

NDPERS Proposed Legislation for 2013 Session

Bill No 100. PERS Administrative Bill

Section 1	<i>Updates the federal compliance provisions for the Highway Patrol plan</i>
Section 2	<i>Updates the name for the Committee in the Highway Patrol plan</i>
Section 3	<i>Allows the Board to utilize provider fees to fund the administration of the deferred comp program.</i>
Section 4, 3, c (1)	<i>This change is proposed to allow a member with 3 years to be vested and not to require 3 consecutive years/immediately proceeding thereby making it the same as our other plans</i>
Section 4, 8	<p><i>We are proposing to eliminate the level social security option for several reasons:</i></p> <ol style="list-style-type: none"> <i>1. Social Security no longer will provide the benefit estimate that we relied upon to do the adjustment</i> <i>2. Less than 5% of the members that retiree select this option</i> <i>3. Even though we counsel members carefully on this benefit, they are still surprised when their benefit is reduced in the future – so this option remains confusing.</i> <i>4. The addition of the 20 year term certain option provides another alternative for members</i>
Section 5	<i>Updates the Committee name in the PERS retirement statute</i>
Section 6	<i>Updates the PERS retirement plan federal compliance provision</i>
Section 7	<i>Allows the Board to pay a third party payor from the funds received from the flex program operations</i>
Section 8 Section 8, 3	<p><i>Establishes the payment procedure for a DC plan account balance if the member passes away</i></p> <p><i>The change is to make the DC Plan consistent with the DB plan related to designating individuals in addition to the spouse. Currently, the DC plan would allow a periodic payment option with the full RHIC to a surviving spouse even if a portion of the member's DC account was paid out to a non-spouse beneficiary. The DB plan only allows a spouse to receive a monthly benefit and RHIC benefit if they are the only designated beneficiary and select the lifetime benefit option.</i></p>
Section 9	<i>Establishes a federal compliance section in the DC plan</i>

NDPERs Proposed Legislation for 2013 Session

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Bill No 100: PERS Administrative Bill	
<p>SECTION 1. AMENDMENT. Section 39-03.1-11.2 of the North Dakota Century Code is amended and reenacted as follows:</p> <p>39-03.1-11.2. Internal Revenue Code compliance.</p> <p>The board shall administer the plan in compliance with the following sections of the Internal Revenue Code in effect on August 1, 2014 2013, as it applies for governmental plans.</p> <ol style="list-style-type: none"> 1. Section 415, including the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. <ol style="list-style-type: none"> a. The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as approved by the legislative assembly, must be adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session. The adjustment of the defined benefit dollar limitation under section 415(d) applies to participating members who have had a separation from employment, but that member's benefit payments may not reflect the adjusted limit prior to January first of the calendar year in which the adjustment applies. b. If a participating member's benefit is increased by plan amendment after the commencement of benefit payments, the member's annual benefit may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as adjusted under section 415(d) for the calendar year in which the increased benefit is payable. c. If a participating member is, or ever has been, a participant in another defined benefit plan maintained by the employer, the sum of the participant's annual benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. This reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan. 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. A 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. 3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B). 4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee. 5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded. 	<p><i>Updates the federal compliance provisions for the Highway Patrol plan</i></p>

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<p>SECTION 2. AMENDMENT. Section 39-03.1-29 of the North Dakota Century Code is amended and reenacted as follows:</p> <p>39-03.1-29. Savings clause - Plan modifications.</p> <p>If the board determines that any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules, subject to the approval of the <u>employee benefits programs</u> committee on public employees retirement programs. Any plan modifications made by the board pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.</p>	<p><i>Updates the name for the Committee in the Highway Patrol plan</i></p>
<p>SECTION 3. AMENDMENT. Subsection 11 of section 54-52-04 of the North Dakota Century Code is amended and reenacted as follows:</p> <p>54-52-04. Board authority.</p> <ol style="list-style-type: none"> 1. The board shall adopt rules necessary to implement this chapter, and to manage the system, subject to the limitations of this chapter. The board has the powers and privileges of a corporation, including the right to sue and be sued in its own name as the board. The venue of all actions in which the board is a party must be Burleigh County, North Dakota. 2. The board shall appoint an executive director to serve at its discretion. The executive director shall perform such duties as assigned by the board. 3. The board shall authorize the creation of whatever staff it deems necessary for sound and economical administration of the system. The executive director shall hire the staff, subject to the approval of the board. 4. The board shall arrange for actuarial and medical advisers for the system. The board shall cause a qualified, competent actuary to be retained on a consulting basis. The actuary shall make an annual valuation of the liabilities and reserves of the system and a determination of the contributions required by the system to discharge its liabilities and pay the administrative costs under this chapter, and to recommend to the board rates of employer and employee contributions required, based upon the entry age normal cost method, to maintain the system on an actuarial reserve basis; once every five years make a general investigation of the actuarial experience under the system including mortality, retirement, employment turnover, and other items required by the board, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation; and perform other duties as may be assigned by the board. 5. The state shall provide the board with the retirement systems office or offices to be used for the meetings of the board and for the general purposes of the administrative personnel. 6. The funds necessary for paying prior service and service benefits, consultant fees, and making withdrawal payments and refunds are hereby appropriated from the retirement fund for those purposes. The amount necessary to pay the consulting fees and insurance benefits related to the uniform group insurance program is hereby appropriated from the insurance premiums received by the board. 7. The board shall administer chapters 39-03.1, 54-52.1, and 54-52.2, and may administer other optional employee benefit programs, including a flexible benefits plan, an optional employee short-term disability plan, a long-term care plan, or other optional employee benefit programs as the board deems appropriate. The board shall also administer the retirement plan established in 1961 and frozen to new entrants in 1980 for employees of job service North Dakota under chapter 52-11. 8. The board shall annually report the investment performance of the fund and distribute a copy to each participant. 9. The board may distribute the employer contribution and applicable interest for any <u>employee</u> of any development foundation associated with a public institution of higher education in this state who may previously have been included in the <u>public employees retirement system</u> while employed by such foundation. Such employee is entitled to have that 	

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<p>employee's contribution and the contribution of the development foundation, with interest.</p> <p>10. The board may audit any books, papers, accounts, bills, vouchers, and other documents or property of any and all departments, boards, commissions, political subdivisions, financial institutions, contractors, health care organizations, and consultants relating to their participation in services provided to programs administered by the board.</p> <p>11. The board shall fund the administrative expenses of chapter 54-52.2 from funds collected under chapters 54-52, 54-52.1, and 54-52.3 and from fines <u>and fees</u> collected from deferred compensation services providers <u>including any fees paid for by participant funds</u>, subject to appropriation by the legislative assembly.</p> <p>12. Except as provided by section 54-52-17.7, the board may adjust service and make any correction of member, retiree, or beneficiary records and benefits after an error or inequity has been determined.</p> <p>13. The board may use any amount credited to the separate uniform group insurance program fund created by section 54-52.1-06 in excess of the costs of administration of the uniform group insurance program to reduce the amount of premium amounts paid monthly by enrolled members of the uniform group insurance program, to reduce any increase in premium amounts paid monthly by enrolled members, or to provide increased insurance coverage to the members, as the board may determine.</p> <p>14. The board may create and implement an Internal Revenue Code section 115 trust health care savings plan for all supreme and district court judges participating in the public employees retirement system if seventy-five percent of the total active participating supreme and district court judges vote to approve the program. If approved, the contribution level specified in the vote applies to all current and future participating supreme and district court judges and must be paid pursuant to the plan document developed by the board. The contribution level may only be changed by a vote of seventy-five percent of the total active participating supreme and district court judges at that time.</p>	<p><i>Allows the Board to utilize provider fees to fund the administration of the deferred comp program.</i></p>
<p>SECTION 4. AMENDMENT. Section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:</p> <p>54-52-17. Formulation of plan.</p> <p>Participating members shall receive benefits according to this section and according to rules adopted by the board, not inconsistent with this chapter. No person is entitled to receive a prior service benefit if the person was not continuously employed by a governmental unit in North Dakota for a period of not less than two years immediately prior to eligibility for retirement.</p> <p>1. Participating members shall receive credit for full-time employment or its equivalent from the date they attain eligibility until their normal retirement date, postponed retirement date, or early retirement date, as defined in this section. Part-time employment will be recognized as full-time employment on a prorated basis as the board may prescribe.</p> <p>2. Retirement benefits are calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment. For members who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred eighty months of employment. For members who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the board has appropriate and accurate salary records on its electronic database, but that period may not be more than the last one hundred eighty months of employment. Months not employed are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the participating member has worked for less than thirty-six months at the normal retirement date, the final average salary is the average salary for the total months of employment.</p> <p>3. Retirement dates are defined as follows:</p> <p>a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is:</p> <p>(1) The first day of the month next following the month in which the member attains the age of sixty-five years; or</p>	

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- (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- b. Normal retirement date for a national guard security officer or firefighter is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three ~~consecutive~~ eligible years of employment as a national guard security officer or firefighter ~~immediately preceding retirement~~.
- c. Normal retirement date for a peace officer or correctional officer employed by a political subdivision is:
- (1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three ~~consecutive~~ eligible years of employment as a peace officer or correctional officer; or
- (2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- d. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:
- (1) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three ~~consecutive~~ eligible years of employment as a peace officer ~~immediately preceding retirement~~; or
- (2) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- e. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.
- f. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, early retirement date is the first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.
- g. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the board, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the board or as provided by subdivision a of subsection 3 of section 27-23-03. A member is eligible to receive disability retirement benefits only if the member:
- (1) Became disabled during the period of eligible employment; and
- (2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.
- A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. If the board determines that a member no longer meets the eligibility definition, the board may discontinue the disability retirement benefit. The board may pay the cost of any medical testing or rehabilitation services it deems necessary and these payments are appropriated from the retirement fund for those purposes.

This change is proposed to allow a member with 3 years to be vested and not to require 3 consecutive years/immediately proceeding thereby making it the same as our other plans

4. The board shall calculate retirement benefits as follows:

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- a. Normal retirement benefits for all retirees, except supreme and district court judges, reaching normal retirement date equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:
 - (1) Service benefit equals two percent of final average salary multiplied by the number of years of service employment.
 - (2) Prior service benefit equals two percent of final average salary multiplied by the number of years of prior service employment.
 - b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date equal an annual amount, payable monthly, comprised of a benefit as defined in this chapter, determined as follows:
 - (1) Benefits must be calculated from the time of appointment or election to the bench and must equal three and one-half percent of final average salary multiplied by the first ten years of judicial service, two and eighty hundredths percent of final average salary multiplied by the second ten years of judicial service, and one and one-fourth percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.
 - (2) Service benefits must include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
 - c. Postponed retirement benefits are calculated as for single life benefits for those members who retired on or after July 1, 1977.
 - d. Early retirement benefits are calculated as for single life benefits accrued to the date of termination of employment, but must be actuarially reduced to account for benefit payments beginning prior to the normal retirement date, which is the earlier of age sixty-five or the age at which current service plus age equals eighty-five. A retiree, other than a supreme or district court judge, is eligible for early retirement benefits only after having completed three years of eligible employment. A supreme or district court judge retiree is eligible for early retirement benefits only after having completed five years of eligible employment.
 - e. Except for supreme and district court judges, disability retirement benefits are twenty-five percent of the member's final average salary. Disability retirement benefits for supreme and district court judges are seventy percent of final average salary reduced by the member's primary social security benefits and by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.
5. Upon termination of employment after completing three years of eligible employment, except for supreme and district court judges, who must complete five years of eligible employment, but before normal retirement date, a member who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits payable commencing on the member's normal retirement date in one of the optional forms provided in subsection 9. Members who have delayed or inadvertently failed to apply for retirement benefits to commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments.
6. If before retiring a member dies after completing three years of eligible employment, except for supreme and district court judges, who must have completed five years of eligible employment, the board shall pay the member's account balance to the member's designated beneficiary as provided in this subsection. If the member has designated an alternate beneficiary with the surviving spouse's written consent, the board shall pay the member's account balance to the named beneficiary. If the member has named more than one primary beneficiary, the board shall pay the member's account balance to the named primary beneficiaries in the percentages designated by the member or, if the member has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the member, the board shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary

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survives the member, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the member. If there are no remaining primary beneficiaries, the board shall pay the member's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the board shall pay the member's account balance to the member's estate. If the member has not designated an alternate beneficiary or the surviving spouse is the beneficiary, the surviving spouse of the member may select a form of payment as follows:

- a. If the member was a supreme or district court judge, the surviving spouse may select one of the following optional forms of payment:
 - (1) A lump sum payment of the member's retirement account as of the date of death.
 - (2) Payments as calculated for the deceased member as if the member was of normal retirement age at the date of death, payable until the spouse dies.
 - b. The surviving spouse of all other members may select one of the following options:
 - (1) A lump sum payment of the member's retirement account as of the date of death.
 - (2) Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.
 - (3) If the member dies on or after the member's normal retirement date, the payment of a monthly retirement benefit equal to an amount that would have been paid to the surviving spouse if the member had retired on the day of the member's death and had selected a one hundred percent joint and survivor annuity, payable until the spouse dies. A surviving spouse who received a benefit under this subsection as of July 31, 1995, is entitled to the higher of that person's existing benefit or the equivalent of the accrued benefit available under the one hundred percent joint and survivor provision as if the deceased member were of normal retirement age, with the increase payable beginning August 1, 1995.
7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. The board automatically shall refund a member's account balance if the member has completed less than three years of eligible employment, has an account balance of less than one thousand dollars, and was not a supreme or district court judge. If the member was a supreme or district court judge, the board automatically shall refund a member's account balance if the member completed less than five years of eligible employment. A member may waive the refund if the member submits a written statement to the board, within thirty days after termination, requesting that the member's account balance remain in the fund.
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.
9. The board shall adopt rules providing for the receipt of retirement benefits in the following optional forms:
- a. Single life.
 - b. An actuarially equivalent joint and survivor option, with fifty percent or one hundred percent options.
 - c. ~~An actuarially equivalent level social security option, which is available only to members who retire prior to attaining the age at which they may begin to receive unreduced social security benefits.~~
 - d. Actuarially equivalent life with ten-year or twenty-year certain options.
 - e. d. An actuarially equivalent partial lump sum distribution option with a twelve-month maximum lump sum distribution.
 - f. e. An actuarially equivalent graduated benefit option with either a one percent or two percent increase to be applied the first day of January of each year.

Except for supreme and district court judges, unless a member specifically requests that the member receive benefits

We are proposing to eliminate the level social security option for several reasons:

1. *Social Security no longer will provide the benefit estimate that we relied upon to do the*

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- according to one of these options at the time of applying for retirement, all retirement benefits must be in the form of a single life benefit. For supreme and district court judges, unless a member specifically requests that the member receive benefits according to one of these options at the time of applying for retirement, all retirement benefits must be in the form of a lifetime monthly pension with fifty percent of the benefit continuing for the life of the surviving spouse, if any.
10. The fund may accept rollovers from other eligible plans under rules adopted by the board for the purchase of additional service credit, but only to the extent the transfer is a rollover contribution that meets the requirement of section 408 of the Internal Revenue Code.
 11. The board may accept trustee-to-trustee transfers as permitted by Internal Revenue Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue Code section 403(b) annuity or Internal Revenue Code section 457 deferred compensation plan for the purchase of permissive service credit, as defined in Internal Revenue Code section 415(n)(3)(A) or as repayment of a cashout from a governmental plan under Internal Revenue Code section 415(k)(3).
 12. The board may establish individual retirement accounts and individual retirement annuities as permitted under section 408(q) of the Internal Revenue Code to allow employees to make voluntary employee contributions. The board may adopt rules to implement and administer the accounts and annuities under this section.

- adjustment*
2. *Less than 5% of the members that retiree select this option*
 3. *Even though we counsel members carefully on this benefit, they are still surprised when their benefit is reduced in the future – so this option remains confusing.*
 4. *The addition of the 20 year term certain option provides another alternative for members*

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SECTION 5. AMENDMENT. Section 54-52-23 of the North Dakota Century Code is amended and reenacted as follows:

54-52-23. Savings clause - Plan modifications.

If the board determines that any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules, subject to the approval of the employee benefits programs committee ~~on public employees retirement programs~~. Any plan modifications made by the board pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

Updates the Committee name in the PERS retirement statute

SECTION 6. AMENDMENT. Section 54-52-28 of the North Dakota Century Code is amended and reenacted as follows:

54-52-28. Internal Revenue Code compliance.

The board shall administer the plan in compliance with the following sections of the Internal Revenue Code in effect on August 1, 2014 ~~2013~~, as it applies for governmental plans.

1. Section 415, including the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code.
 - a. The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as approved by the legislative assembly, must be adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session. The adjustment of the defined benefit dollar limitation under section 415(d) applies to participating members who have had a separation from employment, but that member's benefit payments may not reflect the adjusted limit prior to January first of the calendar year in which the adjustment applies.
 - b. If a participating member's benefit is increased by plan amendment after the commencement of benefit payments, the member's annual benefit may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as adjusted under section 415(d) for the calendar year in which the increased benefit is payable.
 - c. If a participating member is, or ever has been, a participant in another defined benefit plan maintained by the employer, the sum of the participant's annual benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. The reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.
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. A 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.
3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

Updates the PERS retirement plan federal compliance provision

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SECTION 7. AMENDMENT. Section 54-52.3-03 of the North Dakota Century is amended and reenacted as follows:

54-52.3-03. Employer savings used to defray expenses of administering program - Continuing appropriation.

The office of management and budget shall transfer funds from the savings accruing to the agencies' salaries and wages line item, as a result of the diminution of the state's employer contribution for the Federal Insurance Contribution Act tax, to a payroll clearing account. The office of management and budget shall transfer funds from the payroll clearing account to the board as necessary to defray the reasonable expenses of administering the pretax benefits program established under this chapter, including expenses associated with the program's medical spending account. Any revenue collected by the board from participating district health units must be used, and is hereby appropriated, to defray the expenses of administering the program. The amount necessary to pay consultants retained by the board, vendors retained by the board to provide claims administration services, any insurance costs associated with the medical spending account, and medical reimbursements for the medical spending account if funds are insufficient to pay claims are hereby appropriated from the savings and revenue generated by the program. All other expenses of administering the program must be paid in accordance with the agency's appropriation authority as established by the legislative assembly. The director of the office of management and budget may decrease or suspend the transfer of the savings accruing to the agencies' salaries and wages line item to the payroll clearing account upon determination that the funds deposited under this section are sufficient to offset anticipated obligations. Notwithstanding other provisions in this section, the public employees retirement system board, or any successor state agency, may not establish, enroll, or administer any pretax benefits program for a political subdivision or any other public or private business or entity, except for any program established specifically for employees of the state and employees of district health units.

Allows the Board to pay a third party payor from the funds received from the flex program operations

SECTION 8. AMENDMENT. Section 54-52.6-13 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-13. Distributions.

1. A participating member is eligible to receive distribution of that person's accumulated balance in the plan upon becoming a former participating member.
2. Upon the death of a participating member or former participating member, the board shall pay the accumulated account balance of that deceased participant is considered to belong to the deceased participant's refund beneficiary, if any, of that deceased participant as provided in this subsection. If a valid nomination of the deceased participant designated an alternative refund beneficiary is not on file with the surviving spouses written consent, the board, the board, in a lump sum distribution, shall distribute the accumulated balance to a legal representative, if any, of the named beneficiary. If the deceased participant named more than one primary beneficiary with the surviving spouses written consent, the board shall pay the accumulated account balance to the named primary beneficiaries in the percentages designated by the deceased participant or, if the deceased participant had not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the deceased participant, the board shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the deceased participant, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the deceased participant. If there is are no legal representative remaining primary beneficiaries, to the board shall pay the accumulated account balance of that deceased participant to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the board shall pay the accumulated account balance of that deceased participant to the deceased participant's estate. If the deceased participant had not designated an alternate refund beneficiary or the surviving spouse is the refund beneficiary, the surviving spouse of the deceased participant may select a form of payment as provided in subsection 3(d).
3. A former participating member may elect one or a combination of several of the following methods of distribution of the accumulated balance:

Establishes the payment procedure for a DC plan account balance if the member passes away

The change is to make the DC Plan consistent

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Explanation

- a. A lump sum distribution to the recipient.
 - b. A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.
 - c. Periodic distributions, as authorized by the board.
 - d. No current distribution, in which case the accumulated balance must remain in the plan until the former participating member or refund beneficiary elects a method or methods of distribution under this section, to the extent allowed by federal law. A surviving spouse beneficiary may elect one or a combination of several of the methods of distribution provided in subdivisions a, b, or c if the surviving spouse is the sole refund beneficiary. A ~~If the surviving spouse is not the sole refund beneficiary who is not the surviving spouse, the refund beneficiary~~ may only choose a lump sum distribution of the accumulated balance.
4. If the former participating member's vested account balance is less than one thousand dollars, the board shall automatically refund the member's vested account balance upon termination of employment. The member may waive the refund if the member submits a written statement to the board, within one hundred twenty days after termination, requesting that the member's vested account balance remain in the plan.

with the DB plan related to designating individuals in addition to the spouse. Currently, the DC plan would allow a periodic payment option with the full RHIC to a surviving spouse even if a portion of the member's DC account was paid out to a non-spouse beneficiary. The DB plan only allows a spouse to receive a monthly benefit and RHIC benefit if they are the only designated beneficiary and select the lifetime benefit option.

SECTION 9. A new section to chapter 54-52.6 of the North Dakota Century Code is created and enacted as follows:
Internal Revenue Code compliance. The board shall administer the plan in compliance with the following sections of the Internal Revenue Code in effect on August 1, 2013, as it applies for governmental plans.

1. Section 415, including the defined contribution limitations under section 415(c)(1)(A) and (B) of the Internal Revenue Code and the Treasury Regulations thereunder, which are incorporated herein by reference.
 - a. In accordance with the defined contribution limitations under section 415(c) of the Internal Revenue Code, in no event shall annual additions (as defined in section 415(c)(2) of the Internal Revenue Code) under this plan exceed the limitations set forth in section 415(c)(1)(A) and (B), as adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session.
 - b. If a participating member's aggregate annual additions exceed the defined contribution limitations under section 415(c) of the Internal Revenue Code, the member's annual additions shall be reduced to the extent necessary to comply with section 415(c) of the Internal Revenue Code and the Treasury Regulations thereunder.
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. A 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.

Establishes a federal compliance section in the DC plan

Proposed Legislation

Explanation

3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.