



## MEMORANDUM

TO: Supplemental Retirement Board of Trustees

FROM: Reid Chisholm, Assistant General Counsel

DATE: May 25, 2023

SUBJECT: Plan amendments for multiple beneficiaries

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If an individual acquires all or part of a participant's account as a beneficiary, the individual has the option to maintain the account in the NC 401(k) or NC 457 Plan (the Plans). Prior to the Board's December 2022 meeting, if an individual beneficiary subsequently dies with assets remaining in the Plan(s), the assets were paid to the individual's estate. However, in December the Board approved plan amendments to permit beneficiaries in the NC 401(k) and NC 457 Plans to name their own beneficiaries, which gave beneficiaries greater control over their Plan assets and expanded the opportunities for beneficiaries to keep their assets in the Plans instead of being forced to withdraw them.

The attached amendments provide another opportunity to allow beneficiaries to keep their money in the Plans. Currently, a beneficiary is permitted to keep an account in the Plans only if the beneficiary is a sole individual; in other words, if a participant names more than one beneficiary, then all the beneficiaries are required to withdraw the funds that pass to them from the participant. The attached amendments change this approach by giving any individual beneficiary the opportunity to keep assets in the Plans, regardless of the number of beneficiaries named by the participant. This is consistent with the approach of many other plans.

### **Recommendation**

Staff recommends the Board adopt the attached amendments to the NC 401(k) and NC 457 Plans.

## Attachment 1 – Amendment to NC 401(k) Plan

### 9.02 Forms of Distribution

- (a) Unless the Member (or ~~his-sole a~~ Beneficiary in the event of the Member's death prior to the date benefit payments commence) elects otherwise, distribution of the Member's Accounts shall be made in a cash lump sum. A Member (or ~~his-sole a~~ Beneficiary in the event of the Member's death prior to the date benefit payments commence) may elect to receive an optional form of payment described below:
- (i) Payments in approximately equal monthly installments over a period designated by the Member not to exceed the Member's (or the ~~sole~~ Beneficiary's) life expectancy.
  - (ii) Payments in approximately equal quarterly installments over a period designated by the Member not to exceed the Member's (or the ~~sole~~ Beneficiary's) life expectancy.
  - (iii) Payments in approximately equal semi-annual installments over a period designated by the Member not to exceed the Member's (or the ~~sole~~ Beneficiary's) life expectancy.
  - (iv) Payments in approximately equal annual installments over a period designated by the Member not to exceed the Member's (or the ~~sole~~ Beneficiary's) life expectancy.
  - (v) Payments in approximately equal monthly, quarterly, semi-annual, or annual installments over the applicable distribution period determined in accordance with the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations under Section 401(a)(9) of the Code.

A Member (or ~~the-sole a~~ Beneficiary) who elects installment payments may, at any time after such payments commence, elect to receive the remaining value of any unpaid installments in a lump sum by filing a request with the Primary Administrator on such form or forms as it may prescribe. In the event a Member or Beneficiary dies before all installments have been paid, ~~any-and his~~ surviving Beneficiary who is an individual (including a trust that qualifies as a "designated beneficiary" under Treasury Regulation § 1.401(a)(9)) sole-person, shall continue to receive such installments ~~shall continue to the Beneficiary~~, unless such Beneficiary elects otherwise. Notwithstanding the foregoing, if the Member or Beneficiary dies before all installments have been paid and his Beneficiary is other than an individual sole

~~person~~, the remaining balance in his Accounts shall be paid in an immediate cash lump sum to such Beneficiary. Notwithstanding the foregoing, a Member who has elected to receive installment payments over his life expectancy under clauses (i), (ii), (iii), or (iv) above and who has attained age 70½ prior to January 1, 2002, may elect to revise his form of distribution and have his future payments made pursuant to the provision of clause (v) above.

- (b) Notwithstanding the preceding, if a Member dies before his benefits commence, ~~any and his~~ Beneficiary ~~that~~ is ~~not other than~~ an individual (including a trust that qualifies as a “designated beneficiary” under Treasury Regulation § 1.401(a)(9)) ~~sole person, shall be paid~~ the value of ~~the Member’s his~~ Accounts ~~shall be paid to his Beneficiary~~ in a lump sum.

## Attachment 2 – Amendment to NC 457 Plan

### Section 5.4 Post-Retirement Death Benefits

If (1) the Participant has begun receiving benefits on an installment basis but dies before all installments have been paid; and (2) his or her surviving Beneficiary is a sole person (including a trust that qualifies as a sole “designated beneficiary” under Treasury Regulation § 1.401(a)(9)), then such installments shall continue to be paid to the Beneficiary, unless the Beneficiary elects otherwise. Otherwise, if the Participant has begun receiving benefits but dies before the entire Account has been paid, then the remaining amount of the Participant’s Account shall be paid to the Beneficiary in a lump sum. Any different payment option elected by a Beneficiary under this Section 5.4 must provide for payments at a rate that is at least as rapid under the payment option under which benefits were paid to the Participant. In no event shall the Plan Administrator be responsible for paying any amount to the Beneficiary in the name of the Participant before the Plan Administrator receives proof of death of the Participant. If a sole-person Beneficiary who is an individual begins receiving payments pursuant to this section but dies prior to a full distribution of the Participant’s account, the remaining amount of the Participant’s account shall be distributed pursuant to this Section 5.4 as if the sole-person Beneficiary were the Participant.

### Section 5.5 Pre-Retirement Death Benefits

If the Participant dies before he or she has begun to receive the benefits provided by Section 5.1, the value of the Participant’s Account shall be payable to the Beneficiary according to the provisions of Sections 5.2 and 5.3. Notwithstanding the foregoing, in the event that the Beneficiary is other than a sole person (including a trust that qualifies as a sole “designated beneficiary” under Treasury Regulation § 1.401(a)(9)), payment shall be made in a lump sum. The benefit commencement date under this Section 5.5 shall not be later than the latest of (i) December 31 of the year following the year of the Participant’s death; (ii) for non-installment distributions, the December 31 of the fifth year following the year of the Participant’s death; or (iii) if the Beneficiary is the Participant’s spouse, December 31 of the year in which the Participant would have attained age 72. If a sole-person Beneficiary who is an individual dies prior to a full distribution of the Participant’s account, the remaining amount of the Participant’s account shall be distributed pursuant to this Section 5.5 as if the sole-person Beneficiary were the Participant.