

10059.0200

Sixty-second
Legislative Assembly
of North Dakota

Introduced by

(At the request of the Public Employees Retirement System Board)

1 A BILL for an Act to amend and reenact section 15-10-17, subsection 6 of section 39-03.1-11,
2 sections 39-03.1-11.2, 39-03.1-14.1, and 54-52-03, subsections 3 and 6 of section 54-52-17,
3 sections 54-52-27 and 54-52-28, subsection 3 of section 54-52.1-03, and subsection 3 of
4 section 54-52.6-09 of the North Dakota Century Code, relating to special annuity purchases in
5 the alternate retirement program for university system employees, surviving spouse payment
6 options under the highway patrolmen's retirement plan, calculation of member service credit
7 under the highway patrolmen's retirement plan, election of members to the public employees
8 retirement system board, calculation of normal retirement date for peace officers and
9 correctional officers under the public employees retirement system, payment of member
10 account balances under the public employees retirement system, purchase of sick leave credit
11 under the public employees retirement system, spousal elections to participate in the uniform
12 group insurance program, reporting of employer pickups under the defined contribution
13 retirement plan, and Internal Revenue Code compliance under the highway patrolmen's
14 retirement plan and the public employees retirement system.

15 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

16 **SECTION 1. AMENDMENT.** Section 15-10-17 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **15-10-17. Specific powers and duties of the state board of higher education.** The
19 state board of higher education has all the powers and shall perform all the duties necessary to
20 the control and management of the institutions described in this chapter. In addition to the
21 powers and duties specified in section 6 of article VIII of the Constitution of North Dakota, the
22 board may:

23 1. a. Appoint and remove the president or other faculty head, and the professors,
24 instructors, teachers, officers, and other employees of the several institutions

- 1 under its control, and to fix their salaries within the limits of legislative
2 appropriations therefor, and to fix the terms of office and to prescribe the
3 duties thereof, provided that the consideration of the appointment or removal
4 of any such personnel shall be in executive session if the board chooses
5 unless the individual involved requests that the meeting be open to other
6 individuals or to the public.
- 7 b. Appoint and remove the commissioner of higher education, fix the
8 commissioner's salary within the limits of legislative appropriations, and
9 prescribe the commissioner's duties.
- 10 c. Appoint and remove all university system office personnel, fix their salaries
11 within the limits of legislative appropriations, fix their terms of office, and
12 prescribe their duties.
- 13 2. Authorize the employment of law enforcement officers having concurrent
14 jurisdiction with other law enforcement officers to enforce laws and regulations at
15 its institutions.
- 16 3. Set tuition and fees.
- 17 4. a. Establish a retirement program as an alternative to chapter 15-39.1 for
18 university system employees subject to the following guidelines:
- 19 (1) Benefits under the program must be provided through annuity contracts
20 purchased by the board but which become the property of the
21 participants;
- 22 (2) The cost of the annuity contracts must be defrayed by contributions
23 made pursuant to rules of the state board of higher education;
- 24 (3) Eligible employees appointed before July 1, 1973, shall participate in
25 the alternate retirement program only by their individual election. When
26 the electing eligible employee is a member of the teachers' fund for
27 retirement, the employee's assessments and employer's contributions
28 together with interest credited at the current rate for one-year
29 certificates then being paid by the Bank of North Dakota must be
30 transferred to the employee's account in the alternate program. The
31 election must be made before July 1, 1980, and shall relinquish all

- 1 rights the eligible employee or the employee's beneficiary may have to
2 benefits provided in chapters 15-39 and 15-39.2; and
- 3 (4) Employees of the university system who are members of the public
4 employees retirement system under chapter 54-52 or 54-52.6 and who
5 become entitled to participate in the alternate retirement program are
6 entitled to a special annuity purchase in the alternate retirement
7 program in accordance with this subdivision. An eligible employee who
8 consents to have that employee's contribution included is entitled to
9 have that employee's contribution and employer's contribution, with
10 interest, in the public employees retirement system fund, used by the
11 retirement board of the public employees retirement system to
12 purchase for that employee an annuity in the alternate retirement
13 program in lieu of any other rights under the public employees
14 retirement fund. However, before the employer's contribution may be
15 used for an annuity purchase, the employee's combined years of
16 service with the public employees retirement system and the alternate
17 retirement program must equal or exceed the years of service
18 necessary to be eligible for retirement benefits under the public
19 employees retirement system. An employee who transferred from the
20 public employees retirement system before March 30, 1987, and who
21 received a refund of that employee's contribution is entitled to have the
22 employer's contribution, with interest, used to purchase an annuity even
23 if that employee did not purchase an annuity in the alternate employee
24 program with the employee's contribution. If an employee makes the
25 election allowed under this subdivision, that employee relinquishes all
26 rights the employee or any of the employee's beneficiaries may have
27 had to benefits provided under ~~chapter~~ chapters 54-52 and 54-52.6.
- 28 b. Provide for the administration of the alternate retirement program and
29 establish rules for the program consistent with this subsection. This
30 subsection does not derogate any existing retirement programs approved by
31 the board.

- 1 5. Determine policy for purchasing by the university system in coordination with the
2 office of management and budget as provided by law.
- 3 6. Establish by rule an early retirement program for faculty and officers of the board
4 as defined by the board. The limitations on severance pay pursuant to section
5 54-14-04.3 and on requiring the employee to pay contributions to continue on the
6 state uniform group insurance program upon retirement or upon termination of
7 employment pursuant to section 54-52.1-03 do not apply to the early retirement
8 program.
- 9 7. Adopt rules to protect the confidentiality of student records, medical records, and,
10 consistent with section 44-04-18.4, trade secret, proprietary, commercial, and
11 financial information.
- 12 8. Authorize and encourage university system entities to enter into partnerships,
13 limited liability companies, joint ventures, or other contractual arrangements with
14 private business and industry for the purpose of business or industrial development
15 or fostering basic and applied research or technology transfer.
- 16 9. Adopt rules promoting research, encouraging development of intellectual property
17 and other inventions and discoveries by university system employees, and
18 protecting and marketing the inventions and discoveries. The rules must govern
19 ownership or transfer of ownership rights and distribution of income that may be
20 derived from an invention or discovery resulting from research or employment in
21 the university system. The rules may provide for transfer of ownership rights or
22 distribution of income to a private, nonprofit entity created for the support of the
23 university system or one of its institutions.

24 **SECTION 2. AMENDMENT.** Subsection 6 of section 39-03.1-11 of the North Dakota
25 Century Code is amended and reenacted as follows:

- 26 6. If before retiring a contributor dies after completing ten years of eligible
27 employment, the board shall pay the contributor's accumulated deductions to the
28 contributor's designated beneficiary as provided in this subsection. If the
29 contributor has designated an alternate beneficiary with the surviving spouse's
30 written consent, the board shall pay the contributor's account balance to the named
31 beneficiary. If the contributor has named more than one primary beneficiary, the

1 board shall pay the contributor's account balance to the named primary
2 beneficiaries in the percentages designated by the contributor or, if the contributor
3 has not designated a percentage for the beneficiaries, in equal percentages. If one
4 or more of the primary beneficiaries has predeceased the contributor, the board
5 shall pay the predeceased beneficiary's share to the remaining primary
6 beneficiaries. If there are no remaining primary beneficiaries, the board shall pay
7 the contributor's account balance to the contingent beneficiaries in the same
8 manner. If there are no remaining designated beneficiaries, the board shall pay
9 the contributor's account balance to the contributor's estate. If the contributor has
10 not designated an alternate beneficiary under this section or the surviving spouse
11 is the beneficiary, the surviving spouse of the contributor may select one of the
12 following optional forms of payment:

- 13 a. A lump sum payment of the contributor's accumulated deductions as of the
14 date of death.
- 15 b. ~~Payments for sixty months as calculated for the deceased contributor as if the~~
16 ~~contributor were age fifty five at the date of death.~~
- 17 e. Payment of a monthly retirement benefit equal to fifty percent of the deceased
18 contributor's accrued normal retirement benefits until the spouse dies.

19 **SECTION 3. AMENDMENT.** Section 39-03.1-11.2 of the North Dakota Century Code
20 is amended and reenacted as follows:

21 **39-03.1-11.2. Internal Revenue Code compliance.**

22 4. The board shall administer the plan in compliance with ~~section 415, section~~
23 ~~401(a)(9), section 401(a)(17), and section 401(a)(31)~~ the following sections of the
24 Internal Revenue Code in effect on August 1, ~~2009~~ 2011, as it applies for
25 governmental plans.

26 2- 1. Section 415, including the defined benefit dollar limitation under section
27 415(b)(1)(A) of the Internal Revenue Code.

28 a. The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal
29 Revenue Code, as approved by the legislative assembly, must be adjusted
30 under section 415(d) of the Internal Revenue Code, effective January first of
31 each year following a regular legislative session. The adjustment of the

1 defined benefit dollar limitation under section 415(d) applies to participating
2 members who have had a separation from employment, but that member's
3 benefit payments may not reflect the adjusted limit prior to January first of the
4 calendar year in which the adjustment applies.

5 ~~3.~~ b. If a participating member's benefit is increased by plan amendment after the
6 commencement of benefit payments, the member's annual benefit may not
7 exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the
8 Internal Revenue Code, as adjusted under section 415(d) for the calendar
9 year in which the increased benefit is payable.

10 ~~4.~~ c. If a participating member is, or ever has been, a participant in another defined
11 benefit plan maintained by the employer, the sum of the participant's annual
12 benefits from all the plans may not exceed the defined benefit dollar limitation
13 under section 415(b)(1)(A) of the Internal Revenue Code. If the participating
14 member's employer-provided benefits under all such defined benefit plans
15 would exceed the defined benefit dollar limitation, the benefit must be reduced
16 to comply with section 415 of the Internal Revenue Code. This reduction
17 must be made pro rata between the plans, in proportion to the participating
18 member's service in each plan.

19 2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue
20 Code, including the incidental death benefit requirements under section
21 401(a)(9)(G), and the regulations issued under that provision to the extent
22 applicable to governmental plans. Accordingly, benefits must be distributed or
23 begin to be distributed no later than a member's required beginning date, and the
24 required minimum distribution rules override any inconsistent provision of this
25 chapter. A member's required beginning date is April first of the calendar year
26 following the later of the calendar year in which the member attains age seventy
27 and one-half or terminates employment.

28 3. The annual compensation limitation under section 401(a)(17) of the Internal
29 Revenue Code, as adjusted for cost-of-living increases under section
30 401(a)(17)(B).

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

10 **SECTION 4. AMENDMENT.** Section 39-03.1-14.1 of the North Dakota Century Code
11 is amended and reenacted as follows:

12 **39-03.1-14.1. Multiple plan membership - Eligibility for benefits - Amount of**
13 **benefits.**

- 14 1. For the purpose of determining eligibility for benefits under this chapter, a
15 member's years of service is the total of the years of service earned under this
16 chapter and the years of service employment or years of service credit earned in
17 any number of the following, the total of which may not exceed twelve months of
18 credit per year:
- 19 a. The public employees retirement system.
 - 20 b. The teachers' fund for retirement.
 - 21 c. The teachers' insurance and annuity association of America - college
22 retirement equities fund (TIAA-CREF), for service credit earned while
23 employed by North Dakota institutions of higher education.
- 24 2. If a member terminates eligible employment under this chapter, if that member has
25 not received a refund of the member's accumulated deductions, and if that member
26 begins eligible employment in a plan described in subdivision a or b of
27 subsection 1, that member may elect to remain an inactive member of the system
28 without refund of the member's accumulated deductions. The election must be
29 made within ninety days after beginning the eligible employment. The board shall
30 terminate the inactive status of a member under this subsection if the member

- 1 gains eligible employment under this chapter or if the member terminates eligible
2 employment under a plan described in subdivision a or b of subsection 1.
- 3 3. Pursuant to rules adopted by the board, a member who has service credit in the
4 system and in any of the alternate plans described in subdivision a or b of
5 subsection 1 is entitled to benefits under this chapter. The employee may elect to
6 have benefits calculated using the benefit formula in section 39-03.1-11 under
7 either of the following calculation methods:
- 8 a. By using the average of the highest salary received by the member for any
9 ~~consecutive~~ thirty-six months employed during the last one hundred twenty
10 months of employment in the highway patrolmen's retirement system. If the
11 participating member has worked for less than thirty-six months at retirement,
12 the final average salary is the average salary for the total months of
13 employment.
- 14 b. Using the average of the highest salary received by the member for any
15 thirty-six ~~consecutive~~ months during the last one hundred twenty months of
16 employment, with service credit not to exceed one month in any month when
17 combined with the service credit earned in the alternate retirement system.
- 18 The board shall calculate benefits for an employee under this subsection by using
19 only those years of service employment earned under this chapter.

20 **SECTION 5. AMENDMENT.** Section 54-52-03 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **54-52-03. Governing authority.** A state agency is hereby created to constitute the
23 governing authority of the system to consist of a board of seven persons known as the
24 retirement board. No more than one elected member of the board may be in the employ of a
25 single department, institution, or agency of the state or in the employ of a political subdivision.
26 No employee of the public employees retirement system or the state retirement and investment
27 office may serve on the board.

- 28 1. One member of the board must be appointed by the governor to serve a term of
29 five years. The appointee must be a North Dakota citizen who is not a state or
30 political subdivision employee and who by experience is familiar with money
31 management. The citizen member is chairman of the board.

- 1 2. One member of the board must be appointed by the attorney general from the
2 attorney general's legal staff and shall serve a term of five years.
- 3 3. The state health officer appointed under section 23-01-05 is a member of the
4 board.
- 5 4. Three board members must be elected by and from among the active participating
6 members, members of the retirement plan established under chapter 54-52.6,
7 members of the retirement plan established under chapter 39-03.1, and members
8 of the job service North Dakota retirement plan. Employees who have terminated
9 their employment for whatever reason are not eligible to serve as elected members
10 of the board under this subsection. Board members must be elected to a five-year
11 term pursuant to an election called by the board. Notice of board elections must be
12 given to all active participating members. The time spent in performing duties as a
13 board member may not be charged against any employee's accumulated annual or
14 any other type of leave.
- 15 5. One board member must be elected by and from among those persons who are
16 receiving retirement benefits ~~or who are eligible to receive deferred vested~~
17 retirement benefits under this chapter. The board shall call the election and must
18 give prior notice of the election to the persons eligible to participate in the election
19 pursuant to this subsection. The board member shall serve a term of five years.
- 20 6. The members of the board are entitled to receive sixty-two dollars and fifty cents
21 per day compensation and necessary mileage and travel expenses as provided in
22 sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance
23 due the chairman or a member, plus an allowance for expenses they may incur
24 through service on the board.
- 25 7. A board member shall serve a five-year term and until the board member's
26 successor qualifies. Each board member is entitled to one vote, and four of the
27 seven board members constitute a quorum. Four votes are necessary for
28 resolution or action by the board at any meeting.

29 **SECTION 6. AMENDMENT.** Subsections 3 and 6 of section 54-52-17 of the North
30 Dakota Century Code are amended and reenacted as follows:

- 31 3. Retirement dates are defined as follows:

- 1 a. Normal retirement date, except for a national guard security officer or
2 firefighter or a peace officer or correctional officer employed by the bureau of
3 criminal investigation or by a political subdivision, is:
- 4 (1) The first day of the month next following the month in which the
5 member attains the age of sixty-five years; or
- 6 (2) When the member has a combined total of years of service credit and
7 years of age equal to eighty-five and has not received a retirement
8 benefit under this chapter.
- 9 b. Normal retirement date for a national guard security officer or firefighter is the
10 first day of the month next following the month in which the national guard
11 security officer or firefighter attains the age of fifty-five years and has
12 completed at least three consecutive years of employment as a national guard
13 security officer or firefighter immediately preceding retirement.
- 14 c. Normal retirement date for a peace officer or correctional officer employed by
15 a political subdivision is:
- 16 (1) The first day of the month next following the month in which the peace
17 officer or correctional officer attains the age of fifty-five years and has
18 completed at least three consecutive years of employment as a peace
19 officer or correctional officer ~~immediately preceding retirement~~; or
- 20 (2) When the peace officer or correctional officer has a combined total of
21 years of service credit and years of age equal to eighty-five and has not
22 received a retirement benefit under this chapter.
- 23 d. Normal retirement date for a peace officer employed by the bureau of criminal
24 investigation is:
- 25 (1) The first day of the month next following the month in which the peace
26 officer attains the age of fifty-five years and has completed at least
27 three consecutive years of employment as a peace officer immediately
28 preceding retirement; or
- 29 (2) When the peace officer has a combined total of years of service credit
30 and years of age equal to eighty-five and has not received a retirement
31 benefit under this chapter.

- 1 e. Postponed retirement date is the first day of the month next following the
2 month in which the member, on or after July 1, 1977, actually severs or has
3 severed the member's employment after reaching the normal retirement date.
- 4 f. Early retirement date, except for a national guard security officer or firefighter
5 or a peace officer or correctional officer employed by the bureau of criminal
6 investigation or by a political subdivision, is the first day of the month next
7 following the month in which the member attains the age of fifty-five years and
8 has completed three years of eligible employment. For a national guard
9 security officer or firefighter, early retirement date is the first day of the month
10 next following the month in which the national guard security officer or
11 firefighter attains the age of fifty years and has completed at least three years
12 of eligible employment. For a peace officer or correctional officer employed
13 by the bureau of criminal investigation or by a political subdivision, early
14 retirement date is the first day of the month next following the month in which
15 the peace officer or correctional officer attains the age of fifty years and has
16 completed at least three years of eligible employment.
- 17 g. Disability retirement date is the first day of the month after a member
18 becomes permanently and totally disabled, according to medical evidence
19 called for under the rules of the board, and has completed at least one
20 hundred eighty days of eligible employment. For supreme and district court
21 judges, permanent and total disability is based solely on a judge's inability to
22 perform judicial duties arising out of physical or mental impairment, as
23 determined pursuant to rules adopted by the board or as provided by
24 subdivision a of subsection 3 of section 27-23-03. A member is eligible to
25 receive disability retirement benefits only if the member:
- 26 (1) Became disabled during the period of eligible employment; and
27 (2) Applies for disability retirement benefits within twelve months of the
28 date the member terminates employment.
- 29 A member is eligible to continue to receive disability benefits as long as the
30 permanent and total disability continues and the member submits the
31 necessary documentation and undergoes medical testing required by the

1 board, or for as long as the member participates in a rehabilitation program
2 required by the board, or both. If the board determines that a member no
3 longer meets the eligibility definition, the board may discontinue the disability
4 retirement benefit. The board may pay the cost of any medical testing or
5 rehabilitation services it deems necessary and these payments are
6 appropriated from the retirement fund for those purposes.

- 7 6. If before retiring a member dies after completing three years of eligible
8 employment, except for supreme and district court judges, who must have
9 completed five years of eligible employment, the board shall pay the member's
10 account balance to the member's designated beneficiary as provided in this
11 subsection. If the member has designated an alternate beneficiary with the
12 surviving spouse's written consent, the board shall pay the member's account
13 balance to the named beneficiary. If the member has named more than one
14 primary beneficiary, the board shall pay the member's account balance to the
15 named primary beneficiaries in the percentages designated by the member or, if
16 the member has not designated a percentage for the beneficiaries, in equal
17 percentages. If one or more of the primary beneficiaries has predeceased the
18 member, the board shall pay the predeceased beneficiary's share to the remaining
19 primary beneficiaries. If any beneficiary survives the member, yet dies before
20 distribution of the beneficiary's share, the beneficiary must be treated as if the
21 beneficiary predeceased the member. If there are no remaining primary
22 beneficiaries, the board shall pay the member's account balance to the contingent
23 beneficiaries in the same manner. If there are no remaining designated
24 beneficiaries, the board shall pay the member's account balance to the member's
25 estate. If the member has not designated an alternate beneficiary or the surviving
26 spouse is the beneficiary, the surviving spouse of the member may select a form of
27 payment as follows:
- 28 a. If the member was a supreme or district court judge, the surviving spouse
29 may select one of the following optional forms of payment:
- 30 (1) A lump sum payment of the member's retirement account as of the date
31 of death.

- 1 (2) Payments as calculated for the deceased member as if the member
2 was of normal retirement age at the date of death, payable until the
3 spouse dies.
- 4 b. The surviving spouse of all other members may select one of the following
5 options:
- 6 (1) A lump sum payment of the member's retirement account as of the date
7 of death.
- 8 (2) Payment of a monthly retirement benefit equal to fifty percent of the
9 deceased member's accrued single life retirement benefits until the
10 spouse dies.
- 11 (3) If the member dies on or after the member's normal retirement date, the
12 payment of a monthly retirement benefit equal to an amount that would
13 have been paid to the surviving spouse if the member had retired on
14 the day of the member's death and had selected a one hundred percent
15 joint and survivor annuity, payable until the spouse dies. A surviving
16 spouse who received a benefit under this subsection as of July 31,
17 1995, is entitled to the higher of that person's existing benefit or the
18 equivalent of the accrued benefit available under the one hundred
19 percent joint and survivor provision as if the deceased member were of
20 normal retirement age, with the increase payable beginning August 1,
21 1995.

22 **SECTION 7. AMENDMENT.** Section 54-52-27 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **54-52-27. Purchase of sick leave credit.** A member is entitled to credit in the
25 retirement system for each month of unused sick leave, as certified by the member's employer,
26 if the member or the member's employer pays an amount equal to the member's final average
27 salary, times the number of months of sick leave converted, times the percent of employer and
28 employee contributions to the retirement program of the member, plus the required contribution
29 for the retiree health benefits program. Hours of sick leave equal to a fraction of a month are
30 deemed to be a full month for purposes of conversion to service credit. A member may convert
31 all of the member's certified sick leave or a part of the member's certified sick leave. ~~All~~

1 ~~conversion payments must be made within sixty days of termination of employment and before~~
2 ~~the member receives a retirement annuity unless the member has submitted an approved~~
3 ~~payment plan to the board.~~

4 **SECTION 8. AMENDMENT.** Section 54-52-28 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **54-52-28. Internal Revenue Code compliance.**

7 ~~4.~~ The board shall administer the plan in compliance with ~~section 415, section~~
8 ~~401(a)(9), section 401(a)(17), and section 401(a)(31)~~ the following sections of the
9 Internal Revenue Code in effect on August 1, ~~2009~~ 2011, as it applies for
10 governmental plans.

11 ~~2.~~ 1. Section 415, including the defined benefit dollar limitation under section
12 415(b)(1)(A) of the Internal Revenue Code.

13 a. The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal
14 Revenue Code, as approved by the legislative assembly, must be adjusted
15 under section 415(d) of the Internal Revenue Code, effective January first of
16 each year following a regular legislative session. The adjustment of the
17 defined benefit dollar limitation under section 415(d) applies to participating
18 members who have had a separation from employment, but that member's
19 benefit payments may not reflect the adjusted limit prior to January first of the
20 calendar year in which the adjustment applies.

21 ~~3.~~ b. If a participating member's benefit is increased by plan amendment after the
22 commencement of benefit payments, the member's annual benefit may not
23 exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the
24 Internal Revenue Code, as adjusted under section 415(d) for the calendar
25 year in which the increased benefit is payable.

26 ~~4.~~ c. If a participating member is, or ever has been, a participant in another defined
27 benefit plan maintained by the employer, the sum of the participant's annual
28 benefits from all the plans may not exceed the defined benefit dollar limitation
29 under section 415(b)(1)(A) of the Internal Revenue Code. If the participating
30 member's employer-provided benefits under all such defined benefit plans
31 would exceed the defined benefit dollar limitation, the benefit must be reduced

1 to comply with section 415 of the Internal Revenue Code. The reduction must
2 be made pro rata between the plans, in proportion to the participating
3 member's service in each plan.

4 2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue
5 Code, including the incidental death benefit requirements under
6 section 401(a)(9)(G), and the regulations issued under that provision to the extent
7 applicable to governmental plans. Accordingly, benefits must be distributed or
8 begin to be distributed no later than a member's required beginning date, and the
9 required minimum distribution rules override any inconsistent provision of this
10 chapter. A member's required beginning date is April first of the calendar year
11 following the later of the calendar year in which the member attains age seventy
12 and one-half or terminates employment.

13 3. The annual compensation limitation under section 401(a)(17) of the Internal
14 Revenue Code, as adjusted for cost-of-living increases under section
15 401(a)(17)(B).

16 4. The rollover rules under section 401(a)(31) of the Internal Revenue Code.
17 Accordingly, a distributee may elect to have an eligible rollover distribution, as
18 defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover
19 to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal
20 Revenue Code, specified by the distributee.

21 5. If the plan of retirement benefits set forth in this chapter is terminated or
22 discontinued, the rights of all affected participating members to accrued retirement
23 benefits under this chapter as of the date of termination or discontinuance is
24 nonforfeitable, to the extent then funded.

25 **SECTION 9. AMENDMENT.** Subsection 3 of section 54-52.1-03 of the North Dakota
26 Century Code is amended and reenacted as follows:

27 3. A retiree who has accepted a periodic distribution from the defined contribution
28 retirement plan pursuant to section 54-52.6-13 who the board determines is eligible
29 for participation in the uniform group insurance program or has accepted a
30 retirement allowance from the public employees retirement system, the highway
31 patrolmen's retirement system, the teachers' insurance and annuity association of

1 America - college retirement equities fund for service credit earned while employed
2 by North Dakota institutions of higher education, the retirement system established
3 by job service North Dakota under section 52-11-01, the judges' retirement system
4 established under chapter 27-17, or the teachers' fund for retirement may elect to
5 participate in the uniform group under this chapter without meeting minimum
6 requirements at age sixty-five, when the member's spouse reaches age sixty-five,
7 upon the receipt of a benefit, or when the spouse terminates employment. If a
8 retiree or surviving spouse does not elect to participate at the times specified in this
9 subsection, the retiree or surviving spouse must meet the minimum requirements
10 established by the board. Subject to sections 54-52.1-03.2 and 54-52.1-03.3, each
11 retiree or surviving spouse shall pay directly to the board the premiums in effect for
12 the coverage then being provided. A retiree or surviving spouse who has met the
13 initial eligibility requirements of this subsection to begin participation in the uniform
14 group insurance program remains eligible as long as the retiree maintains the
15 retiree's participation in the program by paying the required premium pursuant to
16 rules adopted by the board.

17 **SECTION 10. AMENDMENT.** Subsection 3 of section 54-52.6-09 of the North Dakota
18 Century Code is amended and reenacted as follows:

19 3. Each employer, at its option, may pay the employee contributions required by this
20 section for all compensation earned after December 31, 1999. The amount paid
21 must be paid by the employer in lieu of contributions by the employee. If the
22 employer decides not to pay the contributions, the amount that would have been
23 paid will continue to be deducted from the employee's compensation. If
24 contributions are paid by the employer, they must be treated as employer
25 contributions in determining tax treatment under this code and the federal Internal
26 Revenue Code. Contributions paid by the employer may not be included as gross
27 income of the employee in determining tax treatment under this code and the
28 federal Internal Revenue Code until they are distributed or made available. The
29 employer shall pay these employee contributions from the same source of funds
30 used in paying compensation to the employee. The employer shall pay these
31 contributions by effecting an equal cash reduction in the gross salary of the

1 employee or by an offset against future salary increases or by a combination of a
2 reduction in gross salary and offset against future salary increases. Employee
3 contributions paid by the employer must be treated for the purposes of this chapter
4 in the same manner and to the same extent as employee contributions made
5 before the date on which employee contributions were assumed by the employer.
6 An employer shall exercise its option under this subsection by ~~December 1, 1999,~~
7 ~~and shall report~~ reporting its choice to the board in writing. ~~The option chosen may~~
8 ~~not be revoked for the remainder of the biennium. Thereafter, the option choice~~
9 ~~must be forwarded to the board, in writing, by June fifteenth of each odd-numbered~~
10 ~~year.~~