

**TESTIMONY
OF
SPARB COLLINS
CONCERNING RULES OF THE
NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM**

Good afternoon Mr. Chairman and members of the Committee, my name is Sparb Collins. I am the Executive Director of the North Dakota Public Employees Retirement System (NDPERS).

Attached is a letter from our attorney concerning the repeal of rules before you today that I would like to review with you.



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November 20, 2015

The Honorable Bill Devlin
Chairman, Administrative Rules Committee
Legislative Council
600 E Boulevard Ave
Bismarck, ND 58505

RE: Request to Repeal Rules

Dear Representative Devlin:

I am writing to you on behalf of the North Dakota Public Employees Retirement System ("NDPERS") regarding a request to repeal administrative rules due to a change in the law making the rules obsolete or not in compliance with the law pursuant to N.D.C.C. § 28-32-18.1. Specifically, NDPERS requests the Administrative Rules Committee repeal the following three administrative rules relating to the Retiree Health Insurance Credit (RHIC): N.D.A.C. §§ 71-06-01-01, 71-06-01-06, and 71-06-01-06.1. These rules refer to payment or collection of the RHIC in coordination with a member's participation in the NDPERS uniform group insurance program.

During the 2013 legislative session various statutory amendments were made in House Bill 1058 which allowed the RHIC to become portable, in that it could be used by a member as credit under any health insurance program as opposed to just the health insurance program administered by NDPERS. House Bill 1058 had a contingent effective date, delaying implementation until July 1, 2015. Upon review of the relevant administrative code provisions, NDPERS determined that these three rules were obsolete or not consistent with law because the rules restricted application of the RHIC to insurance premiums under the uniform group insurance program administered by NDPERS. These rules are set forth below for your convenience with emphasis added to the terminology relating to the application of the credit to the NDPERS health insurance premium.

71-06-01-01. Eligibility for retiree health insurance credit applied to premiums for annuitants and surviving spouses under the North Dakota public employees retirement system, the North Dakota highway patrolmen's retirement system, the retired judges under North Dakota Century Code chapter 27-17, annuitants of the job

service retirement program, and former participating members of the defined contribution retirement plan receiving periodic distributions. All receiving members of the public employees retirement system, highway patrolmen's retirement system, judges retirement system, retired judges under North Dakota Century Code chapter 27-17, and annuitants of the job service retirement program will be eligible for retiree health credit applied to premiums that satisfy the enrollment requirements of section 71-03-03-05, with the exception of those receiving members who are receiving their benefit based on prior service credits rather than the defined benefits program. Vested members deferring benefits will not be eligible until payment of benefits commences. A former participating member of the defined contribution retirement plan is similarly eligible for retiree health credit applied to premiums that satisfy the enrollment requirements of section 71-03-03-05, if the former participating member would qualify for one of the retirement dates set forth in subsection 3 of North Dakota Century Code section 54-52-17 if that former participating member was a member of the defined benefit retirement plan.

71-06-01-06. Erroneous crediting of the retiree health insurance credit. If an error occurs in granting retiree health insurance credit, the error shall be corrected the first of the month following discovery of the error in accordance with sections 71-02-04-10 and 71-02-04-11, except any underpayment of the retiree health insurance credit under this chapter must be returned to the uniform group insurance program where it will be treated as an overpayment of premium and paid in a lump sum within sixty days of the discovery of the error.

71-06-01-06.1. Retroactive payment of the retiree health insurance credit. Retroactive payments will be as reflected in chapters 71-02-04 and 71-02-05.

Retroactive payments will be made to the date the member was eligible for the disability benefits, in coordination with the first month the member was responsible for payment of the public employees retirement system group health insurance.

The date of eligibility for the retiree health insurance credit will be determined:

1. For a deceased, active member's surviving spouse, when the application for retirement benefits is received.

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2. For a deceased retiree's surviving spouse, eligibility for the retiree health insurance credit is applied the first of the month following the member's date of death.

NDPERS therefore respectfully requests the Administrative Rules Committee consider repealing these rules pursuant to N.D.C.C. § 28-32-18.1 at its regularly scheduled meeting on December 7, 2015. Once this agenda item is confirmed, NDPERS will proceed to provide notice to the regulated community of the time and place of the meeting. Please let me know if you have any questions or if you would like NDPERS to submit additional information relating to this request. Thank you in advance for your assistance in this matter.

Sincerely,



Janylyn K. Murtha
Assistant Attorney General

cc: Vonette J. Richter, Assistant Code Revisor
J. Sparb Collings, Executive Director, NDPERS