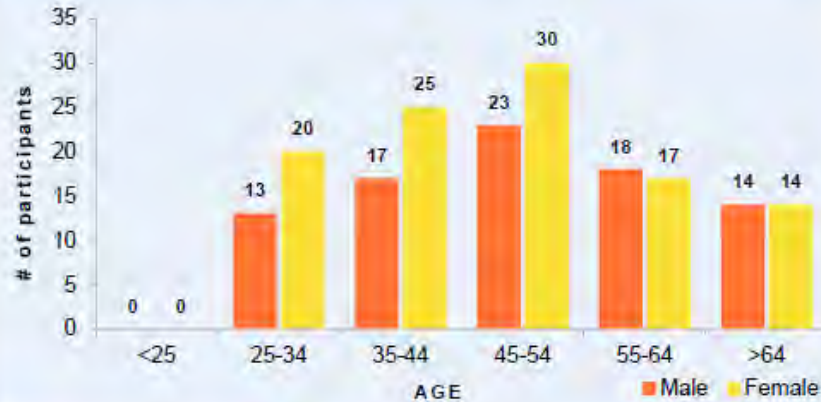
Fund Returns in RED do not meet both benchmarks.

Fund Returns in BLACK meet both benchmarks.



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

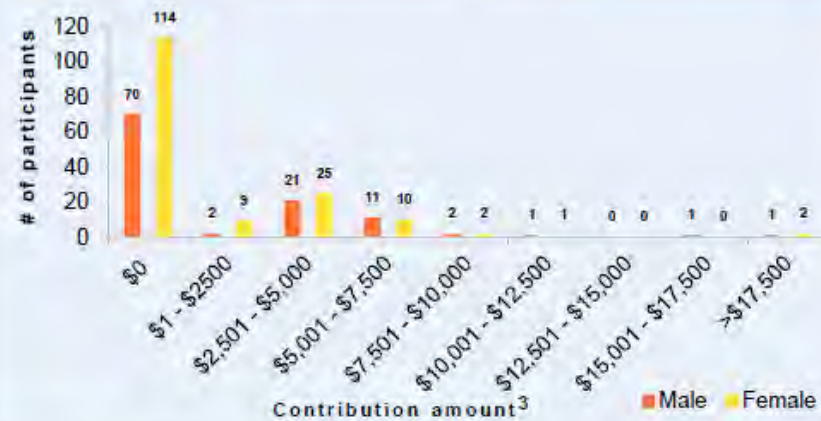
### Demographics by Age and Gender



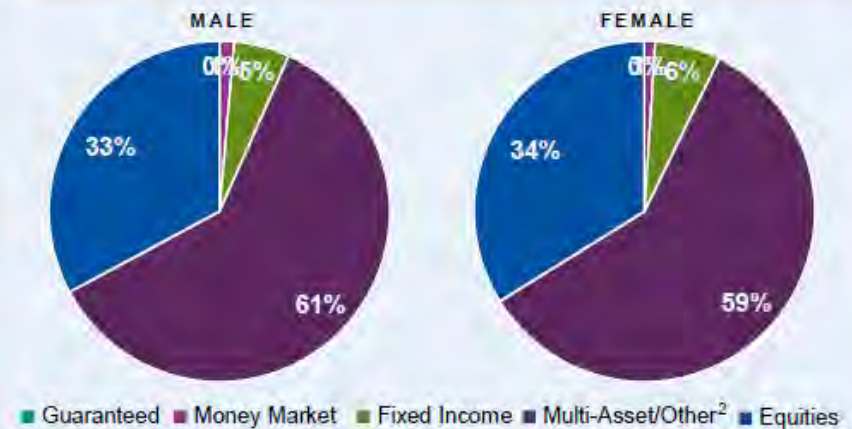
### Average Account Balance by Age and Gender



### Employee Contribution Amounts by Gender



### Diversification by Gender

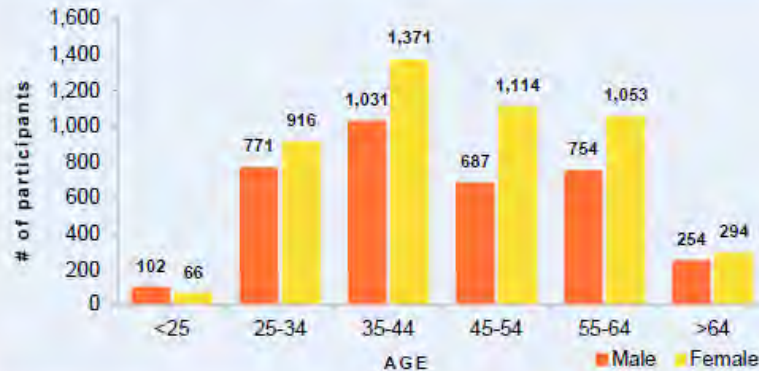


This report is as of the period ending 06/30/2021 and reflects the trailing 12 months of activity unless otherwise noted. The report includes all TIAA plans except 457(f), 457(b) Private, Nonqualified Deferred Compensation, and Retirement Healthcare plans. 1. Data reflected is for all participant statuses except Employee Contribution Amounts by Gender which includes only active or leave status. Does not include 2 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.

# NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM COMPANION PLAN

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

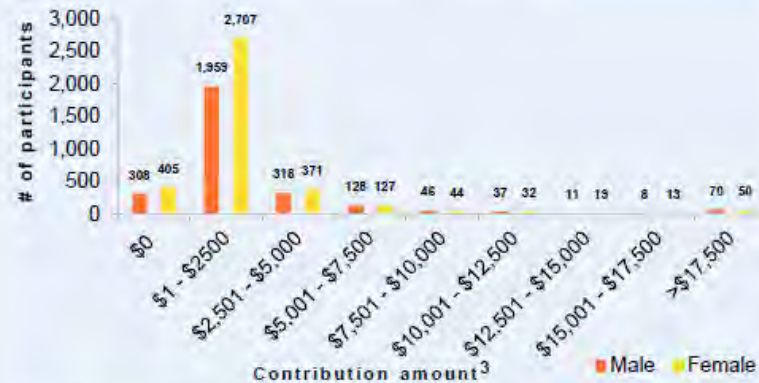
Demographics by Age and Gender



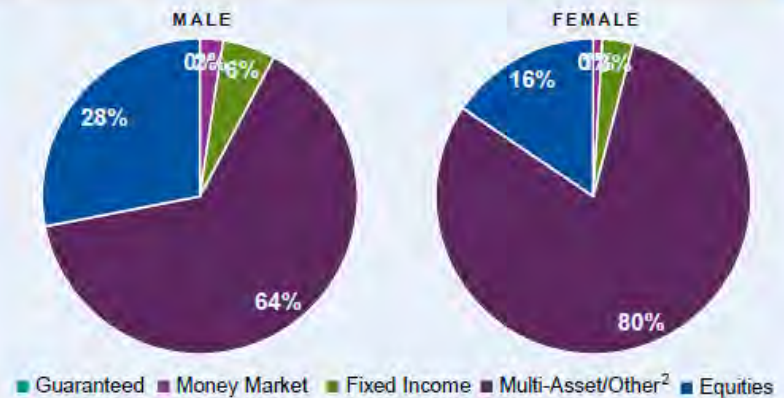
Average Account Balance by Age and Gender



Employee Contribution Amounts by Gender



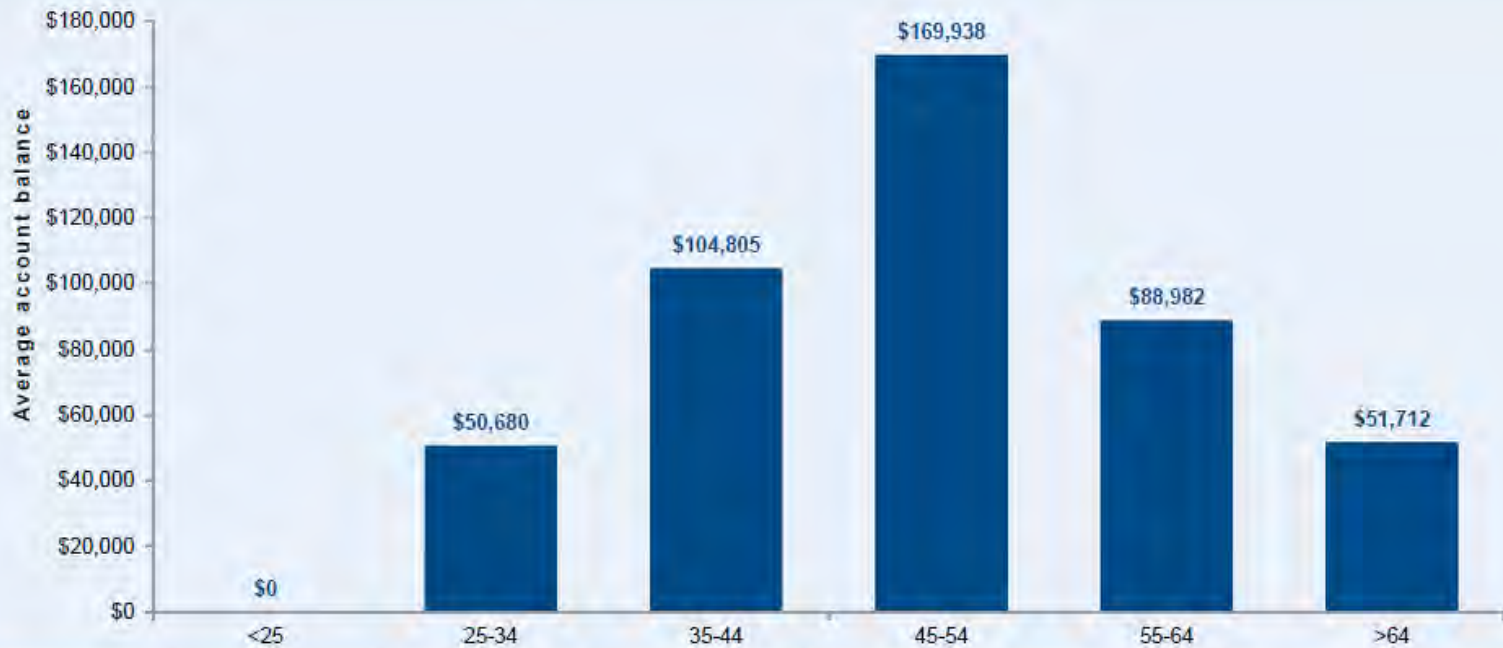
Diversification by Gender



This report is as of the period ending 06/30/2021 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 283 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

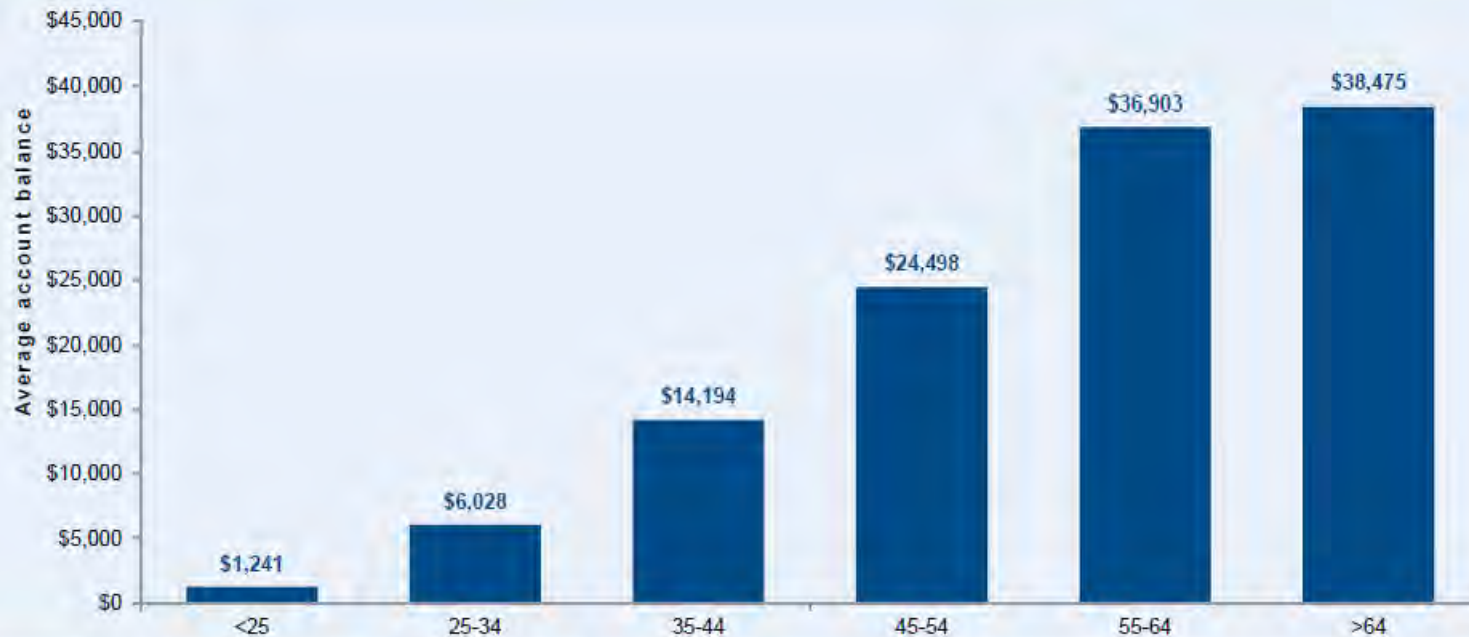


	<25	25-34	35-44	45-54	55-64	>64	Total
# of Active Participants	0	18	28	26	15	3	90
% of Total Active Participants	0%	20%	31%	29%	17%	3%	100%
Total Active Assets	\$0	\$912,248	\$2,934,545	\$4,418,385	\$1,334,734	\$155,136	\$9,755,049
% of Total Active Assets	0%	9%	30%	45%	14%	2%	100%

This report is as of the period ending 06/30/2021 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.

# NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM COMPANION PLAN

## Active participants: Average account balance by age



	<25	25-34	35-44	45-54	55-64	>64	Total
# of Active Participants	132	1,267	1,787	1,430	1,308	174	6,098
% of Total Active Participants	2%	21%	29%	23%	21%	3%	100%
Total Active Assets	\$163,868	\$7,637,610	\$25,364,141	\$35,031,430	\$48,269,136	\$6,694,705	\$123,160,890
% of Total Active Assets	0%	6%	21%	28%	39%	5%	100%

This report is as of the period ending 06/30/2021 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.



# Plan Summary



457(b)	Assets	Pct
TIAA-CREF Lifecycle 2025 Fund Retirement	\$25,993,877	13.9%
TIAA-CREF Lifecycle 2030 Fund Retirement	\$19,709,457	10.6%
TIAA-CREF Lifecycle 2020 Fund Retirement	\$19,577,929	10.5%
TIAA-CREF Lifecycle 2035 Fund Retirement	\$15,436,009	8.3%
TIAA-CREF Lifecycle 2045 Fund Retirement	\$13,486,933	7.2%
TIAA-CREF Lifecycle 2040 Fund Retirement	\$13,322,789	7.1%
Vanguard Institutional Index Fund Institutional	\$10,113,160	5.4%
TIAA-CREF Lifecycle 2050 Fund Retirement	\$9,153,224	4.9%
TIAA-CREF Lifecycle 2015 Fund Retirement	\$8,645,104	4.6%
Vanguard Total International Stock Index Fund Admiral	\$4,440,583	2.4%
Vanguard Total Bond Market Index Fund Admiral	\$3,985,364	2.1%
TIAA-CREF Lifecycle 2055 Fund Retirement	\$3,333,989	1.8%
Vanguard Dividend Growth Fund Investor	\$3,048,514	1.6%
Vanguard Admiral Treasury Money Market Fund Investor	\$2,985,672	1.6%
Brown Capital Management Small Company Fund Investor	\$2,831,691	1.5%
Franklin Growth Fund Advisor	\$2,417,161	1.3%
Wells Fargo Stable Value Fund - J	\$2,318,952	1.2%
Wells Fargo Growth Fund Administrator	\$2,100,680	1.1%
Hartford Dividend and Growth Fund R5	\$1,878,028	1.0%
Columbia Mid Cap Index Fund A	\$1,830,953	1.0%
T. Rowe Price Capital Appreciation Fund Advisor	\$1,812,213	1.0%
American Funds New Perspective Fund R4	\$1,735,510	0.9%
Invesco Developing Markets Fund Y	\$1,653,770	0.9%
PGIM High Yield Fund Z	\$1,471,707	0.8%
TIAA-CREF Lifecycle 2010 Fund Retirement	\$1,431,504	0.8%
Self Directed Brokerage Account	\$1,332,634	0.7%
T. Rowe Price Equity Income Fund	\$1,290,449	0.7%
Virtus Ceredex Mid-Cap Value Equity Fund I	\$1,217,136	0.7%
Cohen & Steers Realty Shares	\$1,201,037	0.6%
Baird Core Plus Bond Fund Investor	\$1,088,212	0.6%
Prudential Jennison Mid-Cap Growth Fund Z	\$1,031,566	0.6%
DFA U.S. Small Cap Portfolio Institutional	\$992,808	0.5%
Northern Small Cap Value Fund	\$909,823	0.5%
TIAA-CREF Lifecycle Retirement Income Fund Retirement	\$860,005	0.5%
MassMutual Inflation-Protected and Income Fund Service Class	\$735,721	0.4%
TIAA-CREF Lifecycle 2060 Fund Retirement	\$649,227	0.3%
Templeton Global Bond Fund Advisor	\$506,438	0.3%
<b>Total</b>	<b>\$181,529,837</b>	<b>100.0%</b>

401(k)	Assets	Pct
TIAA-CREF Lifecycle 2030 Fund Retirement	\$2,324,194	11.8%
TIAA-CREF Lifecycle 2025 Fund Retirement	\$2,164,962	11.0%
TIAA-CREF Lifecycle 2035 Fund Retirement	\$1,845,278	9.4%
Vanguard Institutional Index Fund Institutional	\$1,415,028	7.2%
TIAA-CREF Lifecycle 2020 Fund Retirement	\$1,207,617	6.1%
TIAA-CREF Lifecycle 2045 Fund Retirement	\$1,054,976	5.4%
TIAA-CREF Lifecycle 2050 Fund Retirement	\$1,039,485	5.3%
Brown Capital Management Small Company Fund Investor	\$821,287	4.2%
TIAA-CREF Lifecycle 2040 Fund Retirement	\$795,226	4.0%
TIAA-CREF Lifecycle 2055 Fund Retirement	\$629,650	3.2%
PGIM High Yield Fund Z	\$622,065	3.2%
Wells Fargo Growth Fund Administrator	\$619,253	3.2%
Franklin Growth Fund Advisor	\$582,439	3.0%
Vanguard Total International Stock Index Fund Admiral	\$443,667	2.3%
TIAA-CREF Lifecycle 2010 Fund Retirement	\$398,891	2.0%
T. Rowe Price Capital Appreciation Fund Advisor	\$389,228	2.0%
American Funds New Perspective Fund R4	\$370,010	1.9%
Hartford Dividend and Growth Fund R5	\$339,603	1.7%
Invesco Developing Markets Fund Y	\$310,257	1.6%
Cohen & Steers Realty Shares	\$262,839	1.3%
Vanguard Admiral Treasury Money Market Fund Investor	\$242,473	1.2%
Vanguard Dividend Growth Fund Investor	\$226,670	1.2%
Baird Core Plus Bond Fund Investor	\$214,875	1.1%
Columbia Mid Cap Index Fund A	\$198,756	1.0%
DFA U.S. Small Cap Portfolio Institutional	\$161,645	0.8%
Wells Fargo Stable Value Fund - J	\$142,880	0.7%
Self Directed Brokerage Account	\$136,502	0.7%
Northern Small Cap Value Fund	\$111,546	0.6%
Templeton Global Bond Fund Advisor	\$99,551	0.5%
T. Rowe Price Equity Income Fund	\$88,836	0.5%
MassMutual Inflation-Protected and Income Fund Service Class	\$86,420	0.4%
Prudential Jennison Mid-Cap Growth Fund Z	\$85,458	0.4%
Vanguard Total Bond Market Index Fund Admiral	\$84,002	0.4%
Virtus Ceredex Mid-Cap Value Equity Fund I	\$74,022	0.4%
TIAA-CREF Lifecycle 2015 Fund Retirement	\$47,386	0.2%
TIAA-CREF Lifecycle 2060 Fund Retirement	\$8,319	0.0%
TIAA-CREF Lifecycle Retirement Income Fund Retirement	\$0	0.0%
<b>Total</b>	<b>\$19,645,296</b>	<b>100.0%</b>
<b>Grand Total</b>	<b>\$206,175,127</b>	



**North Dakota  
Public Employees Retirement System**  
1600 E Century Ave, Suite 2 • Box 1657  
Bismarck, North Dakota 58502-1657

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

---

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

# Memorandum

**TO:** NDPERS Board

**FROM:** Rebecca

**DATE:** September 14, 2021

**SUBJECT:** **FlexComp Vendors – Voluntary Products**

We have conducted our annual review of the vendors for the voluntary insurance products approved for pretax premiums under our Section 125 FlexComp Plan. We sent all current vendors a request to confirm the products they offer, provide a brief product description, and verify whether it is eligible to be a pretax product. Following is a list of the respondents:

AFLAC  
Central United  
Colonial Life  
Total Dental Administrators (TDA)  
USABLE


All of the vendors have responded and confirmed the ongoing eligibility of their products for pretax treatment under our FlexComp plan. The attached outlines the vendor products available for payroll deduction, a brief description of the product, and certification by the vendor regarding which products are or are not eligible to be pre-taxed. No new products are being proposed by any of the participating companies.

Staff recommends that the vendors and their eligible products be approved for inclusion as pretax benefits under the FlexComp program for the 2022 plan year.

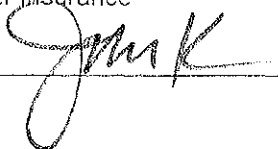
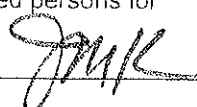
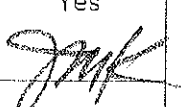
## **Board Action Requested**

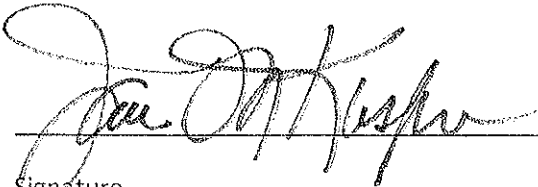
Approve the inclusion of the products eligible to be pre-taxed for the FlexComp 2022 plan year.

AFLAC	Company Representative – Lynn Brokaw	
Product Name	400 E Broadway Ste 307 Bismarck ND 58501 701-258-6040 E-Mail: lynn_brokaw@us.aflac.com	Pretax Eligibility
	Product Description	
Cancer	Cancer indemnity policies providing benefits for diagnosis of skin cancer, internal cancer as well as annual screening benefits.	Yes
Hospital Confinement	Indemnity benefits whether hospitalized days or weeks.	Yes
Hospital Intensive Care	Provides coverage in the event of a sickness or injury and is admitted to the ICU unit.	Yes
Accident	Accident indemnity policies providing benefits for accident/injury.	Yes
Lump Sum Critical Illness	Pays a lump sum benefit for code red major critical illness event. (Heart attack, stroke, coma, paralysis, major organ transplant, end stage renal failure. Riders available for cancer, sudden cardiac death.)	Yes
Personal Sickness Indemnity	Indemnity policy for sickness related hospital confinement, major diagnostic exams, in & out-patient surgeries.	No
Specified Health Event	Critical care, recovery indemnity policies for major critical illness.	Yes
Disability	All disability policies that are specific replacement of income benefits.	No
Dental	Voluntary dental. No networks, no deductibles, no pre-certifications.	No
Vision Now	Vision indemnity policy providing vision insurance, vision correction benefits.	No
Life	All life policies.	No

  
 Signature

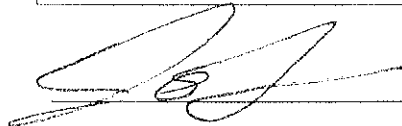
8-2-2021  
 Date

Central United	Company Representative – James M Kasper	
	C/O Asset Management Group Inc. PO Box 9016 Fargo ND 58103--9016 701-232-6250	
Product Name	E-Mail: jmkasper@amg-nd.com	Pretax Eligibility
	Product Description	
Cancer Insurance 	Provides cash benefits to covered persons for treatment of cancer. 	Yes 

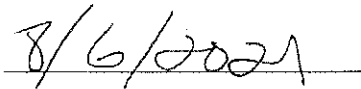
  
Signature

7/18/2021  
Date

Colonial Life	Company Representative – John Guzman	
	Famer's Union Insurance 4141 38 <sup>th</sup> St S Ste C Fargo ND 58104	
Product Name	E-Mail: john.guzman@fumic.com	Pretax Eligibility
	Product Description	
Accident	Composite rated, guaranteed renewable accident product with choice of plan levels and optional riders. It provides indemnity benefits for on and off the job accidents.	Yes
Cancer	Composite rated, guaranteed renewable specified disease product with choice of plan levels and optional riders. Provides benefits for expenses related to cancer.	Yes
Disability	Age banded, guaranteed renewable short-term disability income product.	No
Medical Bridge	Age banded, guaranteed renewable hospital confinement indemnity product. Choice of plans, levels. Includes confinement, rehab unit, surgical and diagnostic procedures.	Yes
Critical Illness	Specified disease product with a lump sum benefit upon diagnosis of a covered specified disease with a choice of plan options for reoccurrence, cancer, face amounts, and optional riders.	No
Life	All life insurance policies.	No

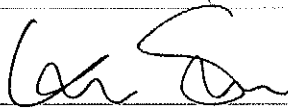


Signature



Date

<b>Total Dental Administrators</b>	<b>Company Representative – Logan Stucki</b>  2800 N 44 <sup>th</sup> Street Ste 500 Phoenix AZ 85008 801-268-9740 Ext 306	
<b>Product Name</b>	<b>E-Mail: lstucki@TDA dental.com</b>  <b>Product Description</b>	<b>Pretax Eligibility</b>
Elite Choice	Fully insured dental program.	Yes



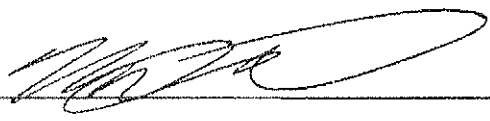
2021.07.21

Signature

Date



USABLE	Company Representative – Matthew Sullivan	
	Azurance Group 4510 13 Ave S Fargo ND 58121 701-277-2319  <b>E-Mail: Matthew.Sullivan@noridian.com</b>	Pretax Eligibility
Product Name	Product Description	
Accident Elite	Employees can get help prevent financial hardship due to medical/travel expenses caused from an accident. Payments direct to employee.	Yes
Cancer Care Elite	Payments direct to employee for new and experimental treatment, travel, lodging, out of pocket medical costs, deductibles, co-pay amounts.	Yes
Hospital Confinement Plan	Payment direct to employee for costs related to intensive care, hospitalization, birth of a child, accidents.	Yes

  
 \_\_\_\_\_  
 Signature

8/16/2021  
 \_\_\_\_\_  
 Date



**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

---

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:** Bryan Reinhardt, Rebecca Fricke and Derrick Hohbein

**DATE:** September 14, 2021

**SUBJECT:** Medicare Part-D (EGWP) Plan Update

After the NDPERS Board awarded the EGWP plan administration to Humana, the NDPERS team along with Deloitte has been working with Humana on the implementation.

We had a “kick off” meeting on August 26<sup>th</sup> and have been working on the contract. The contract is not completed, but we are continuing to work on the language. The first implementation meeting was held on September 8<sup>th</sup>. The plan is on track for the January 2022 start date along with all the notices this fall.

Current activities underway include:

- 1) Contract negotiations between NDPERS and Humana, including input from our legal counsel and Deloitte are in progress. At this point, we do not anticipate issues with reaching agreement on the terms. Once agreed upon, staff will bring the final contract back to the Board for approval at a future meeting.
- 2) Member communications and resources are in progress. Specifically:
  - a. Announcement Letter - NDPERS staff and Humana are developing the member announcement letter with an anticipated distribution of early October. The announcement will include information that Humana has found to be beneficial in providing notice on vendor changes and plan design changes, and will also meet the requirements of the Center for Medicare and Medicaid Services (CMS). An insert will be included that provides a plan comparison of the current Part D plan design and the new design that will be provided

through Humana. In addition, staff plan to include the CMS required annual Creditable Coverage notice that must be distributed by October 15.

- b. Following the distribution by NDPERS of the Announcement Letter, member will receive a welcome enrollment kit from Humana, which is scheduled to be sent on October 26<sup>th</sup>. The kit will include specific plan details and will reiterate that members will automatically be enrolled in the plan and members do not need to do anything if they wish to remain with NDPERS.
  - c. Virtual Meetings – Humana will be hosting virtual meetings for retirees to attend to learn more about the vendor and plan design change. These meetings are tentatively scheduled for the week of November 8<sup>th</sup> and will be communicated in both the announcement letter and the welcome enrollment kit. In addition, Humana will be posting a recorded version of the presentation for retirees to view at a later date.
  - d. Humana Call Center – Humana has indicated they will have their call center available to assist NDPERS members with questions and concerns they have related to their specific prescriptions as of October 1. This is very beneficial as we anticipate members will have questions. The hope is this will alleviate higher call volumes within the NDPERS call center.
- 3) Reviewing our current processes for enrollments and billings - Humana will be setting up meetings with NDPERS staff that handle processing enrollments/dis-enrollments and also the files that are submitted.

Through discussions with Humana, we learned that we have a new opportunity to handle how we administer the reduction of premium due to CMS approved credits, referred to as Low Income Subsidy (LIS). We also have the opportunity to modify additional premium payments required by CMS due to a late enrollment in a Part D plan, referred to as Late Enrollment Penalties (LEP).

Currently, NDPERS adjusts impacted member premium based upon the vendor providing the CMS required adjustments for both LIS and LEP. Humana has indicated that they offer the services to administer these processes on our behalf. Staff is looking for Board direction on how to move forward with the administration of the LEP and LIS process. Options include:

- a) Have Humana administer the LIS. This process would alleviate adjustments on our system, having us issue retroactive refunds, following up on any of these uncashed checks and ultimately turning any uncashed checks over to unclaimed property.

We have 143 members that receive a LIS credit. 141 of these members receive \$32.40 per month, and 2 members receive \$24.30 per month. Having Humana administer this process will delay the members receipt of this credit by an estimated 4-6 weeks.

- b) Have Humana administer the LEP. This process is the more difficult process for our office to administer. At times, CMS will adjust the LEP by \$.10, with retroactive adjustments up or down. This can result in our office sending out multiple checks each month that are under \$1.00, which go uncashed. These then require follow up communications, and ultimately are turned over to unclaimed property.

We have 60 members that are impacted by the LEP ranging from \$1.00 per month to \$46.00 per month. This process change would require the member to send a premium payment to our office, and Humana will provide a coupon booklet for the members to pay the LEP directly to Humana. This payment would be due by the 1<sup>st</sup> of the month, each month. If unpaid, the member risks having their coverage canceled, which would also result in NDPERS canceling the member's supplemental coverage through Sanford Health Plan. Humana offered the ability to send us a report to communicate directly with the members that are delinquent to help prevent them losing their Part D and supplemental coverage.

The range of LEPs for our members are below:

- \$1.00 - \$5.00 – 31 members
- \$5.01 - \$10.00 – 16 members
- \$10.01 - \$15.00 – 5 members
- \$15.01 - \$20.00 – 2 members
- \$20.01 - \$25.00 – 2 members
- \$25.01 - \$30.00 – 1 member
- \$30.01 - \$35.00 – 1 member
- \$35.01 - \$40.00 – 0 members
- \$40.01 - \$45.00 – 1 member
- \$45.01 - \$50.00 – 1 member

- c) Have Humana administer both the LIS and the LEP.
- d) Continue having the NDPERS office administer the LIS and the LEP as part of premium collection.

### **Board Action Requested**

Choose a methodology for the administration of the LEP and LIS.

**MEDICARE Part D Employer Sponsored Group Waiver Plan**  
**Prescription Drug Services GROUP COVER SHEET**

Please fill out the information below to ensure that our records accurately reflect your group and billing address.

GROUP: North Dakota Public Employees Retirement System (NDPERS)

ADDRESS: 1600 E Century Avenue, Suite 2

CITY: Bismarck

COUNTY: Burleigh

STATE: ND

ZIP CODE: 58503

EFFECTIVE DATE: January 1, 2022

CONTACT PERSON: Scott Miller

PHONE: (701) 328-3901      FAX:

EMAIL: scottmiller@nd.gov

CONTRACT PERIOD: January 1, 2022 – December 31, 2022

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

This Prescription Drug Plan Group Agreement (“Agreement”), effective on the 1st of January, 2022 (“Agreement Effective Date”), is made by and between State of North Dakota, acting through its Public Employees Retirement System (NDPERS) (hereinafter referred to as “Group”) and Humana Insurance Company and its affiliates that offer or administer health plans, as identified in **Attachment A** (collectively, “MAO”).

**WHEREAS**, MAO has one or more contracts with the Centers for Medicare & Medicaid Services (“CMS”) pursuant to which it offers Medicare Part D Prescription Drug Plans (“PDPs”);

**WHEREAS**, Group desires to offer one or more of MAO’s PDPs as identified in **Attachment A** (“Plan” or “Plans”) to Eligible Persons (defined below) as a replacement of the Group’s current PDP plan;

**WHEREAS**, MAO is willing to make available coverage under the Plan to such Eligible Persons;

**WHEREAS**, MAO agrees to perform all such services in accordance with the terms of this Agreement and attachments, including the RFP, enabling Group (and its agents) to have complete and full access to all information necessary to determine and verify that MAO has met all terms of this Agreement and attachments set forth herein;

**NOW, THEREFORE**, in consideration of the premises and mutual considerations provided in this Agreement, and intending to be legally bound, Group and the MAO agree as follows:

**ARTICLE I - DEFINITIONS**

**Section 1.1      Eligible Person**

“Eligible Person” means a retiree of the Group or his or her eligible spouse, surviving spouse, or dependent who is (1) not otherwise covered under a group PDP where Medicare pays primary, (2) Medicare eligible for Parts A and/or B, (3) eligible to participate in the Group’s post-retirement health benefits program, and (4) eligible to enroll in a plan offered by MAO pursuant to applicable Laws.

**Section 1.2      Enrolled Member**

“Enrolled Member” means an Eligible Person who has elected to enroll in a Plan offered by MAO made available through Group’s enrollment process and whose enrollment has been confirmed by MAO and CMS.

**Section 1.3      Evidence of Coverage**

“Evidence of Coverage” means the document issued annually to each Enrolled Member that outlines benefits and coverage under the Enrolled Member’s particular Plan. The Evidence of Coverage is subject to CMS approval and will be provided to Group when it becomes available prior to the Plan Effective Date and on an annual basis thereafter for any Renewal Plan Years. The Evidence of Coverage documents are applicable to all Enrolled Members, as may be amended, are hereby incorporated by reference and made part of this Agreement.

**Section 1.4      Law**

“Law” means any federal, state, or local law, statute, regulation, ordinance, code, rule, order, or other similar requirement enacted, adopted, or enforced by a government authority, including, without limitation, Medicare laws and CMS regulations and requirements, including CMS manuals and other directives, in effect during the term of the Agreement.

**Section 1.5      Confidential Information**

“Confidential Information” means any information disclosed by a party to the other party that should reasonably be considered to be of a confidential nature, including without limitation, business plans, financial information, pricing, rates, technology, know-how, trade secrets, proprietary information, or information designated confidential under applicable law.

## **ARTICLE II - RESPONSIBILITIES**

### **Section 2.1 Services Provided**

MAO shall provide Plan services to Enrolled Members, as described in this Agreement and the applicable Evidence of Coverage ("Services"). MAO agrees to be responsible for satisfying all matters related to Group's Plan and compliance with Medicare Part D requirements. MAO shall be solely responsible for all Services detailed in this Agreement including the following:

- a) Adjudicating all Claims accurately and in alignment with Group's plan design and Formulary
- b) Contracting with and administering a national and local retail Pharmacy Network
- c) Providing and maintaining a prescription drug formulary compliant with Medicare Part D requirements
- d) Being solely responsible for the timely accepting, inputting and processing of all Eligibility Files that are transmitted in the appropriate format
- e) Reporting back to Group any errors or omissions in any Eligibility File that prevent timely inputting by the MAO
- f) Accurately inputting the beginning and ending date of eligibility for each Member ("New Eligibility Implementation Date"), as provided by Group
- g) Timely processing all new eligibility information provided by Group as further described in this Agreement
- h) Administering Late Enrollment Penalties and Low-Income Premium Subsidies in accordance with Medicare Part D requirements
- i) Adhering to all CMS program requirements for Prior Authorization, Quantity Limits, Step Therapy, Medication Therapy Management, and Fraud, Waste, and Abuse programs
- j) Administering coordination of benefits
- k) Providing EOBs
- l) Providing specified Website services for Group and all Members
- m) Operating a Customer Call Service Center with a toll-free number, Monday - Friday 8:00 a.m. – 9:00 p.m. Eastern Time (as noted in Section 2.8), and IVR that is available 24/7/365
- n) Providing a service team that includes at minimum: an executive sponsor, an account manager, and a clinical account manager
- o) Providing the standard and customized reports
- p) As requested, conferring and/or meeting monthly, quarterly, semi-annually and annually with Group to enable Group to monitor, update and improve the Prescription Drug Services provided to Group, and to enable MAO to educate Group about new developments so as to assist Group in making core choices, including about its Benefit Plan Design.

### **Section 2.2 Eligibility and Enrollment**

- a) Group shall offer enrollment in the Plan to Eligible Persons in compliance with all applicable Laws, including but not limited to, any applicable antidiscrimination Laws. For the avoidance of doubt, coverage under the Plan for Enrolled Members will not become effective until enrollment is confirmed by MAO and CMS.
- b) Initial Enrollment. Group will provide a Member List to MAO containing all eligible Members.
- c) Member Eligibility. Each Member's Benefit Effective Date will always fall on the first day of a month. The Parties agree that CMS regulations require that new enrollment information received by Group on or before the last calendar day of the month must be processed by the effective date provided by Group. For purposes of ensuring that a Member's enrollment is processed and materials are sent in advance of the Member's Benefit Effective Date (including the Member's ID Card), MAO recommends that enrollment information be submitted by Group by the fifteenth (15th) of the month prior to the desired Member Benefit Effective Date. If MAO receives enrollment information after the fifteenth (15th) of the month, but before the end of the month, while enrollment will still be effective on the first day of the following month, MAO will not be obligated to ensure that the newly enrolled Member receives enrollment materials before enrollment begins,

but rather will be required to provide such materials within fifteen (15) business days of its receipt of enrollment notification.

- d) **Involuntary Disenrollment of Individual Members by Group.** In the event a Plan Beneficiary no longer meets Group's eligibility requirements. MAO shall assist Group in dis-enrolling the Member in conformance with Medicare Laws and Regulations. In the event Group manages the disenrollment, Group shall notify MAO in writing or electronically of the date upon which the disenrollment is requested to be effective. Group must notify MAO by the twenty fifth (25th) day of the month for disenrollment to be effective as of the last day of that month. If MAO does not receive a disenrollment request by the twenty fifth (25th) of the month, disenrollment may not be effective until the last day of the month that follows. The disenrollment process of individual Members must include notification to each Member as follows:
  - 1. Every Member who is to be disenrolled must be notified; and
  - 2. The notice must be provided not less than twenty-one (21) calendar days prior to the effective date of the Member's disenrollment; and
  - 3. The information provided must include an explanation on how to contact Medicare for information on other Part D options that might be available to the Member.
- e) **Voluntary Disenrollment by Member.** Members may voluntarily dis-enroll by providing written notice to Group.
- f) **Disenrollment Due to Member's Death or Loss of Medicare Eligibility.** Pursuant to Medicare Laws and Regulations, CMS will dis-enroll a Member upon his/her death or due to loss of Medicare eligibility, and CMS will provide notification that the Member has died or lost eligibility. Upon receipt of notice of a Member's death or loss of eligibility from CMS, MAO will notify Group via a monthly enrollment/disenrollment transmitted report. Disenrollment will take place as of the date of death.
- g) **MAO's Monthly Enrollment Reporting Obligation.** MAO shall provide to Group a monthly report to capture enrollment, which shall include but not be limited to: new enrollment, new disenrollment, CMS' rejections of enrollment and the reasons for those rejections, retroactive enrollment and disenrollment, and causes for disenrollment (including voluntary, involuntary, and disenrollment due to death/loss of eligibility).
- h) Group shall not change the timing of its open enrollment period or any of its eligibility requirements for the Plan without the prior written approval of MAO.
- i) Group shall not permit actively working employees or their dependents to enroll in the Plan.

### **Section 2.3 Account Management**

The MAO will assign a representative of the MAO to manage Group account ("Account Executive") and be responsible for coordinating the services of the MAO to help ensure efficient and effective operation.

### **Section 2.4 Communications**

MAO and Group shall coordinate enrollment and communication efforts regarding the Plans in accordance with the Enrollment and Communications Program, attached hereto and incorporated herein as **Attachment B**. MAO shall provide its marketing material and modify it as necessary to comply with applicable Laws. MAO will provide Group with copies of all pre-enrollment material sent to Enrolled Members before the mailing occurs.

### **Section 2.5 Changes**

- a) The benefit coverage shall remain the same throughout the applicable plan year except as changes may be required by Law. If such changes are necessary, the MAO will notify Group in writing as soon as reasonably practicable upon becoming aware of a pending change. Nothing in this paragraph shall be deemed to prohibit the enhancement of benefit coverage, with no increases to the premium rates set forth in **Attachment A**, during the current plan year if agreed to by MAO.



- b) MAO hereby agrees to notify Group, at the time of the renewal notice described in section 4.2, of the discontinuance or addition of any portion of the service area for the Renewal Plan Year. MAO shall notify Group based on CMS timelines for nonrenewal or reduction of a MAO service area.

#### **Section 2.6 Reports**

MAO will provide to Group certain reports as detailed below. These reports will be made available to Group via print, CD, or electronically via e-mail or secure file transfer protocol (SFTP). MAO agrees that standard reports shall be available on the online portal based on the specified time frame (monthly, quarterly or annually), and also capable of being run on demand by Group at any time thereafter for an alternative time period. In the event Group requests that standard reports be posted to a SFTP website, said reports will be provided no later than ten (10) business days after the end of each month for monthly reports and fifteen (15) business days after the close of the identified period for quarterly or annual reports.

These reports shall include:

- a) The PlanCompass report containing clinical utilization information will be produced annually after the completion of the Initial Plan Year and will be provided within five months of the end of each Renewal Plan Year.
- b) Other reports may be provided, as mutually agreed to by the parties.

#### **Section 2.7 Member Identification Cards and Other Materials**

MAO shall issue member ID cards and, if applicable, other mutually agreed upon materials to Enrolled Members. Unless otherwise stated or mutually agreed to by the parties, all costs associated with new ID cards, replacement cards, Enrolled Member communications, or plan marketing materials, including production, will be the responsibility of MAO.

#### **Section 2.8 Member Call Center Services**

MAO, at its own expense, will provide toll-free telephone access to Customer Service representatives to assist Group and Enrolled Members with benefit issues, locating participating providers and pharmacies, and other related Enrolled Member concerns. This service will be available Monday - Friday 8:00 a.m. – 9:00 p.m. Eastern Time.

- a) The Customer Service Center shall be responsible for answering questions on the following services, as applicable, without limitation: Member eligibility, Benefit Plan guidelines, deductibles, Copayments/Coinsurance, outstanding Copayments/Coinsurance that may be owed, maximum benefit status, instructions on completing a direct member reimbursement claim form, status of direct member reimbursement claims, Claims processing, Claims submission, Claims payment, benefit coverage, and all Programs.
- b) MAO shall make interpretation services available free of charge in Spanish. MAO shall maintain the availability of services, such as TTY services or comparable services for the deaf or hard of hearing.

#### **Section 2.9 Disaster Recovery Program**

MAO shall establish and maintain a disaster recovery program consistent with industry practice and provide a copy of its disaster recovery program policies and procedures, if requested, to any party executing this Agreement and/or any government entity.

#### **Section 2.10 Provision of Basic Documents**

MAO shall provide its latest SOC 2 report and any publicly available information on an annual basis, upon reasonable request by any party executing this Agreement and/or any government entity.

#### **Section 2.11 Performance Standards**

MAO shall perform its obligations under this Agreement in accordance with the standards of conduct applicable to a fiduciary. MAO shall disclose to Group any activity, policy, or practice of which MAO is aware that presents a conflict of interest with the performance of its obligations hereunder. MAO represents and agrees that Group is relying on MAO's expertise to ensure all Services are rendered.

#### **Section 2.12      Audit Rights**

MAO agrees that Group shall have the right to conduct audits via its own internal auditor or a third-party auditor, based on the following general guidelines:

- a. Group shall have the right to use its own auditor or select any audit firm
- b. Group may not remunerate any auditor based on financial findings or recoveries resulting from any Audit. All audit remuneration must be on a flat fee, or hourly, basis.
- c. All Audits conducted by Group (or any auditors retained by Group) shall be made during normal business hours. All Audits shall be conducted without undue interference to the MAO's business activity, and in accordance with reasonable audit practices.
- d. Group (or its auditors) shall be entitled to commence an Audit within thirty (30) days after Group has provided written notice to MAO of its intention to conduct an Audit. MAO shall be obligated to provide – or make available at its offices – as specified herein, all documents and data required to complete the Audit no later than forty-five (45) days after MAO's receipt of said notice.
- e. With respect to all standard data and documents routinely produced by MAO to Group or to its agents or auditors, MAO's production shall be made without redacting or altering any information from the data and documents produced. When electronic data is produced by MAO, all fields created or maintained or used by MAO shall be produced, and none shall be withheld, redacted or deleted. In addition, appropriate manuals and/or guides identifying the meaning of each field shall be produced.
- f. In the event any questions are raised, or any additional requests for information or documents or data are requested, by Group (or its auditor) during any Audit, MAO shall be obligated to respond to all such questions, and produce all additional information, documents and/or data within seven (7) business days of receipt of such questions or requests. If MAO cannot respond in said time period, MAO shall provide a written statement as to when MAO will respond.
- g. In the event that an Audit concludes that MAO has violated its obligations or the terms of this Agreement, and MAO disputes said Audit findings, MAO must set forth the basis for its dispute, with all supporting documentation, within thirty (30) days of receipt of the disputed Audit findings. MAO shall provide sufficient documentation to permit adequate review of the disputed issues and shall have the burden of demonstrating that Group's (or its auditor's) conclusions are incorrect. To the extent MAO fails to provide documentation substantiating any part of its position, or fails to meet its burden of proof, MAO shall waive its right to further dispute that matter. After receiving MAO's documentation, Group (or its auditor) shall review said documentation and advise MAO whether Group has changed its Audit findings or conclusions. If the Parties do not resolve a dispute over Audit findings within sixty (60) days of MAO's receipt of the disputed Audit findings, Group may terminate the Agreement as set forth in the Agreement.
- h. Group will be entitled to conduct an audit to ascertain whether MAO has complied with the terms of this Agreement, including those provisions concerning:
  1. Set – Up Audit. When Group begins coverage at the time of the Benefit Effective Date, Group will be entitled to conduct a Set-Up Audit for purposes of verifying that Group's Benefit Plan Designs were properly input. Thirty (30) days after the Effective Date, or at any time thereafter identified by Group, Group (or its auditor) may conduct a set-up Audit to verify, among other matters, that it's Benefit Plan

Design, and every Program and Program protocol, has been accurately loaded into MAO's systems. In the event subsequent changes by MAP are necessary to Group's Benefit Plan Design or Program set-up, Group (or its auditor) will be entitled to conduct an additional set-up Audit on reasonable notice after MAO makes requested necessary changes. Notwithstanding Group's right to conduct a set-up Audit, should MAO later be discovered to have improperly input Group's Benefit Plan Design or Programs, MAO shall be liable for any costs resulting from MAO's error.

2. Performance Guarantee Audit: Group may conduct Audits of a Performance Guarantee(s) if it receives complaints from Members in connection with any area related to a Performance Guarantee(s), or if Group for any other reason believes a Performance Guarantee(s) is not being satisfied. If it appears necessary for Group to audit several Performance Guarantees, Group will work with MAO to combine its Performance Guarantee Audits. Performance Guarantee Audits shall only cover one Contract Year.
- i. Group may determine which of the above areas to audit at the end of each Contract Year, or thereafter, but may decide to delay auditing certain areas in its own discretion. When any area is audited for any Contract Year, Group may not re-audit that area for that Contract Year in a subsequent audit.
  1. MAO agrees that should Group (and its auditor) accurately conclude in an Audit that MAO has failed to satisfy any of the contract provisions, MAO will be required to pay interest on all amounts that are found due and owing, from the date that MAO's failure occurred, until the date that MAO reimburses Group for the damages caused. Interest shall be determined by The Wall Street Journal Prime Rate for the relevant period.
  2. Timely Payment of Amounts Owed. Should Group (or its auditor) accurately conclude that MAO has failed to meet any of the terms identified in this Agreement, MAO shall be obligated to reimburse Group for the appropriate amount of interest within thirty (30) days after the Parties have resolved any dispute. After Group (or the auditor) provides MAO with Audit findings, should MAO dispute any finding, the Parties will first attempt to resolve the dispute through discussion with the business managers of the respective Parties. If the business managers cannot successfully resolve the dispute, then Group may terminate the Agreement under the terms of the Agreement.

### **ARTICLE III - COMPENSATION OF MAO**

#### **Section 3.1 Premium Rates – Group Billed Accounts**

Group will pay premiums due to MAO monthly based upon Plan membership according to MAO's enrollment records at the rates set forth in **Attachment A** and in accordance with the billing methods agreed upon during implementation. Such premiums shall be due on the first business day following the 20<sup>th</sup> of the month for that month's coverage ("Premium Due Date").

#### **Section 3.2 Premium Disputes and Interest**

Any challenge as to the accuracy of premium calculations or other payment dispute must be made by Group no later than ninety (90) calendar days after Premium Due Date. To the extent any undisputed payment amount is not made by the Premium Due Date, Group shall be liable to MAO for daily interest fees in an amount determined by The Wall Street Journal Prime Rate for the relevant period of time that any and all undisputed fees remain unpaid. MAO and the Group will work together, in good faith, to reconcile and resolve any premium payment dispute as soon as reasonably practicable, and the parties will reconcile the amount due to the other, if any, based on any such agreement reached between the parties.

#### **Section 3.3 Additional Fees**

MAO represents and agrees that no Additional Fees shall be requested in addition to the rates set forth in **Attachment A**.

#### **ARTICLE IV - TERM AND TERMINATION**

##### **Section 4.1 Contract Term**

This Agreement shall commence on the Agreement Effective Date. Plan Services under the Agreement shall commence on January 1, 2022 ("Plan Effective Date"). Unless terminated earlier as provided herein, the Initial Plan Year will be the period from the Plan Effective Date through December 31, 2022.

##### **Section 4.2 Plan Renewals**

Group may renew this Agreement for successive January 1 to December 31 periods, referred to as Renewal Plan Years, under the same terms and conditions as provided herein. MAO shall submit to Group a preliminary renewal notice containing "per member per month" premium rates for each Renewal Plan Year by April 30 of the plan year containing the underwriting elements used to establish the premium including summary claims, enrollments, plan design adjustments, risk adjustments, trend factors, rebate and manufacturer payment estimates, CMS subsidy estimates, and all other assumptions. MAO shall submit to Group a final renewal notice containing the "per member per month" premium rates and underwriting assumptions no later than August 15 of the current plan year. Group shall provide notice of intent to renew this Agreement to MAO at least 60 days prior to the expiration of the current plan year. Both parties acknowledge nothing in this Agreement prevents Group from engaging in a competitive selection process for subsequent plan periods for services rendered hereunder.

##### **Section 4.3 Termination**

###### **a) Termination by Group**

Group may terminate this Agreement in its entirety or individual Plans for any reason by providing at least ninety (90) calendar days advance written notice to MAO of its intent to terminate. Such notice must specify the desired effective date of the termination, which shall be the first day of a month, and the specific Plan options or service areas to be terminated, if not the entire Agreement. Upon such termination, Group will only be responsible for paying such premiums as had been incurred but unpaid as of the effective date of the termination.

- b) **Termination for Lack of Funding or Authority.** Group, upon 30 days written notice to MAO, may terminate the whole or any part of this Agreement under any of the following conditions: 1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. 2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments authorized by this Agreement. 3) If any license, permit, or certificate required by law or rule, or by the terms of this Agreement, is for any reason denied, revoked, suspended, or not renewed. Termination of this Agreement under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

###### **c) Termination by MAO**

- i) If Group fails to pay premiums due under the Agreement within ninety (90) calendar days of the applicable Premium Due Date, MAO may immediately terminate this Agreement following the end of such ninety (90) calendar day period upon written notice to Group.
- ii) MAO may terminate the Agreement for any reason effective upon the end of the current plan year (i.e., December 31) by providing at least one hundred eighty (180) calendar days advance written notice to Group.
- iii) MAO may terminate the Agreement upon at least one hundred eighty (180) calendar days advance written notice to Group if Group breaches any provision of the Agreement and such breach remains uncured at the end of the notice period or if Group fails to comply with any applicable Laws related to offering the Plans, including the requirements described in **Attachment C**.

#### **Section 4.4      Effects of Termination**

- a) If either party elects to terminate this Agreement, MAO will disenroll Enrolled Members pursuant to written instructions furnished by Group; provided, however, that Group agrees and understands that MAO may not disenroll Enrolled Members from the Plan in any manner inconsistent with applicable Laws.
- b) If either party terminates this Agreement pursuant to section 4.3 above, MAO agrees to continue to render Services hereunder after the termination effective date (e.g. claims administration) in accordance with applicable Law.
- c) In accordance with section 4.3(a), Group may “mass terminate” a specific service area of the Plan. For the “mass termination” method, Group is required by CMS to notify the Enrolled Members affected, in writing, that their Plan will be terminated and the date of termination. MAO must receive a copy of the employer notification letter for its files. The Enrolled Members must receive this notice at least thirty (30) calendar days before the termination date.
- d) Termination shall have no effect upon the rights and obligations of the Parties arising out of any transactions occurring prior to the effective date of such termination. Upon termination: (i) all further obligations of the Parties under this Agreement shall terminate as of the termination date (except as provided in this Agreement); (ii) all Confidential Information provided by any Party (except for Confidential Information required by any law, or by a contractual relationship to be retained by a Party) shall be immediately returned to a requesting Party, or the Party from whom information is requested shall certify to the requesting Party that all requested materials have been destroyed; (iii) no Party shall be relieved of any obligation or liability arising from any prior breach by such Party of any provision of this Agreement; and (iv) the Parties shall, in all events, remain bound by and continue to be subject to the provisions set forth in this Agreement, to the extent necessary to satisfy this Agreement’s terms.

### **ARTICLE V - INDEMNIFICATION AND DISPUTES**

#### **Section 5.1      Indemnification**

- a) MAO agrees to defend, indemnify and hold harmless Group from and against any and all action, suits, claims, costs settlements, debts, damages, liabilities, obligations, losses, judgments, demands and expenses (including reasonable attorney’s fees on account thereof) of whatever kind or nature resulting from a material breach of this Agreement by MAO or from fraud, willful misconduct, negligence or intentional disregard by MAO, its employees, or its agents. This provision shall survive termination of the Agreement.

#### **Section 5.2      Dispute Resolution**

- a) This Agreement shall be construed, interpreted, and governed according to the laws of the State of North Dakota without regard to its conflict of laws and rules. Any action commenced to enforce this Agreement must be brought in the District Court of Burleigh County, North Dakota.
- b) In the event a lawsuit is initiated against MAO by Group to obtain performance due under this Agreement, and Group is the prevailing party, MAO shall, except when prohibited by N.D.C.C. § 28-26-04, pay Group’s reasonable attorney fees and costs in connection with the lawsuit.

### **ARTICLE VI - MISCELLANEOUS PROVISIONS**

#### **Section 6.1      Insurance**

MAO shall secure and keep in force during the term of this Agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverage:

- a) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$1,000,000 per occurrence.
- b) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- c) Workers' compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this Agreement.
- d) Employer's liability or "stop gap" insurance of not less than \$1,000,000 as an endorsement on the workers compensation or commercial general liability insurance.
- e) Professional errors and omissions with minimum limits of \$1,000,000 per claim and in the aggregate, MAO shall continuously maintain such coverage during the Agreement period and for three years thereafter. In the event of a change or cancellation of coverage, MAO shall purchase an extended reporting period to meet the time periods required in this section.

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

- a) Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of MAO.
- b) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by Group. The policies shall be in form and terms approved by Group.
- c) The duty to defend, indemnify, and hold harmless Group under this Agreement shall not be limited by the insurance required in this Agreement.
- d) Group shall be endorsed on the commercial general liability policy on a primary and noncontributory basis, including any excess policies (to the extent applicable), as additional insured. Group shall have all the benefits, rights and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this Agreement or by the contractual indemnity obligations of MAO.
- e) A "Waiver of Subrogation" waiving any right to recovery the insurance company may have against Group.
- f) MAO shall furnish a certificate of insurance to the undersigned Group representative prior to commencement of this Agreement. All endorsements shall be provided as soon as practicable.
- g) Failure to provide insurance as required in this Agreement is a material breach of contract entitling Group to terminate this Agreement immediately.
- h) MAO shall provide at least 30-day notice of any cancellation or material change to the policies or endorsements. MAO shall provide on an ongoing basis, current certificates of insurance during the

term of the Agreement. A renewal certificate will be provided 10 days prior to coverage expiration. An updated, current certificate of insurance shall be provided in the event of any change to a policy.

#### **Section 6.2      Assignment**

No Party shall have the right to assign this Agreement or any of such party's rights or obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that either party may assign this Agreement to a successor in interest in the event of a reorganization, merger, consolidation or sale of all or substantially all of such party's (or its parent's) assets or stock. Subject to the preceding sentence, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by and against the respective successors and assigns of the parties. Any purported assignment in violation of this provision shall be void.

#### **Section 6.3      Compliance with Law**

MAO represents and warrants that, with respect to the Services provided under this Agreement to Enrolled Members, it is in compliance with all applicable Laws. Group represents and warrants that with respect to the fulfillment of its obligations under the Agreement, it is in material compliance with all applicable Laws. The parties agree to comply with the Medicare and Regulatory Provisions set forth in **Attachment C**.

#### **Section 6.4      Severability**

If any provision of this Agreement is or becomes invalid or unenforceable in whole or in part because the provision is contrary to Law or against public policy or for any other reason, then the provision shall be enforced to the extent valid and enforceable, and the validity and enforceability of the remaining provisions of the Agreement shall be unaffected.

#### **Section 6.5      Confidentiality and Nondisclosure**

- a) Confidentiality of Information. MAO and Group shall maintain the confidentiality of all Claims data and eligibility information to the full extent required by applicable law, including without limitation the provisions of the Health Insurance Portability and Accountability Act of 1996 (hereinafter, "HIPAA"), and may not use or disclose the information in any way prohibited by this Agreement or the law.

- b) Treatment of Confidential Information Group and MAO agree that all participation by Group Members and their dependents in programs administered by Group is confidential under North Dakota law. MAO may request and Group shall provide directly to MAO upon such request, confidential information necessary for MAO to provide the services described in Article 2. MAO shall keep confidential all Group information obtained while delivering services. Failure of MAO to maintain the confidentiality of such information may be considered a material breach of the Agreement and may constitute the basis for additional civil and criminal penalties under North Dakota law. MAO shall not disclose any individual employee or dependent information without the prior written consent of the employee or family member. MAO has exclusive control over the direction and guidance of the persons rendering services under this Agreement.

MAO understands that, except for disclosures prohibited in this Agreement, Group must disclose to the public upon request any records it receives from MAO. MAO further understands that any records that are obtained or generated by MAO under this Agreement, except for records that are confidential under this Agreement, may, under certain circumstances, be open to the public upon request under the North Dakota open records law. MAO agrees to contact Group upon receiving a request for information under the open records law.

- c) Protected Health Information. Group and MAO will have access to Protected Health Information (PHI) (as defined by HIPAA). Each party agrees, for itself and all its officers, directors, management, employees, and any third parties it employs or with which it consults, that PHI shall not be used for any impermissible purpose, including, without limitation, the use of PHI for disciplinary or discriminatory purposes, and any



usernames and passwords assigned to designated individuals shall not be shared with non-designated individuals. Each Party, for itself and all the above-identified agents, authorizes the other Party to use and share PHI as necessary to carry out its obligations in this Agreement, subject to each Party's obligation to fulfill all confidentiality requirements of HIPAA and all other applicable law.

- d) HIPAA Compliance. Group and MAO will comply with HIPAA and all applicable regulations published pursuant to HIPAA, as of the effective enforcement date of each standard. In addition, without limiting any other provision of this Agreement:
- e) All services provided by MAO under this Agreement will be provided in such a manner as to enable every other Party to always remain in compliance with all HIPAA regulations applicable to the other Party to the extent that the other Party's compliance depends upon the way such services are performed by MAO; and
- f) All software, application programs and other products licensed or supplied by MAO under this Agreement will contain such characteristics and functionality (including as applicable, but not limited to, the ability to accept and securely transmit data using the standard HIPAA transaction sets) as necessary to ensure that each Party's use of such software, application programs and other products and associate documentation from MAO, when utilized by any Party in the manner directed by MAO, will fully comply with the HIPAA regulations.
- g) Following the effective date of termination of this Agreement, MAO will stop processing incoming electronic point of sale claims for the Medicare line of business, with dates of fill after the Termination Date. Following the Termination Date, there shall be a one hundred eighty (180) day claims run out period to support point-of-sale claims reversals, reprocessing, and/or claims resubmissions with dates of fill prior to and including the Termination Date.
- h) For the period of ten (10) years from the date of rendering any covered Prescription Drug Services, and as further required under 42 C.F.R §§423.505(b)(10) and 423.505(i)(2), the MAO will maintain records related thereto, including, but not limited to, prescription records and other documentation related to healthcare services provided to Participants. MAO shall not sell such data in any form, to any third party. After the retention period, MAO shall return or destroy all confidential information received from Group, or created or received by MAO on behalf of Group. This provision applies to confidential information that may be in the possession of subcontractors or agents of MAO. MAO shall retain no copies of the confidential information. In the event that MAO asserts that returning or destroying the confidential information is not feasible, MAO shall provide to Group notification of the conditions that make return or destruction infeasible. Upon explicit written agreement of Group that return or destruction of confidential information is not feasible, MAO shall extend the protections of this Agreement to that confidential information and limit further uses and disclosures of any such confidential information to those purposes that make the return or destruction infeasible, for so long as MAO maintains the confidential information.

#### **Section 6.6      Waiver**

Either party's failure at any time to enforce any of the provisions of this Agreement or any right or remedy available hereunder or at law or equity, or to exercise any option herein provided, will in no way be construed to be a waiver of such provisions, rights, remedies or options or to challenge the validity of this Agreement. The exercise of any rights, remedies or options provided hereunder or at law or equity shall not preclude or prejudice the exercising thereafter of the same or any other rights, remedies or options.

#### **Section 6.7      Entire Agreement**

This Agreement, including the Attachments and amendments hereto and the documents incorporated herein, constitutes the entire agreement between MAO and Group with respect to the subject matter hereof, and it supersedes any other prior agreement, oral or written, between MAO and Group with respect to its subject matter.

**Section 6.8 Amendments**

This Agreement may be amended only by a writing executed by both parties.

**Section 6.9 Notices**

All notices to Group or MAO required or permitted by this Agreement shall be made in writing and shall be mailed, first class postage prepaid, certified, or registered mail, or otherwise delivered to:

Group at:

NDPERS  
1600 E Century Avenue, Ste 2  
Bismarck ND 58503

MAO at:

Julie Bodenski

Copy to:  
Humana Inc.  
500 W. Main St.  
Louisville, KY 40202  
ATTN: Law Department

**Section 6.10 Relationship Between the Parties**

The relationship between the parties is solely one of independent contractors, and nothing in this Agreement shall be construed or deemed to create any other relationship between the parties, including one of employment, agency, partnership or joint venture. The parties hereby agree that any of MAO's personnel performing services under this Agreement or any order shall remain employees of MAO subject to its right of direction, control and discipline and shall neither become employees of Group nor be entitled to any rights, benefits or privileges of Group's employees.

**Section 6.11 Captions**

The captions used in this Agreement are for convenience purposes only and shall not otherwise constitute a part of this Agreement.

**Section 6.12 Counterparts**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument.

**Section 6.13 Order of Priority**

To the extent there are any conflicts between the Agreement and the applicable Evidence of Coverage, the order of priority in determining which document controls shall be as follows:

1. Evidence of Coverage
2. Agreement (including Attachments)
3. Proposal documents provided by MAO in response to the 2021 Request for Proposal

Any amendments to a document shall have the same priority as the underlying document.

**IN WITNESS WHEREOF**, duly authorized representatives of the parties hereto have executed this Agreement as of the date first set forth above.

“GROUP”

North Dakota Public Employees Retirement  
System (NDPERS)

BY: \_\_\_\_\_

PRINTED: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

“MAO”

Humana Insurance Company

BY: \_\_\_\_\_

PRINTED: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

## ATTACHMENT A

### MAO Plan Information

*The information in this Attachment A will be superseded by the plan and rate information in any renewal notice provided by MAO in accordance with section 4.2 of the Agreement that is accepted by Group.*

MAO Entity	Plan/Option	Service Area	Premium Rate (Per Member Per Month)	Plan Year
Humana Pharmacy	Custom	National	\$66.72	2022
Humana Pharmacy	Custom	National	Not to exceed \$73.20	2023

## ATTACHMENT B

### ENROLLMENT AND COMMUNICATIONS PROGRAM

MAO can deploy numerous marketing strategies for member enrollment in the Plan(s). Specific member outreach, enrollment, and retention strategies can be customized to meet the specific needs of Group. The following represents MAO's standard enrollment-related member communications for group Prescription Drug Plans:

#### Pre-enrollment

- **Aging-in Strategy:** Humana will provide an enrollment kit to Group's retirees when they become eligible for the Plan(s). The Group will send Humana a list of names and addresses at least 60-90 days before retirees turn 65, and MAO will provide them with information on the Plan(s).
- **Announcement Letter:** Announcement letters mailed by the Group to its retirees that introduces MAO and provides Customer Service information.
- **Enrollment Kits:** MAO enrollment kits include employer-specific benefits for each selected market. Each of our enrollment kits include, but are not limited to, a cover letter, EDI flyer with enrollment instructions, a booklet containing the member's summary of benefits, value-added services and FAQs.
- **Enrollment Reminder Postcards:** MAO is able to send out a postcard reminder to retirees to complete their enrollment, if requested by Group.

#### Post-enrollment

- **ID Cards:** Seven to 10 days after enrollment is put into the system and validated by CMS, new members receive a Humana Identification card and a welcome letter. The personalized ID card serves as an easy reference for information such as the Plan effective date, the group number, Customer Service number and claims mailing address.
- **Evidence of Coverage:** Members may receive an informational flyer, or postcard, advising how to request a hard copy of the Evidence of Coverage and how to access the document online. If this option is not available, members will receive a hard copy of the document. Group administrators will also receive a copy for each Plan offered to their retirees.
- **Clinical and Health and Wellness Communications:** MAO will send to Enrolled Members clinical and health and wellness information as a part of our clinical communication strategy. MAO will promote services that include, but are not limited to, preventive services, immunizations and other screenings that are outlined by CMS, medical guidelines and HEDIS.

#### Renewals

- **Annual Notice of Change:** In accordance with CMS requirements, each Enrolled Member receives written information before the start of the next plan year that describes any changes to the coverage for the upcoming plan year.

## ATTACHMENT C

### MEDICARE AND REGULATORY PROVISIONS FOR GROUP AGREEMENT

#### 1. Premium Requirements

If Group wishes to subsidize premiums for Enrolled Members, Group acknowledges and agrees to the following:

- a) Group can subsidize different amounts for different classes of Enrolled Member if such classes are reasonable and based on objective business criteria, such as years of service, date of retirement, business location, job category, and nature of compensation (e.g., salaried vs. hourly).
- b) Different classes cannot be based on eligibility for the Part D Low-Income Subsidy ("LIS").
- c) The premium cannot vary for individuals within a given class of Enrolled Member.
- d) Group must pass through any direct subsidy payments received from CMS via MAO to reduce the amount that the Enrolled Member pays (or in those instances where a Group retiree participating in the Plan pays premiums on behalf of a Medicare-eligible spouse or dependent, the amount the Group retiree pays).

#### 2. PDP Premium and Low-Income Subsidy Requirements

- a) If Group wishes to subsidize Part D premiums for Enrolled Members, Group acknowledges and agrees to the following:
  - i) Group can subsidize different amounts for different classes of Enrolled Member if such classes are reasonable and based on objective business criteria, such as years of service, date of retirement, business location, job category, and nature of compensation (e.g., salaried vs. hourly).
  - ii) Different classes cannot be based on eligibility for the Part D LIS.
  - iii) The premium cannot vary for individuals within a given class of Enrolled Member.
  - iv) Group must pass through any direct subsidy payments received from CMS via MAO to reduce the amount that the Enrolled Member pays (or in those instances where a Group retiree participating in the Plan pays premiums on behalf of a Medicare-eligible spouse or dependent, the amount the Group retiree pays).
  - v) With regard to the Part D premium, Group cannot charge an Enrolled Member for prescription drug coverage provided under the PDP more than the sum of his or her monthly premium attributable to basic prescription drug coverage and 100% of the monthly premium attributable to his or her non-Medicare Part D benefits (if any).
- b) If Enrolled Members are entitled to a reduction of their premium as Part D Low-Income Subsidy enrollees ("LIS Enrollees") under Medicare Part D and MAO receives a Low-Income Premium Subsidy for these LIS Enrollees, MAO will pass the Low-Income Premium Subsidy amount through to the LIS Enrollees to reduce their premiums.

#### 3. Audit Rights

Group grants MAO, the U.S. Department of Health and Human Service (HHS) and U.S. Comptroller General, and their authorized designees, the right to inspect, evaluate and audit all books, contracts, medical records, patient care documentation and other records relating to services performed and obligations due under the Agreement for the term of the Agreement and for a period of 10 years following termination or expiration of the Agreement or following completion of any audit, whichever is later. This provision shall survive termination of the Agreement.

#### 4. Medicare Secondary Payer ("MSP") Requirements

MAO and Group shall comply with all applicable MSP Laws, including, but not limited to, Laws affecting Medicare-eligible beneficiaries diagnosed with end stage renal disease ("ESRD"). Group acknowledges and agrees that if an individual is eligible for or entitled to Medicare based solely on ESRD, MSP Laws require that the commercial group health plan offered by Group be the primary payer for the first 30 months of the individual's Medicare eligibility or entitlement. Group agrees to confirm to MAO whether individuals seeking to enroll in the Plan are within this 30-month coordination period. Group also agrees not to seek enrollment in the Plan of any individuals during their 30-month coordination period, unless Group maintains coverage

under its commercial group health plan for such individuals for the remainder of the 30-month coordination period.

5. **Compliance with Laws**

MAO and Group will abide by all applicable Laws, including CMS regulations and guidance. Group agrees that all the information it will submit to MAO for submission to CMS under this Agreement shall be accurate, complete and truthful.

6. **Hold Members Harmless Clause**

MAO and Group will ensure that Enrolled Members are not held liable for fees that are the responsibility of MAO or Group.





**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

---

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:** Scott

**DATE:** September 14, 2021

**SUBJECT:** Value Based Care

I first brought you Sanford Health Plan's (SHP) proposal for modifying the Value Based Care (VBC) arrangement at the June Board meeting, and again in July. The information from those two Board meetings is attached. At the July meeting, the Board agreed we should get Deloitte's input before making a decision. Staff has since met with Deloitte. Deloitte was generally not in favor of making changes to the downside risk part of the VBC (option 1). However, Deloitte did think that the changes to the no-downside risk part of the VBC (option 2) had some merit. As such, we would recommend that the Board approve the option 2 proposal, but not the option 1 proposal.

**Board Action:** Determine whether to approve either or both proposals.



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

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

---

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

# Memorandum

**TO:** NDPERS Board

**FROM:** Scott

**DATE:** June 8, 2021

**SUBJECT:** Value Based Care Arrangement

Effective July 1, 2019, pursuant to Board approval, Sanford Health Plan (SHP) implemented a Value Based Care Arrangement that was designed to encourage health care providers to improve the efficiency of their care. As we are about to go into the new biennium, SHP is proposing that the Board approve the modification of that plan. SHP's proposal is contained within the attached memo.

**Board Action Requested:** Approve or deny the modification of the plan.

# Memo

**To:** Scott Miller

**From:** Don Schott

**Date:** May 26, 2021

**Re:** Modifications Proposed to Value Based Arrangement (VBA) Settlement Calculation

---

Healthcare systems have requested a couple of modifications to the settlement calculations within the current risk models.

Currently six healthcare systems are participating in the NDPERS' VBA which is designed to hold healthcare systems accountable for the quality and cost of care of its attributed members. Each healthcare system selects one of two risk options; 1) 50/50 Upside/Downside Risk Share, or 2) Potential Upside Gains without Downside Risk.

## **Option #1 – 50/50 Upside/Downside Risk Share**

If the healthcare system earns shared savings, and has met the minimum quality score, the first dollar per member per month of shared savings will be paid to the healthcare system, while the remaining shared savings will be shared 50-50 with Sanford Health Plan (SHP), plus any additional shared savings percentage earned through exceptional quality performance. If the healthcare system incurs shared losses, 50% of the shared losses will be repaid to SHP. Shared savings and shared losses are limited to 5% of the total adjusted allowed amount of the performance period.

Healthcare systems argue that since the targets are largely based on historical costs, perennially high performing healthcare systems have a greater challenge of achieving savings in future periods. In recognition of the diminishing prospects of continually lowering costs, along with the increasing probability of having a year not as good as the previous, healthcare systems have requested that the shared losses commensurate with their cost performance relative to that of peer healthcare systems.

## **Option #2 – Progressive Upside Potential with No Downside Risk**

If the healthcare system earns shared savings and has met the minimum quality score, the first dollar PMPM of shared savings will be paid to the Healthcare system, while the remaining savings will be shared between the health system and SHP based on their savings performance level as follows:

- Healthcare systems receive 10% of the savings if the savings is less than 2% under the risk adjusted PMPM target
- Healthcare systems receive 20% of the savings if the savings is between 2% and 5% under the risk adjusted PMPM target
- Healthcare systems receive 30% of the savings if the savings is 5% or greater under the risk adjusted PMPM target
- Healthcare systems will have no financial responsibility should the performance period PMPM exceeds the risk adjusted PMPM target.

Healthcare systems claim that even though this option contains no downside risk, the upside is insufficient to cover the extra administrative expenses necessary to manage the care of these patients. They argue that, in particular, sharing only 10% of any savings does not adequately recompense them for the cost of administering the program.

#### **Recommendations:**

- 1) In an effort to address the concern associated with the 50/50 shared savings/loss arrangement and to encourage Healthcare systems to move into this option, SHP proposes to recognize the high performers and limit the shared loss amount based on the healthcare system's total cost of care index (TCI). The TCI measures efficiency, intensity, and price of care delivered by a Healthcare system to that of their peers. Hence, for every 1 point the TCI is below the average, the current 5% max loss limitation would be reduced by 1% point, not to be less than 1%. In other words, if a provider's TCI is 4 percentage points or more below the benchmark their maximum loss would be limited to 1% of the health system's attributed members' total allowed amount. In following suit, 3 percentage points below target would yield a maximum loss of 2% of attributed members' allowed amount, 2 points below yields a maximum loss of 3% and 1 point below reduces the maximum loss amount to to 4%. It is important to note, that no matter how good the health system's performance may be compared to its peers, it will still be subject to a shared loss of up to 1% of its attributed members' total medical spend.
- 2) To incentivize Healthcare systems continued participation in the VBA model, SHP proposes to change the shared savings portion to 20% for savings of less than 5% for the progressive upside/no downside risk option. Savings of greater than 5% would continue to share 30% of the savings with Healthcare system. This change still allows SHP/NDPERS to retain 80% of the savings. The goal of the no downside risk option is to allow time for healthcare systems to implement the services necessary to manage the cost of care. It is anticipated that health systems will gradually move to the 50/50 risk option as they become more equipped to successfully do so.



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

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

---

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

# Memorandum

**TO:** NDPERS Board

**FROM:** Scott

**DATE:** July 13, 2021

**SUBJECT:** Value Based Care Arrangement

Effective July 1, 2019, pursuant to Board approval, Sanford Health Plan (SHP) implemented a Value Based Care Arrangement that was designed to encourage health care providers to improve the efficiency of their care. As we are about to go into the new biennium, SHP is proposing that the Board approve the modification of that plan. SHP's proposal is contained within the attached memo.

During the Board's consideration last month, the Board tabled the discussion for more information from SHP. The below is from Don Schott with SHP. He will be at the Board meeting to present information on the topic and respond to Board member questions.

In an effort to address some of the questions of the NDPERS Board regarding the recommended adjustments to the current NDPERS value based arrangement settlement I offer the following:

**1. What is the latest date that a decision can be made regarding these changes?**

If approved, these changes would be implemented for the 12 month performance period ending June 30, 2022. The performance period begins July 1, 2021 but the provider does not receive its quarterly performance report until early January 2022 because the reporting allows for a three month claims runout period. The runout period allows us to capture all of the claims incurred July through September but submitted for in October through December. Therefore I recommend that a decision be made no later than September 1, 2021 and allow providers to choose their level of risk; 50/50 or no downside risk by October 1, 2021.

## 2. What is a good time to rerun the numbers?

Personally, I think this is more of a fairness concept and should be judged as such. The current model is mainly based on how the provider performs compared to itself without taking into account how it performs amongst its peers. Taking into account a provider's total cost of care index, which is a measurement of a provider's total medical spend relative to its peers, high performing providers will be recognized for their good performance and will not necessarily be penalized for not improving on their previous high performance.

This table illustrates the impact of mitigating losses for high performers based on the 12 month ending 12/31/20 for the 50/50 upside/downside risk model. The change has the potential to mitigate losses for providers that have a total cost of care index of less than 1.0. The illustration shows that providers D & F are 10 and 5 percentage points below the average total cost of care. Therefore, provider D's losses would be limited to \$111,320 rather than its actual shared loss of \$151,136 and Provider F's loss would be limited to \$32,885 rather than its \$153,331. As you can see, the 50/50 risk share model still requires providers to put 1% of their members total medical spend at risk no matter how well they perform. Providers A & B also performed better than average but their shared savings losses are less than the adjusted loss limitation so no adjustment is warranted.

<b>Potential Impact of mitigating shared loss for high performing providers</b>						
<b>Interim Period:</b>						
<b>Jan-Dec 2020</b>	<b>Provider A</b>	<b>Provider B</b>	<b>Provider C</b>	<b>Provider D</b>	<b>Provider E</b>	<b>Provider F</b>
Shared Savings/(Loss) Payment to/(From) Provider	\$ (1,210,004)	\$ (303,159)	\$ (32,220)	\$ (151,136)	\$ (435,384)	\$ (153,331)
<b>Loss Mitigation adjustment for Strong Performers</b>						
Total Cost of Care Index	0.99	0.96	1.04	0.90	1.19	0.95
% Points under benchmark (rounded to nearest whole number)	1.0%	4.0%	0.0%	10.0%	0.0%	5.0%
Current 5% Loss limitation (reduced for every % point below benchmark)	4.0%	1.0%	5.0%	1.0%	5.0%	1.0%
<b>Adjusted Loss Limitation (Not to exceed total Loss amount)</b>	<b>\$ (1,902,796)</b>	<b>\$ (411,088)</b>	<b>\$ (1,519,067)</b>	<b>\$ (111,320)</b>	<b>\$ (664,319)</b>	<b>\$ (32,885)</b>
<b>Shared Savings/Loss Limitation</b>						
Shared Savings/(Loss) is limited to 5% of Adjusted Allowed Amount	\$ (2,378,496)	\$ (2,055,439)	\$ (1,519,067)	\$ (556,598)	\$ (664,319)	\$ (164,423)
<b>Total Shared Savings/(Loss) Payment to/(From) Provider</b>	<b>\$ (1,210,004)</b>	<b>\$ (303,159)</b>	<b>\$ (32,220)</b>	<b>\$ (111,320)</b>	<b>\$ (435,384)</b>	<b>\$ (32,885)</b>

### **3. Why increase the incentive for providers to choose the no downside risk option?**

Providers are concerned about the uncertainty of the demand for health care coming out of the Covid period and are skittish about putting dollars at risk in the upcoming year. Some have questioned if the rewards of this program are worth the additional work and administrative expenditures involved in managing the care of these attributed members. Currently, the providers share in 10% of the shared savings if the total savings is less than 2% of its attributed members' medical spend. Increasing that share to 20% gives providers more incentive to stay in the program and, overtime, equip them to move to a 50/50 risk share scenario.

**Board Action Requested:** Approve or deny the modification of the plan.





**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

---

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 14, 2021

**SUBJECT:** Audit Committee May 2021 Minutes

Attached are the approved minutes for the May 10, 2021 meeting. Those who attended the meeting are available at the Board meeting to answer any questions you may have.

The minutes may also be viewed on the NDPERS website at [www.nd.gov.ndpers](http://www.nd.gov.ndpers).

The next Audit Committee meeting is tentatively scheduled for November 8, 2021 at 3:00 p.m. in the NDPERS Conference Room.

## MEMORANDUM

**TO:** Audit Committee  
Mona Rindy  
Adam Miller  
Julie Dahle  
Dirk Wilke  
Senator Tim Mathern

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

**DATE:** May 10, 2021

**SUBJECT:** **May 10, 2021 Audit Committee Meeting**

In Attendance:

Mona Rindy  
Julie Dahle  
Adam Miller  
Dirk Wilke  
Dean DePountis  
Shawna Piatz  
Scott Miller  
Derrick Hohbein  
Rebecca Fricke  
Sarah Marsh

The meeting was called to order at 3:00 p.m. by Ms. Rindy. The committee began the meeting with approving the prior Audit Committee minutes.

### **I. February 8, 2021 Audit Committee Minutes**

- A. The Audit Committee minutes were examined. Ms. Dahle motioned approval of the minutes. The motion was seconded by Ms. Rindy. This was followed and approved by voice vote.

### **II. Internal Audit Reports**

- A. Quarterly Audit Plan Status Report – A summary of the Internal Audit staff time spent for the past quarter was included with the Audit Committee materials. Of the total hours reported, 55.23% was spent in audit, 18.22% in consulting, and 26.55% in administrative hours. A large portion of the audit hours were spent on auditing the retirement program, as we are reviewing 100% of the new BDS's work and a sample of the rest. The Retirement Program hours has remained fairly steady Internal Audit continues to perform a more thorough compliance

review of the retirement accounts. The consulting hours were largely attributable to Internal Audit's assistance with vested employer contribution reconciliations, plan to plan transfer reconciliations and various reviews and reconciliations for the Benefits and Accounting divisions. Internal Audit continued to work on the Deferred Compensation Audit this quarter.

A status update was provided on the 2020 – 2021 Audit Plan for each area of review. Along with the work done in the Retirement Benefit and Refund Payments audit, Internal Audit continued to work on the Deferred Compensation audit and assisted with numerous consulting projects.

- B. Retirement Benefit Payment Status Report – Information was provided to the Audit Committee, which summarizes the accuracy percentages of the 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 procedure, system, compliance, or employer issues. An accuracy rate of 97.56% was achieved fiscal YTD as of May 2021 for new retirement benefit payments, which was above the 97% goal. 100% J&S and Single Life benefits continue to be the largest new retiree benefit categories. An accuracy rate of 88.31% was achieved fiscal YTD as of May 2021 for retirement refunds, which is below our 97% goal. However, a limited number of retirement refunds were audited and a portion of the sample was focused on those refunds in which a known system issue may have occurred.
- C. 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. These adjustments are considered errors, not adjustments made in the normal course of business. The dollar amount and number of errors remained relatively stable from the prior quarter.
- D. Outstanding Issues Status Report – As stated in the Audit Policy #103, the Internal Audit Division is to report quarterly to management and to the Audit Committee, the status of the audit recommendations of the external auditors, as well as any found by the Internal Auditor. The report has been updated to reflect what has been accomplished February 1, 2021 through April 30, 2021. Staff reviewed the one outstanding recommendation with the committee. One item was closed from the prior quarter. We expect this last item will be resolved over the next quarter. Staff have been proactive about addressing recommendations as they are made in which case they would not be included on this report.

### **III. Administrative**

- A. 2020 Chief Audit Officer (CAO) Annual Performance Evaluation – The CAO's Annual Performance Evaluation has been completed and is ready for approval of the Audit Committee. The evaluation was reviewed and discussed. Once completed, Ms. Dahle made a motion to adjust the Chief Audit Officer's overall rating to fall within the range of 3.59 to 3.63. The motion was seconded by Mr. Wilke, followed by voice vote and approved.

- B. Audit Committee Meeting Date & Time – The next Audit Committee meeting is scheduled for Monday, August 16, 2021 at 3:00 p.m. Discussion was held regarding the format of this meeting and it was decided that the meetings would continue to be held virtually at this time.
- C. External Audit Updates – The State Auditor's Office has issued the PERS financial statement audit RFP for FY 2021 – 2023. The contract has been awarded to CliftonLarsonAllen and preliminary audit work has been started. This was provided to the Audit Committee for their information.

#### **IV. Miscellaneous**

- A. Travel Expenditures – There were no out-of-state travel expenditures incurred by the Executive Director or Board for the period February 1, 2021 through April 30, 2021. This was provided for the Audit Committee's information.
- B. Risk Management Report – Updates were presented to the Audit Committee related to the Loss Control Committee activities. The Audit Committee was provided the minutes from the Loss Control Committee's April 7, 2021 meeting and the agenda for the June 30, 2021 meeting. The Loss Control Committee reviewed a number of action items for the previous quarter including an update on the distribution of agency laptops, FileNet and disaster recovery training, outstanding audit recommendations, quarterly office inspections that had been conducted and agency incident reports.
- C. Report on Consultant Fees – According to the Audit Committee Charter, the Audit Committee should "Periodically review a report of all costs and payments to the external financial statement auditor. The listing should separately disclose the costs of the financial statement audit, other attest projects, agreed-upon-procedures and any non-audit services provided." A copy of the report showing the consulting, investment and administrative fees paid during the quarter ended June 2021 was provided for the Audit Committee's information.
- D. CPEs and Webinars – A report on the continuing professional education webinars, luncheon meetings and seminars Internal Audit participated in for the period February 1, 2021 through April 30, 2021 was provided to the committee. The Chief Audit Executive attended five webinars and virtual conferences.

Meeting adjourned at 3:45 p.m, by Ms. Rindy.



# Memorandum

**TO:** NDPERS Board

**FROM:** Derrick Hohbein

**DATE:** August 17, 2021

**SUBJECT:** Office Relocation Update

The office relocation to the WSI building is now complete! Staff has final costs associated with the relocation effort to provide to the Board.

The final payments were made on securing our back office and reception area. Total payments were made for the Board-approved cost of \$74,800. This included three locked doors to our back office, securing the glass in the reception area as well as the back office doors, and installing a video/audio system that will allow our office to keep the entry door locked to visitors.

At the May 2021 Board meeting, Staff brought adding a sliding door to the hoteling offices forward for consideration. The Board instructed Staff to get into the new office, see how the space works, and bring back the doors for reconsideration if we felt it would be a beneficial addition for our Agency. After being in our new office environment for more than a month, staff would like the Board to reconsider adding a sliding door to each hoteling office. The occupants of the hoteling offices have noticed they get distracted by traffic in the hallways, and Staff feels adding a door will help alleviate these concerns. In addition, adding a door to each hoteling office will also help alleviate privacy and security concerns, as well as help with some of the noise levels within our office space.

The total cost to add 8 doors to the hoteling area is \$11,050.24 and the quote is included in Attachment A. Please note this is the same quote as before, however, we will be charged an additional \$260.00 in labor since they need to come back to our office to install them. An example of what these doors will look like – minus all the glass on the front – is shown in Attachment B.

At this time we do not anticipate needing to use contingency funding to make this office move a success. We are trending below our expectations on our operating expenditures for last biennium because of a reduction in activities due to the pandemic. We attempted to procure and receive as many pieces to this puzzle as we could last biennium. The

Legislative Assembly also did not reduce our rent by the \$50,000 of savings we anticipate having in the 2021-2023 biennium to help us accommodate this move.

The layout of the new office space is included in Attachment C so the Board can get a feel for the office space that will be dedicated to our agency.

**Board Action Requested**

- 1) Approve or deny cost proposal to add doors to the hoteling offices and give Scott the authority to sign the cost quote if approved.



A summary of ongoing work efforts, expected costs, actual costs, and current status is outlined below:

Activity	Cost Quote	Actual Cost	Status
Moving Expenses:			
15 walled offices	\$ 9,623.40	8,048.40	Approved March 2021
Fettes – remaining office furniture	8,520.00	8,520.00	Approved April 2021
Visitor office:			
DIRTT walls	18,719.00	18,019.00	Approved March 2021
HVAC/Lighting/Fire alarm	6,275.00	5,825.00	Approved March 2021
Sprinkler head installation	750.00	750.00	Approved March 2021
NDIT – move network connections	762.00	762.00	Approved April 2021
Fireside – new multi-function printer	75.00 + 118.00/Month	50.00 + 110/Month	Approved May 2021
Privacy film on glass	1,200.00	1,200.00	Approved June 2021
Plexiglass barriers	254.97	236.97	Approved June 2021
Three monitors/wall mounts/docks/keyboards	1,556.94	1,556.94	Approved June 2021
Customization of hoteling area:			
8 chairs	7,171.60	7,171.60	Approved April 2021
Privacy film on windows	1,860.00	1,050.00	Approved May 2021
Office customization	12,859.08	7,549.24	Approved May 2021
Monitors/docking stations	10,185.00	10,185.00	Approved June 2021
Laptop stands for staff	431.06	431.06	Approved July 2021
Reconsideration of sliding doors	11,050.24		Seeking Board Approval
Secure back office:			
Locked doorways (3)	55,000.00	55,000.00	Approved April 2021
Secure window to reception area	3,000.00	3,000.00	Approved April 2021
Reception area:			
Telecom system and lock the front door	15,500.00	15,500.00	Approved April 2021
Secure glass on front door	1,300.00	1,300.00	Approved April 2021
Vinyl lettering	85.00	85.00	Approved July 2021
Other essential costs not to exceed	20,000.00		Approved May 2021
Move Canon copier and scanner		145.00	
Putty/Caulking/Command Strips		61.88	
Nameplates		126.00	
3 additional chairs		2,815.58	
Commerce's Equipment		100.00	
Vinyl letters on visitor offices		54.00	
Fettes moving surplus property		170.00	
Audio/Video technology		969.46	



## ND Public Employees Retirement System

---

### ROLLING PRIVACY DOOR PARTITIONS

**Date: 8/20/2021**

Prepared For: Jan Lund

Quote Number: 6368-31340

Valid For 30 Days

Prepared by: Kyle Hellman

**Confidential**

© 2021 InterOffice - Fargo. The information in this transmittal is proprietary to InterOffice - Fargo. It is provided on the condition that it remains in confidence between InterOffice - Fargo and the recipient of this quote. Do Not Copy, Distribute nor Share the Contents of this proposal without the written permission of InterOffice - Fargo.

InterOffice - Fargo  
1630 1st Ave N, Suite A  
Fargo, ND 58102  
Phone: (701) 232-3013  
Fax: (701) 476-0911  
http://www.interofficend.com

Interoffice - Bismarck  
920 E. Front Ave. Suite B  
Bismarck, ND 58504  
Phone: (701) 751-2998  
Fax: (701) 751-1519  
http://www.interofficend.com



# CUSTOMER QUOTE

# 6368-31340

Expires: 9/19/2021

## Bill To

ND Public Employees Retirement System  
Bismarck  
1600 East Century Ave  
Bismarck, ND 58503

## Install To

ND Public Employees Retirement System  
Bismarck  
1600 East Century Ave  
Bismarck, ND 58503

project #	salesperson	quote name	payment terms	print date
6368	Kyle Hellman	Rolling doors	Net 15	8/20/2021

LINE #	QTY	UNIT	PART # / DESCRIPTION	PRICE EA	EXT PRICE
1	8.00	EA	SA659107 / AO2 Rolling Door	\$1,348.78	\$10,790.24
<p><u>OPTIONS</u></p> <p>Standard Product Reference: Ao2 Rolling Door Modified Product Reference: Options Rolling Door Deviation: Options Rolling Door Height: 67: Door Will Be 67" High, Rolling Next To A 67" High Adjacent Ao2 Panel. Thick Panel Base: Base Of Panel Will Be Thick. (Old Style A1 Series) Width: 48: Door Is 48" Wide, Closing A 36" Opening, Rolling Next To A (Minimum) 48" Wide Adjacent Ao2 Fabric Panel. Surface Material: ** Insert Will Be J9 Opal Frosted Plexiglass Insert. Door Frame/Post Finish: Mt: Frame Finish Is Mt Receiver Post, (Which Replaces A Finished End) For Closing Side Is Included And Is Mt Finish With Mt Cable Management Finish. Lock: Door Includes A Lock That Can Be Locked From The Outside. (Assuming Door Is Rolling Outside The Station) Pull And Lock Housing Finish: Mt: M</p>					
2	8.00	Hour	Bismarck STATE OF ND Install - RT / Regular office hour delivery/installation charges at the State of ND rate	\$32.50	\$260.00

## Customer Sign-Off

(Option Total)

Authorized Signature

Accepted Date

Print Name

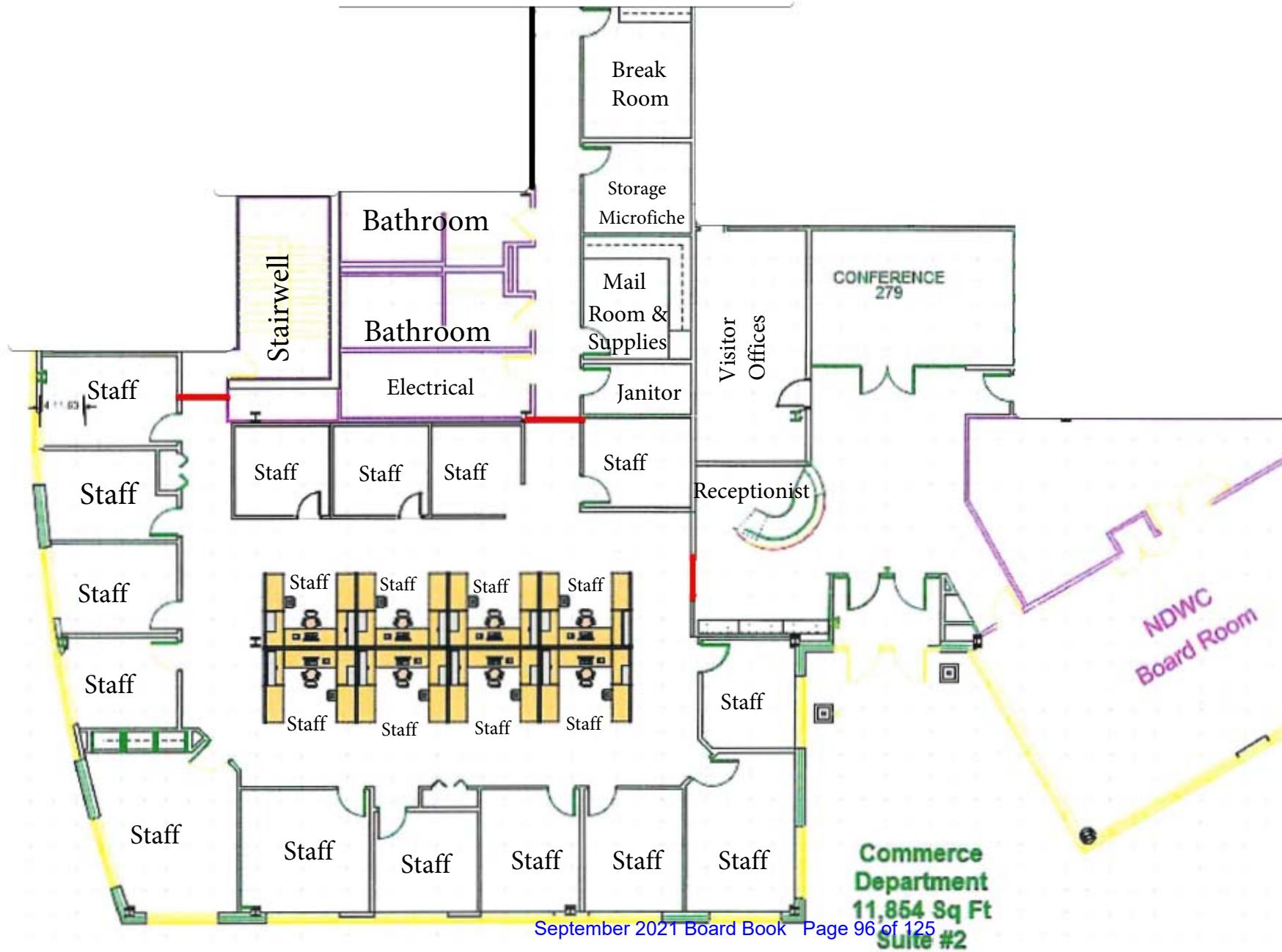
subtotal	\$11,050.24
sales tax	\$0.00
<b>total</b>	<b>\$11,050.24</b>







# Attachment C





**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

---

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:** Aime Miller

**DATE:** September 14, 2021

**SUBJECT:** Board Elections

NDPERS will have Board member elections in the springs of 2022, 2023, and 2024.

The NDPERS Board election process has normally been completed through the use of mailed ballots. In 2014, the Board adopted North Dakota Administrative Code section 71-01-02-13 to allow for a process by which electronic ballots may replace the printed ballots if the Board desires.

The upgrades recently done to our PERSLink business system included functionality to conduct surveys with our membership. Recognizing section 13 can potentially save our Agency up to \$5,000 per election, staff would like to know if the Board has any concerns with Staff exploring system modifications to accommodate a paperless Board election process. Potential modifications include ensuring only eligible participants receive the survey, that only one vote per member can be cast, and that the results displayed for canvassing votes keeps the member anonymous.

We would like to gather your thoughts and/or concerns on exploring the online election option. If there are any other modifications the Board wants Staff to consider for a paperless election, Staff would like that input to explore modifying PERSLink to accommodate the concerns. Board elections are held for both the active and retiree populations, so if the Board is interested in treating the populations differently this should also be discussed.

This topic is informational only, and Staff would be happy to answer any questions the Board may have.





**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

---

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:** Scott

**DATE:** September 14, 2021

**SUBJECT:** Board Planning Meeting

During last month's meeting, Senator Dever advised us that the legislature may be in its special session during the November 9<sup>th</sup> Board Planning Meeting. Please take a look at your calendars before the September meeting and we will discuss dates to which we can move the Board Planning Meeting.



**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

---

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:** Scott

**DATE:** September 14, 2021

**SUBJECT:** Proposed Administrative Rules

With no changes to the proposed rules we presented in August, we are now seeking your approval to distribute the attached proposed rules for public comment.

Attachment 1 contains the proposed rules prepared by staff, reviewed by legal counsel, and as presented at the August meeting. Attachment 2 is the summary of proposed rule changes. Attachments 3 and 4 are the Formal Notice to Adopt and the Abbreviated Notice of Intent. Attachment 5 is a summary of the Fiscal Note, Regulatory Analysis, Takings Assessment, and Small Entity Impact Statement and Analysis. Attachment 6 is Senate Bill 2044.

Following is the schedule:

## **2021 Proposed Administrative Rule Revision/Addition/Deletion Schedule**

July 27	Draft of all revisions, deletions, additions to rules.
August 17	Initial review at August Board Meeting.
September 14	Final Board approval of proposed rules.
September 15	Notify NDNA of upcoming notice and verify timing of printed notice.
September 15-20	Post copy of proposed rules on NDPERS website, notify all employer groups that rules are on website, send formal notice and materials to Legislative Council.

September 27	Notice has been printed in all required newspapers and notice sent to any pertinent legislator with proposed rule changes.
October 25	Proposed date for Public Hearing.
October 26	Hearing held and comment period opened.
November 8	Comment period closed.
December 14	Final Board review of comments.
December 16	Send to Office of Attorney General for review.
December/ Early January 2022	After receipt of AG review, send to Legislative Council.
February 1, 2022	Deadline to submit proposed rules to Legislative Council
March 2022	Administrative Rules Committee Meeting held
April 1, 2022	New rules take effect, provided there are no holds placed on them by the committee.

**Board Action:** Approve moving forward with the rulemaking process with the attached proposed administrative rules.

Section 71-02-02-01 is amended as follows:

**71-02-02-01. Membership - General rule.**

When an eligible employee becomes a member of the public employees retirement system, the following requirements apply:

1. A temporary employee must submit a completed participation agreement within six months of the date of hire as a temporary employee or within six months of a change in status from a permanent to temporary position. If no application is made and filed with the office, an irrevocable waiver of participation will occur for as long as the employee is in temporary status.
2. ~~Contributions for temporary employees must be submitted no later than the sixth working day of the month for the previous month's salary.~~
- ~~3.~~ Delinquent payments of over thirty days, for reasons other than leave of absence or seasonal employment, will result in termination of eligibility to participate as a temporary member.
- ~~4.3.~~ Upon taking a refund, future participation as a temporary member is waived.
- ~~5.4.~~ A member may not contribute concurrently to the plan within any given month as both a permanent and a temporary member. Permanent employment has precedence.
- ~~6.5.~~ Elected officials of participating counties and elected state officials, at their individual option, must enroll or waive participation in writing within six months of taking office or beginning a new term. If no application is made and filed with the office, an irrevocable waiver of participation will occur until the official makes application within six months from the start of a new term.

**History:** Amended effective September 1, 1982; November 1, 1990; September 1, 1992; June 1, 1996; July 1, 1998; May 1, 2004; July 1, 2006; April 1, 2016; July 1, 2018

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-01, 54-52-02.9, 54-52-05

Section 71-02-04-03 is amended as follows:

**71-02-04-03. Payment date - Retirement benefits.**

Except for retirement options provided in section 71-02-04-02, a member's retirement benefit shall commence on the first day of the month which follows the member's eligibility for the benefit and which is at least thirty days after the date on which the member filed an application with the office. Notwithstanding any other provision in this article, benefits must begin no later than April first of the calendar year after the calendar year in which the member retires or ~~attains the age of seventy and one-half years~~ meets minimum distribution rules provided in subsection 2 of North Dakota Century Code section 54-52-28, whichever is later. If the member is employed but ineligible for active participation in the retirement plan, the member's benefits must begin no later than April first of the calendar year after the calendar year in which the member ~~attains the age of seventy and one-half years~~ meets minimum distribution rules provided in subsection 2 of North Dakota Century Code section 54-52-28. In the absence of a retirement application, benefits shall be paid based on a single life, or normal retirement for judges, payment option. Benefits must be directly deposited into a financial account identified by the member or sent to the member's last-known address. If the benefit checks are returned with no forwarding information, the benefits will remain in the fund, and will be distributed in a lump sum retroactive to the required beginning date upon location of the member. If two consecutive checks issued remain uncashed, future payments will be suspended until the member makes payment arrangements with the office.

**History:** Amended effective November 1, 1990; July 1, 1994; July 1, 2000; July 1, 2010; July 1, 2018.

**General Authority:** NDCC 54-52-04, 54-52-17

**Law Implemented:** NDCC 54-52-17

Section 71-02-04-04 is amended as follows:

**71-02-04-04. Optional benefits.**

A member may elect, as provided in section 71-02-04-02, to receive one of the following optional benefits in lieu of the regular single life, or normal for judges, retirement benefit.

1. **One hundred percent joint and survivor benefit.** A member shall receive an actuarially reduced retirement benefit during the member's lifetime and after the member's death the same amount will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Payments of benefits to a member's surviving spouse shall be made on the first day of each month commencing on the first day of the month following the member's death, providing the beneficiary has supplied a marriage certificate and death certificate and is still living. Benefits shall terminate in the month in which the death of the beneficiary occurs. In the event the designated beneficiary predeceases the member or, in the event of divorce, the option shall be canceled and the member's benefit shall be returned to the single life or normal amount. Payment of the single life or normal amount shall commence on the first day of the month following ~~the spouse's death providing written notification of death and a death certificate has been submitted or, in the event of divorce, receipt, in the NDPERS office, of written~~ notification of spouse's death or member's divorce. Written notification must be either a death certificate or a photocopy of the divorce decree.
2. **Fifty percent joint and survivor benefit.** A member shall receive an actuarially reduced retirement benefit during the member's lifetime and after the member's death one-half the rate of the reduced benefit will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Payments of benefits to a member's surviving spouse shall be made on the first day of each month commencing on the first day of the month following the member's death, providing the beneficiary has supplied a marriage certificate and death certificate and is still living. Benefits shall terminate in the month in which the death of the beneficiary occurs. In the event the designated beneficiary predeceases the member or, in the event of divorce, the option shall be canceled and the member's benefit shall be returned to the single life or normal amount. Payment of the single life or normal amount shall commence on the first day of the month following ~~the spouse's death providing written notification of death and a death certificate has been submitted or, in~~

the event of divorce, receipt, in the NDPERS office, of written notification of spouse's death or member's divorce. Written notification must be either a death certificate or a photocopy of the divorce decree.

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

**History:** Amended effective September 1, 1982; November 1, 1990; July 1, 1994; May 1, 2004; July 1, 2006; April 1, 2008; July 1, 2010; April 1, 2012.

**General Authority:** NDCC 54-52-04, 54-52-17

**Law Implemented:** NDCC 54-52-17



Section 71-02-04-10 is amended as follows:

**71-02-04-10. Erroneous payment of benefits - Overpayments.**

1. An "overpayment" means a payment of money by the public employees retirement system that results in a person receiving a higher payment than the person is entitled to under the provision of the retirement plan of membership.
2. A person who receives an overpayment is liable to refund those payments upon receiving a written explanation and request for the amount to be refunded. All overpayments must be collected using the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like gains. If the cost of recovering the amount of the overpayment is estimated to exceed the overpayment, the repayment is considered to be unrecoverable.
3. If the overpayment of benefits was not the result of any wrongdoing, negligence, misrepresentation, or omission by the recipient, the recipient may make repayment arrangements subject to the executive director's approval within sixty days of the written notice of overpayment with the minimum repayment amount no less than fifty dollars per month. If repayment arrangements are not in place within sixty days of the date of the written notice of overpayment, the executive director shall offset the amount of the overpayment from the amount of future retirement benefit payments so that the actuarial equivalent of the overpayment is spread over the benefit payment period.
4. If the overpayment of benefits was the result, in whole or in part, of the wrongdoing, negligence, misrepresentation, or omission of the recipient, the recipient is liable to pay simple interest charges at the rate of six percent on the outstanding balance to compensate the fund for lost earnings, from the time the erroneous benefit was paid through the time it has been refunded in full. Recovered funds are first applied to interest and, if any amount is left over, that amount is applied to principal. The recipient may make repayment arrangements, subject to the executive director's approval, within sixty days of the written request for refund with the minimum repayment amount no less than fifty dollars per month. If repayment arrangements are not in place within sixty days of the date of the written notice of overpayment, the executive director shall offset the amount of the overpayment from the

amount of future retirement benefit payments so that the actuarial equivalent of the overpayment is spread over the benefit payment period.

5. If an individual dies prior to fully refunding an erroneous overpayment of benefits, the public employees retirement system must make application to the estate of the deceased to recover the remaining balance.

**History:** Effective June 1, 1996; amended effective April 1, 2002; July 1, 2006; April 1, 2008; July 1, 2010.

**General Authority:** NDCC 54-52-04, 54-52-17

**Law Implemented:** NDCC 39-03.1-25, 54-52-17

Section 71-02-04-11 is amended as follows:

**71-02-04-11. Erroneous payment of benefits - Underpayments.**

1. An "underpayment" means a payment of money by the public employees retirement system that results in a person receiving a lower payment than the person is entitled to under the provisions of the retirement plan of membership.
2. If an underpayment occurs, the amount of the lump sum payment must be paid within sixty days of the discovery of the error.
3. If the underpayment of benefits was not the result of any wrongdoing, negligence, misrepresentation, or omission by the employer or recipient, the underpayment of benefits is to include simple interest at the rate of six percent from the time the underpayment occurred.
4. If the underpayment of benefits was the result, in whole or in part, of the wrongdoing, negligence, misrepresentation, or omission of the employer or recipient, the underpayment of benefits will not include simple interest.
5. If an individual dies prior to receiving the underpayment of benefits, the public employees retirement system must pay the designated beneficiary on record or, in the absence of a designation of beneficiary, to the estate.

**History:** Effective June 1, 1996; amended effective May 1, 2004; April 1, 2008.

**General Authority:** NDCC 54-52-04, 54-52-17

**Law Implemented:** NDCC 39-03.1-25, 54-52-17

Section 71-02-06-06 is amended as follows:

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

1. A written election submitted under subsection 3 of North Dakota Century Code section 54-52-05 shall be reported to the board a minimum of thirty-one days prior to the effective date.
2. An employer may not discriminate ~~between~~ in its contributions to eligible participating employees as to its contribution within the same plan under North Dakota Century Code section 54-52-05.

**History:** Effective July 1, 1994; amended effective May 1, 2004.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-05

Section 71-02-06-13 is created as follows:

**71-02-06-13. Refusal of interest on contributions.**

A member or beneficiary may decline to receive interest on the member's contributions and vested employer contributions, if any, by notifying NDPERS, in writing, of that decision when the member or beneficiary applies for a distribution of the accumulated contributions. A member or beneficiary who does so waives any right to that interest.

**History:** Effective \_\_\_\_\_.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 39-03.1-09, 54-52-02.9, 54-52-05, 54-52-06.1, 54-52-06.3, 54-52-06.4

Section 71-03-03-01 is amended as follows:

**71-03-03-01. Enrollment.**

An eligible employee is entitled to coverage the first of the month following the month of employment, or the month following meeting eligibility criteria, unless otherwise noted below, if the employee submits an application for coverage within the first thirty-one days of employment or within the thirty-one days of meeting eligibility for one of the following special enrollment periods:

1. Loss of coverage under any other health, dental, vision, or prescription drug insurance plan.
2. Marriage. An employee who previously waived coverage must enroll for coverage at the time the employee's spouse is enrolled.
3. Addition of a dependent as a result of ~~birth, adoption, placement for adoption,~~ receiving legal guardianship; or receiving a court order to provide health coverage. An employee who previously waived coverage must enroll for coverage at the same time that the employee's eligible dependent is enrolled.
4. Addition of a dependent as a result of birth, adoption, or placement for adoption. Effective date of coverage is first of the month in which the event occurred. An employee who previously waived coverage must enroll for coverage at the same time that the employee's eligible dependent is enrolled.

**History:** Effective October 1, 1986; amended effective July 1, 1994; June 1, 1996; July 1, 1998; July 1, 2010; April 1, 2012; April 1, 2016, \_\_\_\_\_.

**General Authority:** NDCC 54-52.1-08

**Law Implemented:** NDCC 54-52.1-02, 54-52.1-03

Section 71-03-03-09 is amended as follows:

**71-03-03-09. Leave without pay.**

An employee on an approved leave without pay may elect to continue coverage for the periods specified in the plans for life insurance, health, dental, vision, or prescription drug coverages by paying the full premium to the agency. An eligible employee electing not to continue coverage during a leave of absence is entitled to renew coverage for the first of the month following the month that the employee has returned to work if the employee submits an application for coverage within the first thirty-one days of returning to work. An eligible employee failing to submit an application for coverage within the first thirty-one days of returning to work or eligibility for a special enrollment period, may enroll during the annual open enrollment ~~and may be subject to a six-month waiting period for preexisting conditions~~. Upon a showing of good cause, the executive director may waive the thirty-one day application requirement.

**History:** Effective October 1, 1986; amended effective November 1, 1990; June 1, 1996; September 1, 1997; July 1, 1998; May 1, 2004; April 1, 2012.

**General Authority:** NDCC 54-52.1-08

**Law Implemented:** NDCC 54-52.1-02, 54-52.1-03



Section 71-03-07-01 is amended as follows:

**71-03-07-01. Employer contribution.**

Each employer ~~must submit~~shall pay to the board the full monthly premium amount for each eligible employee enrolled in the group insurance plan by the fifteenth of each month. The employer must verify the number of eligible employees and the level of coverage for each. An employee is eligible for an employer contribution for the month following the month of employment. If an eligible employee terminates employment prior to the effective date of coverage, no employer contribution is required. The employer contribution ends the month following the month of termination of employment. When an employee transfers from one participating employer to another, the new employer is responsible for the payment of the premium for the first of the month following employment.

**History:** Effective June 1, 1996; amended effective July 1, 2010.

**General Authority:** NDCC 54-52-04, 54-52.1-03.1

**Law Implemented:** NDCC 54-52.1-03.1

## Attachment 2

Section	Description	Reason
<b>71-02-02-01. Membership - General rule.</b>	Add language to above rule for clarification and be consistent with NDPERS administration of effective dates used with certain IRS qualifying events.	Clarify effective dates based upon qualifying events (specific to birth, adoption, and placement for adoption).
<b>71-02-02-01(2). Membership - General rule.</b>	Remove the employer requirement that the contributions for temporary employees be submitted within six working days of the month for the previous month's salary.	Temporary employees are included in the same payroll reports that permanent employees are – they are comingled. The deadline for permanent employees is the 15th of the month following the month the wages are being reported for – so we believe this line should be removed from rules.
<b>71-02-04-03. Payment date – Retirement benefits.</b>	Update Required Minimum Distribution language based upon federal laws and updates to state law SB 2044 technical corrections. For a member who attains age seventy and one-half before January 1, 2020, the member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment. For a member who attains age seventy and one-half after December 31, 2019, the member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy-two or terminates employment.	Federal / State Law Compliance, SB 2044
<b>71-02-04-04. Optional benefits.</b>	Clarify in rules that a death certificate must be received by NDPERS and date stamped in order for the pop up of a retiree to a higher Single Life benefit amount as this is not automatic upon death notification.	Clarification
<b>71-02-04-10. Erroneous payment of benefits - Overpayments.</b>	Clarify in rules that simple interest (not compounding) is paid on over/under payments of retirement benefits	Clarification
<b>71-02-04-11. Erroneous payment of benefits – Underpayments.</b>	Clarify in rules that simple interest (not compounding) is paid on over/under payments of retirement benefits	Clarification
<b>71-02-06-06. Employer payment of employee contributions.</b>	This should be specific to plan enrolled. For example Public Safety and Main plan may have a different pickup rate by the employer, but all employees based upon plan eligibility are	Clarification

Section	Description	Reason
	treated the same. Example: 200010 City of Cavalier pays 15.26% for all Main Plan employees but Public Safety employees make up difference and pay an additional 1.19% based upon higher contribution rate required for Public Safety Plan.	
<b>71-02-06-13. Refusal of interest on contributions. (New section)</b>	Add Interest Accrual Exception due to a Faith Requirement	Administrative change, direction from NDPERS Board at April 2020 meeting
<b>71-03-03-01 (3). Enrollment.</b>	Add language to above rule for clarification and be consistent with NDPERS administration of effective dates used with certain IRS qualifying events.	Clarify effective dates based upon qualifying events (specific to birth, adoption, and placement for adoption).
<b>71-03-03-09. Leave without pay.</b>	Remove reference to waiting period for preexisting conditions.	Waiting periods for preexisting conditions are not permitted under federal law (ACA). This was previously missed when removing other references at an earlier date.
<b>71-03-07-01. Employer contribution.</b>	Employers need to have payment into our office by the fifteenth of the month so we have the funds to pay our carriers around the twentieth of each month.	Would like this to be consistent with 71-03-04-01

ABBREVIATED NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES APPLICABLE TO THE NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM RELATING TO PLAN MEMBERSHIP, PAYMENT DATE, OPTIONAL BENEFITS, ERRONEOUS PAYMENT OF BENEFITS, EMPLOYER PAYMENT OF EMPLOYEE CONTRIBUTIONS, REFUSAL OF INTEREST ON CONTRIBUTIONS, ENROLLMENT, LEAVE WITHOUT PAY.

TAKE NOTICE that the North Dakota Public Employees Retirement System will hold a public hearing to address proposed changes to N.D.A.C. Arts. 71-02 & 71-03 at 11:00 a.m. on Monday, October 25, 2021 at 1600 East Century Avenue, Suite 2, Bismarck, ND 58503.

A copy of the proposed rules may be obtained on the NDPERS website at <https://www.ndpers.nd.gov/about/notice-of-hearing> or by contacting NDPERS at the above address or calling 701-328-3900 or toll-free at 1-800-803-7377. Also, written comments may be submitted until November 8, 2021, to the above address or by email to [ndpers-info@nd.gov](mailto:ndpers-info@nd.gov). If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the North Dakota Public Employees Retirement System at the above telephone number or address at least three days prior to the public hearing.

Dated this 15th day of September 2021  
Scott Miller, NDPERS Executive Director

## NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES

TAKE NOTICE that the North Dakota Public Employees Retirement System will hold a public hearing to address proposed new rules and amendments to N.D.A.C. Arts. 71-02 & 71-03. The proposed rulemaking implements Senate Bill 2044 enacted during the most recent legislative session concerning administration of the benefit plans administered by the North Dakota Public Employees Retirement System (NDPERS) and rules relating to plan membership, payment date, optional benefits, erroneous payment of benefits, employer payment of employee contributions, refusal of interest on contributions, enrollment, leave without pay. The hearing will be held at 11:00 A.M. on Monday, October 25, 2021, in the NDPERS Conference Room at 1600 East Century Avenue, Suite 2, Bismarck, North Dakota. The hearing will continue until 12:00 P.M. or until no further testimony is offered, whichever occurs last. The proposed rules may be viewed online at <https://www.ndpers.nd.gov/about/notice-of-hearing> or at the NDPERS office at the following location:

North Dakota Public Employees Retirement System  
1600 East Century Avenue, Suite 2  
Bismarck, ND 58503

Written or oral comments on the proposed rules submitted to the above address or below referenced telephone number and received by November 8, 2021, will be fully considered. The proposed rule changes are not expected to have an impact on the regulated community in excess of \$50,000. A copy of the proposed rules may also be obtained by accessing them on the NDPERS website at <https://www.ndpers.nd.gov/about/notice-of-hearing> or by writing to the above address, or by calling the North Dakota Public Employees Retirement System at 701-328-3900. If you plan to attend the public hearing and will need special accommodations or assistance relating to a disability, please contact the Public Employees Retirement System at the above address or telephone number at least three business days prior to the public hearing. Specific sections affected and explanations for proposed revisions are summarized below.

Section	Description	Reason
<b>71-02-02-01. Membership -General rule.</b>	Add language to above rule for clarification and be consistent with NDPERS administration of effective dates used with certain IRS qualifying events.	Clarify effective dates based upon qualifying events (specific to birth, adoption, and placement for adoption).
<b>71-02-02-01(2). Membership - General rule.</b>	Remove the employer requirement that the contributions for temporary employees be submitted within six working days of the month for the previous month's salary.	Temporary employees are included in the same payroll reports that permanent employees are – they are comingled. The deadline for permanent employees is the

Section	Description	Reason
		15th of the month following the month the wages are being reported for – so we believe this line should be removed from rules.
<b>71-02-04-03. Payment date – Retirement benefits.</b>	Update Required Minimum Distribution language based upon federal laws and updates to state law SB 2044 technical corrections. For a member who attains age seventy and one-half before January 1, 2020, the member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment. For a member who attains age seventy and one-half after December 31, 2019, the member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy-two or terminates employment.	Federal / State Law Compliance, SB 2044
<b>71-02-04-04. Optional benefits.</b>	Clarify in rules that a death certificate must be received by NDPERS and date stamped in order for the pop up of a retiree to a higher Single Life benefit amount as this is not automatic upon death notification.	Clarification
<b>71-02-04-10. Erroneous payment of benefits - Overpayments.</b>	Clarify in rules that simple interest (not compounding) is paid on over/under payments of retirement benefits	Clarification
<b>71-02-04-11. Erroneous payment of benefits – Underpayments.</b>	Clarify in rules that simple interest (not compounding) is paid on over/under payments of retirement benefits	Clarification
<b>71-02-06-06. Employer payment of employee contributions.</b>	This should be specific to plan enrolled. For example Public Safety and Main plan may have a different pickup rate by the employer, but all employees based upon plan eligibility are treated the same. Example: 200010 City of Cavalier pays 15.26% for all Main Plan employees but Public Safety employees make up difference and pay an additional 1.19% based upon higher contribution rate required for Public Safety Plan.	Clarification

<b>Section</b>	<b>Description</b>	<b>Reason</b>
<b>71-02-06-13. Refusal of interest on contributions. (New section)</b>	Add Interest Accrual Exception due to a Faith Requirement	Administrative change, direction from NDPERS Board at April 2020 meeting
<b>71-03-03-01 (3). Enrollment.</b>	Add language to above rule for clarification and be consistent with NDPERS administration of effective dates used with certain IRS qualifying events.	Clarify effective dates based upon qualifying events (specific to birth, adoption, and placement for adoption).
<b>71-03-03-09. Leave without pay.</b>	Remove reference to waiting period for preexisting conditions.	Waiting periods for preexisting conditions are not permitted under federal law (ACA). This was previously missed when removing other references at an earlier date.
<b>71-03-07-01. Employer contribution.</b>	Employers need to have payment into our office by the fifteenth of the month so we have the funds to pay our carriers around the twentieth of each month.	Would like this to be consistent with 71-03-04-01

Dated this 15th day of September 2021

Scott Miller, NDPERS Executive Director



**NDPERS 2021 Proposed Administrative Rules  
Fiscal Note / Regulatory Analysis / Takings Assessment /  
Small Entity Economic Impact Statement / Small Entity Regulatory Analysis**

A fiscal note was not required because these rules have no fiscal effect.

No regulatory analysis was required as the proposed rules are not expected to have an impact on the regulated community in excess of \$50,000, and neither the Governor nor any member of the Legislative Assembly requested a regulatory analysis.

No takings assessment was required because the rules do not limit the uses of real property.

No small entity economic impact statement was required because none of the proposed rules will have an adverse economic impact on small entities.

No small entity regulatory analysis was required because the proposed rule changes impose no additional requirements on small entities and therefore have no impact on small entities.

Scott Miller  
Executive Director

## Sixty-seventh Legislative Assembly of North Dakota In Regular Session Commencing Tuesday, January 5, 2021

SENATE BILL NO. 2044  
(Government and Veterans Affairs Committee)  
(At the request of the Public Employees Retirement System)

AN ACT to amend and reenact section 39-03.1-10, subsection 2 of section 39-03.1-11.2, subsection 8 of section 54-52-17, subsection 10 of section 54-52-26, subsection 2 of section 54-52-28, subsection 2 of section 54-52.1-03.2, subsection 1 of section 54-52.1-03.3, and subsection 2 of section 54-52.6-21 of the North Dakota Century Code, relating to public employees retirement system unpaid benefit payments, missing member confidentiality requirements, compliance with Internal Revenue Code distribution requirements, insurance programs for which retiree health insurance credit moneys may be used, and clarification of eligibility for retiree health insurance credit payments.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-03.1-10 of the North Dakota Century Code is amended and reenacted as follows:

#### **39-03.1-10. Contributions by the state.**

The state shall contribute to the fund a sum equal to sixteen and seventy-hundredths percent of the monthly salary or wage of a participating member. State contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, ~~and~~ with an additional increase of one percent, beginning with the reporting period of January 2013, ~~and~~ with an additional increase of one percent, beginning with the monthly reporting period of January 2014. If the member's contribution is paid by the state under subsection 2 of section 39-03.1-09, the state shall contribute, in addition, an amount equal to the required member's contribution. The state shall pay the associated employer contribution for those members who elect to exercise their rights under ~~subsection 3 of section 39-03.1-10.~~ 39-03.1-10.3.

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

2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. For a member who attains age seventy and one-half before January 1, 2020, the member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment. For a member who attains age seventy and one-half after December 31, 2019, the member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy-two or terminates employment.

**SECTION 3. AMENDMENT.** Subsection 8 of section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a member receiving retirement benefits or the member's surviving spouse receiving retirement benefits dies before the total amount of benefits paid to



either or both equals the amount of the member's account balance at retirement, the difference must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate. A benefit payment owed to the member, surviving spouse, or alternate beneficiary which was not paid before the death of the member, surviving spouse, or alternate beneficiary must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.

**SECTION 4. AMENDMENT.** Subsection 10 of section 54-52-26 of the North Dakota Century Code is amended and reenacted as follows:

10. The general public, but only after the board has been unable to locate the member for a period in excess of two years~~one year~~, and limited to the member's name and the fact that the board has been unable to locate the member.

**SECTION 5. AMENDMENT.** Subsection 2 of section 54-52-28 of the North Dakota Century Code is amended and reenacted as follows:

2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. For a member who attains age seventy and one-half before January 1, 2020, the member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment. For a member who attains age seventy and one-half after December 31, 2019, the member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy-two or terminates employment.

**SECTION 6. AMENDMENT.** Subsection 2 of section 54-52.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

2. All moneys deposited in the fund established under subsection 1, not otherwise appropriated, are hereby appropriated to the board for the purpose of making investments for the fund and to make contributions toward hospital and medical benefits coverage and prescription drug coverage under any health insurance program and for any dental, vision, and long-term care benefits coverage under the uniform group~~any~~ insurance program for eligible retired employees or surviving spouses of eligible retired employees and their dependents as elected.

**SECTION 7. AMENDMENT.** Subsection 1 of section 54-52.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

1. The following individuals are entitled to receive credit for hospital benefits coverage, medical benefits coverage, and prescription drug coverage under any health insurance program and for any dental, vision, and long-term care benefits coverage under any insurance program:
  - a. A member or surviving spouse ~~receiving retirement benefits under~~of the highway patrolmen's retirement system is eligible for the credit beginning on the date retirement benefits are effective.
  - b. If the member first enrolled before January 1, 2020, a member or surviving spouse ~~receiving retirement benefits under~~of the public employees retirement system is eligible for the credit beginning on the date retirement benefits are effective.
  - c. A member or surviving spouse ~~receiving retirement benefits under~~of the retirement program established by job service North Dakota under section 52-11-01 is eligible for the credit beginning on the date retirement benefits are effective.

- d. A retired judge or surviving spouse ~~receiving retirement benefits under~~ of the retirement program established under chapter 27-17 is eligible for the credit beginning on the date retirement benefits are effective.
- e. If the former participating member first enrolled before January 1, 2020, a former participating member of the defined contribution retirement plan receiving retirement benefits, or the surviving spouse of a former participating member of that retirement plan who was eligible to receive or was receiving benefits, under section 54-52.6-13, is eligible as determined by the board pursuant to the board's rules.

**SECTION 8. AMENDMENT.** Subsection 2 of section 54-52.6-21 of the North Dakota Century Code is amended and reenacted as follows:

- 2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. AFor a member who attains age seventy and one-half before January 1, 2020, the member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment. For a member who attains age seventy and one-half after December 31, 2019, the member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy-two or terminates employment.



  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House

  
\_\_\_\_\_  
Secretary of the Senate

  
\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2044.

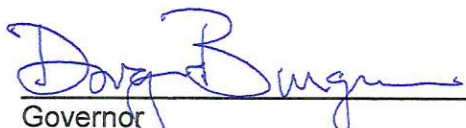
Senate Vote:      Yeas 47                      Nays 0                      Absent 0

House Vote:      Yeas 91                      Nays 0                      Absent 3

  
\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at 3:25 P.M. on March 22, 2021.

Approved at 4:55 P.M. on March 23, 2021.

  
\_\_\_\_\_  
Governor

Filed in this office this 24th day of March, 2021,  
at 9:14 o'clock A. M.

  
\_\_\_\_\_  
Secretary of State



**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

---

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:** Scott

**DATE:** September 14, 2021

**SUBJECT:** Assurance NM Testing

This is a test of our emergency communication network Assurance NM.

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

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

- A. Retiree Health Insurance Credit Member Appeal Case # 698**
- B. Retiree Health Insurance Credit Member Appeal Case # 699**
- C. Insurance Member Appeal Case #700**

Material for the Executive Session will be sent under separate cover.