

**71-01-02-02. Eligible voters.**

1. All active employees, eligible to serve as elected members of the board in accordance with subsection 4 of North Dakota Century Code section 54-52-03, are eligible to cast one vote for each active member vacancy on the retirement board.

2. All persons receiving a retirement ~~benefits-allowance~~ are eligible to cast one vote for a retiree member vacancy on the retirement board.

3. Persons participating in the uniform group insurance program, the deferred compensation plan for public employees, or the pretax benefits program but not in the retirement system are ineligible to cast votes in retirement board elections.

**History:** Effective April 1, 1992; amended effective July 1, 1994; April 1, 2008; April 1, 2012; ~~April 1, 2020-~~

**General Authority:** NDCC 54-52-04, 54-52-17(5)

**Law Implemented:** NDCC 54-52-03

**71-01-02-04. Election notification.**

1. The director of the North Dakota public employees retirement system shall ensure that notification of an active member vacancy and the election is given to all employees through publication of a notice in the North Dakota public employees retirement system newsletter ~~and~~or any other method of communication as deemed appropriate by the director at least three weeks in advance of a filing date for nomination petitions. The director shall ensure that notification of the vacancy of a retiree member and the election is given to all persons who have accepted a retirement allowance through publication of a notice in the North Dakota public employees retirement system newsletter ~~and~~or any other method of communication as deemed appropriate by the director at least three weeks in advance of a filing date for nomination petitions.

2. The notice must include a statement of voter and candidate eligibility, the candidate Nomination requirements, the date of election, and where to obtain the nomination petitions for filing.

**History:** Effective April 1, 1992; amended effective July 1, 2000; April 1, 2008; April 1, 2014; [April 1, 2020](#).

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

**Law Implemented:** NDCC 54-52-03

**71-01-02-06. Procedure for completing and filing petitions.**

1. No period of time, on which an employee is entitled to receive wages or salary from the state of North Dakota or a political subdivision, may be used by the candidates to promote their election except as permitted by the employing agency. In addition, no public funds may be used for the purpose of promoting an election unless permitted by the employing agency.
2. Nomination petitions must be filed with the North Dakota public employees retirement system no later than four p.m. on the ~~first Friday of May~~date provided in the election notice and must be validated by the election committee or their representatives following the filing deadline and prior to ballots being distributed.
3. Nomination petitions not furnished by the North Dakota public employees retirement system will be accepted provided they are submitted in the prescribed form.
4. A candidate may withdraw that candidate's nomination petition up until one week ~~prior to the date the ballots are printed~~after the date the nomination petition is filed with the North Dakota public employees retirement system. The notice must be in writing and duly witnessed.
5. Nomination petitions may be accompanied by a three-inch [76.20-millimeter] by five-inch [127.00-millimeter] photograph of the candidate and a narrative not to exceed two hundred words. The absence of a photo or narrative will not invalidate the candidate's eligibility, but only the candidate's name will then appear with the other candidates' information that accompanies the ballots.
6. The retirement board or its representative reserves the right to edit lengthy narratives to the two hundred word limit.
7. The board or its representative shall inform all candidates of the validation of their candidacy.

**History:** Effective April 1, 1992; amended effective July 1, 2000; April 1, 2008; [April 1, 2020](#).

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

**Law Implemented:** NDCC 54-52-03

**71-01-02-08. Election.**

1. Ballots must be mailed by first-class United States mail to the ~~home~~-address\_ of all eligible active voters for an election of an active board member, or all eligible retired voters for an election of a retired board member, as determined by the North Dakota public employees retirement system's membership roles as of April fifteenth in the year of the election. Each eligible voter gets one ballot. Lost ballots cannot be replaced.
2. North Dakota public employees retirement system members who become eligible to vote after April fifteenth, but before the deadline for the receipt of ballots, may be issued a special election ballot by making their request for such ballot in writing to the North Dakota public employees retirement system office no later than ~~the second Monday in June~~two weeks prior to the deadline for receipt of ballots.
3. Ballots must be returned to the North Dakota public employees retirement system office no later than ~~the close of business on the four p.m. on the Friday immediately preceding the third Monday in June~~date provided on the election ballots.
4. The candidate receiving the highest number of votes must be considered elected. When there is more than one active member board vacancy to be filled, the candidate with the second highest number of votes must be considered elected. If there are three active member board vacancies to be filled, the person with the third highest number of votes must be considered elected.

**History:** Effective April 1, 1992; amended effective April 1, 2008; ~~April 1, 2020-~~

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

**Law Implemented:** NDCC 54-52-03

### **71-01-02-09. Canvassing rules.**

1. Ballot counting by election committee members or their authorized representatives will commence ~~at nine a.m.~~ on the ~~third Monday of June~~ date set for the election committee to do so and will continue until complete.
2. Each candidate may have one overseer present at the canvassing who may examine each ballot as to its sufficiency after the canvassers have completed the canvassing of all ballots. No overseer may possess a pen, pencil, or other device which could be considered capable of altering a ballot in any manner.
3. A candidate may act as his or her overseer. If a candidate wishes to designate a representative to act as his or her overseer, that candidate must provide a written authorization, duly witnessed, to the election committee at the canvassing. An overseer may act on behalf of more than one candidate; however, each person must show the required authorization from each candidate represented.
4. The overseer may question the decision of the canvassers regarding a ballot after completion of the canvassing. If questioned, the comments of an overseer will be heard. The canvassers will then vote regarding the acceptability of the ballot with the majority vote ruling.
5. A ballot is not valid where the number of votes on the ballot exceeds the number of vacancies in the election. A ballot that does not, in the opinion of a majority of the canvassers, show a clear indication of the voter's intention, may not be counted.
6. If the percentage of votes received by the candidate receiving the highest number of votes is less than one percent more than the votes received by the candidate receiving the next highest number of votes, the board shall order a recount.
7. Tie votes will be determined by a coin toss. If this procedure is necessary, the election committee will establish and notify the tied candidates of the procedure and location for resolving the tie.
8. If the committee should determine that the outcome of the election has been compromised for any reason, the committee may determine the election to be invalid. If the election is determined to be invalid, the committee shall call for a new election with a new election schedule.

**History:** Effective April 1, 1992; amended effective April 1, 2008; July 1, 2010; April 1, 2020-

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

**Law Implemented:** NDCC 54-52-03

**71-01-02-10. Notification of election results.**

1. Election results must be presented to the retirement board following the canvassing of votes. Such report must include an itemization of the number of ballots returned, votes cast for each candidate, votes invalidated, and votes not counted due to late receipt.

2. All candidates will be notified of the election results no later than the business day following the June meeting of the retirement board.

3. ~~Departments, and agencies~~Employers, and the membership participating in the North Dakota public employees retirement system will be notified of the election results. ~~In addition, a report of the election results will be included in the North Dakota public employees retirement system newsletter.~~

**History:** Effective April 1, 1992; amended effective April 1, 2008; April 1, 2020.

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

**Law Implemented:** NDCC 54-52-03

### **71-02-01-01. Definitions.**

As used in North Dakota Century Code chapter 54-52 and this article:

1. "Accumulated contributions" means the total of all of the following:
  - a. The employee account fund balance accumulated under the prior plan as of June 30, 1977.
  - b. The vested portion of the employee's "vesting fund" accumulated under the prior plan as of June 30, 1977.
  - c. The member's mandatory contributions made after July 1, 1977.
  - d. The member's vested employer contributions made after January 1, 2000, pursuant to North Dakota Century Code section 54-52-11.1.
  - e. The interest on the sums determined under subdivisions a, b, c, and d, compounded annually at the rate of five percent from July 1, 1977, to June 30, 1981, six percent from July 1, 1981, through June 30, 1986, and one-half of one percent less than the actuarial interest assumption from July 1, 1986, to the member's withdrawal from the plan or retirement.
  - f. The sum of any employee purchase or repurchase payments.
2. "Actuarial equivalent" means a benefit calculated to be of equal value to the benefit otherwise payable when computed on the basis of assumptions and methods adopted for this purpose by the board in a way that precludes employer discretion pursuant to Internal Revenue Code section 401(a)(25). Such assumptions and methods adopted by the board, and any table of adjustment factors established in accordance with the assumptions and methods, shall be incorporated herein by reference.
3. "Alternative retirement system" means the teachers' fund for retirement, the highway patrolmen's retirement system, and the teachers' insurance and annuity association of America.
4. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
5. "Board" means the board of trustees for the public employees retirement system.
6. "Bonus" means cash compensation for services performed in addition to base salary excluding commission and shift differentials. Bonus does not include lump sum payments of sick leave provided under North Dakota Century Code section 54-06-14 or lump sum payments of annual leave or vacation pay.
7. "Claim" means the right to receive a monthly retirement allowance, the receiving of a retirement allowance, or the receiving of a disability benefit.
8. "Continuously employed" means any period of employment uninterrupted by voluntary or involuntary termination or discharge. A member who has taken a leave of absence approved by the member's employer, not to exceed a year unless approved by the executive director, and returns to employment shall be regarded as continuously employed for the period.
9. "Contribution" means the payment into the fund as a percentage of the salary of a member.
10. "Correctional officer" means a person who has completed a correctional officer course approved or certified by the North Dakota department of corrections and rehabilitation and is employed by a correctional facility as defined in North Dakota Century Code chapter 12-44.1.
11. "County judge" means a judge who was elected pursuant to North Dakota Century Code section 27-07.1-01 or an individual holding the position of county judge, county justice, or judge of county court prior to the general election in 1982, who meets all the eligibility requirements established under North Dakota Century Code chapter 54-52.
12. "Interruption of employment" is when an individual is inducted (enlists or is ordered or called to active duty into the armed forces of the United States) and leaves an employment position with a state agency or political subdivision, other than a temporary position. The individual must have left employment to enter active duty and must make application in accordance with the Uniformed Services Employment and Reemployment Rights Act.
13. "Leave of absence" means the period of time up to one year for which an individual may be absent from covered employment without being terminated. At the executive director's

discretion, the leave of absence may be extended not to exceed two years, or indefinitely if the leave of absence is due to interruption of employment.

14. "Medical consultant" means a person or committee appointed by the board of the North Dakota public employees retirement system to evaluate medical information submitted in relation to disability applications, recertifications, and rehabilitation programs or other such duties as assigned by the board.

15. "Normal retirement age", except for members of the national guard and law enforcement, means age sixty-five unless otherwise provided. For members of the national guard and law enforcement, normal retirement age means age fifty-five, unless otherwise provided.

16. "Office" means the administrative office of the public employees retirement system.

17. "Overtime" as used in subsection 23 of section 54-52-01 of the North Dakota Century Code means, for employees other than firefighters and peace officers, any hours worked over the regularly scheduled work week and not to exceed 40 hours in a week that are paid either at the regular hourly rate or time and one-half. For firefighters and peace officers, overtime means hours worked over the regularly scheduled work period that are paid either at the regular hourly rate or time and one-half.

~~17-18.~~ "Participating employer" means an employer who contributes to the North Dakota public employees retirement system. For confidentiality purposes, "participating employer" means the person or group of persons with the ultimate authority over personnel decisions within the agency or political subdivision with which the member is employed or the person's or group's official designee.

~~18-19.~~ "Pay status" means a member is receiving a retirement allowance from the fund.

~~19-20.~~ "Permanent and total disability" for members of the main retirement system and the national guard/law enforcement retirement plan means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve months. For members of the judge's retirement plan, "permanent and total disability" is determined pursuant to subdivision e of subsection 3 of section 54-52-17 of the North Dakota Century Code.

~~20-21.~~ "Plan administrator" means the executive director of the North Dakota public employees retirement system or such other person or committee as may be appointed by the board of the North Dakota public employees retirement system from time to time.

~~21-22.~~ "Plan year" means the twelve consecutive months commencing July first of the calendar year and ending June thirtieth of the subsequent calendar year.

~~22-23.~~ "Prior plan" means the state employees' retirement system which existed from July 1, 1966, to June 30, 1977.

~~23-24.~~ "Regularly funded" means a legislatively authorized full-time equivalent (FTE) position for state agencies. For all governmental units other than state agencies, regularly funded means a similar designation by the unit's governing board which is created through the regular budgeting process and receives traditional employee benefits such as sick leave and annual leave.

~~24-25.~~ "Retiree" means an individual receiving a monthly retirement allowance pursuant to chapter 54-52.

~~25-26.~~ "Retirement allowance" means a reoccurring, periodic benefit from an eligible employer-sponsored retirement plan as approved by the board.

~~26-27.~~ "Service credit" means increments of time to be used in the calculation of retirement benefits. Service credit may be earned as stated in section 71-02-03-01 or may be purchased or repurchased according to section 71-02-03-02.1.

~~27-28.~~ "Substantial gainful activity" is to be based upon the totality of the circumstances including consideration of an individual's training, education, and experience; an



individual's potential for earning at least seventy percent of the individual's pre-disability earnings; and other items deemed significant on a case-by-case basis. Eligibility is based on an individual's employability and not actual employment status.

~~28-29.~~ "Termination of employment" for the purposes of determination for eligibility for benefit payments means a severance of employment by not being on the payroll of a covered employer for a minimum of one month. Approved leave of absence or if reemployed by any covered employer prior to receiving a lump sum distribution of the member's account balance does not constitute termination of employment.

~~29-30.~~ "Termination of participation" means termination of eligibility to participate in the retirement plan.

**History:** Amended effective September 1, 1982; November 1, 1990; September 1, 1991; January 1, 1992; September 1, 1992; June 1, 1993; July 1, 1994; June 1, 1996; July 1, 2000; April 1, 2002; May 1, 2004; July 1, 2006; July 1, 2010; April 1, 2014; April 1, 2016; July 1, 2018; April 1, 2020.

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

**Law Implemented:** NDCC 54-52

#### **71-02-03-02.4. Crediting purchased or repurchased service.**

Service purchased or repurchased will be credited in the following manner:

1. For each month the system receives a payment toward a purchase contract, the member will earn a proportion of service credit.

2. Member acceptance of a service purchase contract extinguishes all pending service purchase cost estimates (excluding purchase of unused sick leave).

3. Service purchase contracts set up on a payment plan and only partially paid will have the remaining unpaid portion of service credit included when preparing the new service purchase cost calculation.

24. For members converting service under the public employees retirement system to service under the judge's retirement system, each month of county judge service under the public employees retirement system will be converted to one month of judicial service credit. The account balance from the public employees retirement system will be transferred to the judges' retirement system account once the contract is paid in full or closed.

**History:** Effective November 1, 1990; amended effective July 1, 1994; June 1, 1996; May 1, 2004; July 1, 2010-; April 1, 2020.

**General Authority:** NDCC 54-52-02.6, 54-52-04, 54-52-17, 54-52-17.2, 54-52-17.4

**Law Implemented:** NDCC 54-52-02.6, 54-52-17, 54-52-17.2, 54-52-17.4

**71-02-03-05. Coordination of multiple plan membership.**

Upon providing proper documentation of retirement plan participation, a member who meets the following criteria may use service credit in the teachers' insurance retirement fund for the purpose of meeting the ~~rule of eighty-five or~~ normal retirement date for vesting purposes under North Dakota Century Code chapter 54-52.

The member:

1. Must have participated in both the teachers' fund for retirement and the teachers' insurance and annuity association of America-college retirement equities fund.
2. Must have elected to transfer the member's teachers' insurance retirement fund account balance to teachers' insurance and annuity association of America-college retirement equities fund in connection with the administrative coordination of the various state retirement plans as provided under chapter 133 of the 1973 North Dakota Session Laws.
3. Did not have a cash out since the time of the transfer of funds.
4. Did not relinquish such service credit in writing.

**History:** Effective June 1, 1996; amended effective July 1, 1998; April 1, 2020.

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

**Law Implemented:** NDCC 54-52-01(11)(12)(16), 54-52-17

**71-02-04-13. Reduced benefit option.**

A participating member may enter into an agreement with the retirement board to receive an actuarially adjusted monthly retirement benefit to accommodate the less than full payment for years of service credit necessary to meet the ~~rule of eighty-five~~ normal retirement date, if the following criteria are met:

1. The participating member is within seventy-two months of obtaining the ~~rule of eighty-five~~ normal retirement date.
2. The service cannot be purchased prior to the participating member drawing a retirement benefit because it would be in violation of 26 U.S.C. 415 or limits of purchasing additional service credit found under subsection 10 of North Dakota Century Code section 54-52-17.4.
3. The participating member must have completed all other types of purchases the participating member is eligible for prior to entering into the reduced benefit agreement.
4. The participating member's reduced benefit agreement must indicate a benefit option election. If a benefit election is an optional benefit under subsection 1 or 2 of section 71-02-04-04, the reduced benefit is payable over the lifetime of both the member and surviving spouse.

**History:** Effective June 1, 1996; amended effective July 1, 1998; April 1, 2002; May 1, 2004; April 1, 2020.

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

**Law Implemented:** NDCC 39-03.1-11-~~4~~, 54-52-17

**71-02-07-03. Return to service - Disabled member.**

If the recipient of a disability benefit under North Dakota Century Code chapter 54-52 returns to work, that member is responsible for reporting employment to the public employees retirement system.

1. If a member is working in a permanent full-time position and is eligible to participate in the public employees retirement system, monthly benefits from the public employees retirement system must be suspended. If the individual is not able to continue employment for a consecutive period of time resulting in nine months of service credit as a result of the disability and continues to meet eligibility requirements under the plan, that member may resume disability status with the public employees retirement system.
2. If a member returns to substantial gainful activity in employment not covered under the public employees retirement system, the disability benefit may continue for up to nine consecutive months. If the individual is not able to continue employment for at least nine months as a result of the disability and continues to meet eligibility requirements under the plan, the member may continue disability status with the public employees retirement system.
3. [Upon subsequent termination and retirement, the member is required to select the same benefit option as the option selected at initial retirement.](#)
4. [If a member dies during subsequent employment, the member's initial retirement benefit option election will apply and the date of death will be considered the subsequent retirement date.](#)
5. [If a member's spouse dies during the subsequent employment of the member, section 71-02-04-04 applies to the member's initial and subsequent retirement benefit calculation.](#)

**History:** Effective November 1, 1990; amended effective September 1, 1992; July 1, 1994; July 1, 2000; April 1, 2002; [April 1, 2020.](#)

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

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

### **71-04-01-01. Definitions.**

The terms used throughout this title have the same meaning as in North Dakota Century Code section 54-52.2-04, except:

1. "Beneficiary" means an individual designated by the participant to receive benefits under the plan in the event the participant dies.
2. "Compensation" means the total annual remuneration for employment or contracted services received by the participant from the employer.
3. "Deferred compensation" means the amount of compensation not yet earned which the participant and the employer shall mutually agree shall be deferred from current monthly salary in accordance with the provisions of the plan.
4. "Eligible state deferred compensation plan" means a plan established and maintained by this state that complies with the Internal Revenue Code (IRC) 457(b).
5. "Employer" means the state of North Dakota or any of its political subdivisions, institutions, departments, or agencies.
6. "Participant" is any employee of a participating employer who executes a participant agreement.
7. "Participant agreement" means an agreement between the employer and a participant setting forth certain provisions and elections relative to the plan, incorporating the terms of the plan and establishing the ~~participant's~~ deferral and participation in the plan.
8. "Provider" means any insurance company, federally insured financial institutions, Bank of North Dakota, or registered dealer under North Dakota Century Code chapter 10-04 authorized by the retirement board to provide investment vehicles to employees.
9. "Retirement" means separation from service with the employer on a date coincidental with the normal, postponed, early, or disability retirement dates as described in North Dakota Century Code chapter 54-52-17.3.
10. "Retirement board" or "board" means the ~~seven~~nine persons described in North Dakota Century Code chapter 54-52-03.
11. "Separation from service" means that term as defined under Internal Revenue Code section 402(d)(4)(A)(3i) and includes termination of employment with the employer by reason of death, disability, retirement, resignation, or discharge.
12. "State" means the state of North Dakota, or any department, institution, or separate agency thereof acting as an employer of the participant.
13. "Unforeseeable emergency" means a severe financial hardship to the participant resulting from a sudden and unexpected illness or accident of the participant, the participant's spouse or dependent of the participant, loss of the participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant.

**History:** Effective April 1, 1989; amended effective July 1, 1994; April 1, 2002; May 1, 2004; July 1, 2010; April 1, 2016; [April 1, 2020](#).

**General Authority:** NDCC 28-32-02, 54-52.2-03.2

**Law Implemented:** NDCC 54-52.2-03, 54-52.2-03.2, 54-52.2-04

### 71-05-01-01. Definitions.

As used in North Dakota Century Code chapter 39-03.1:

1. "Actuarial equivalent" means a benefit calculated to be of equal value to the benefit otherwise payable when computed on the basis of assumptions and methods adopted for this purpose by the board in a way that precludes employer discretion pursuant to Internal Revenue Code section 401(a)(25). Such assumptions and methods adopted by the board, and any table of adjustment factors established in accordance with the assumptions and methods, shall be incorporated herein by reference.
2. "Covered employment" means employment with the North Dakota highway patrol.
3. "Medical examination" means an examination conducted by a doctor licensed to practice in North Dakota that includes a diagnosis of the disability, the treatment being provided for the disability, the prognosis and classification of the disability, and a statement indicating how the disability prevents the individual from performing the duties of a highway patrolman.
4. "Normal retirement age" means age fifty-five except as otherwise provided.
5. "Office" means the administrative office of the public employees retirement system.
6. "Overtime" as used in subsection 23 of section 39-03.1-01 of the North Dakota Century Code means any hours worked over an employee's regularly scheduled work period. Whether paid at the regular hourly rate or one and one-half times the regular rate, overtime is to be excluded as reportable retirement contributions.
- 6.7. "Permanent and total disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve months.
- 7.8. "Plan administrator" means the executive director of the North Dakota public employees retirement system.
- 8.9. "Substantial gainful activity" is to be based upon the totality of the circumstances, including consideration of an individual's training, education, and experience; an individual's potential for earning at least seventy percent of the individual's pre-disability earnings; and other items deemed significant on a case-by-case basis. Eligibility is based on an individual's employability and not actual employment status.

**History:** Effective November 1, 1990; amended effective October 1, 1991; June 1, 1992; July 1, 2006; April 1, 2020  
April 1, 2016.

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** NDCC 39-03.1

## 71-05-07-01. Return to service - Retired member.

The benefits of a retired member who returns to permanent employment must be suspended without interest accruing on the suspended account. Upon ~~final~~subsequent termination and retirement, ~~the member's benefit must be recalculated as follows: the member is required to select the same benefit option as the option selected at initial retirement. The member's total benefit upon subsequent retirement must equal the original benefit plus the calculated benefit for the return to work period. The member's benefit attributable to any return to work period shall be based upon service and earnings attributable to the return to work period only and be calculated as follows:~~

1. The member's benefit must be based on the benefit provisions in effect at ~~final~~subsequent retirement and shall include the member's and spouse's ages, salary earned during the period of reemployment, ~~and total service earned before and after reemployment, adjusted to take account of benefit payments received prior to reemployment. If a different option is selected at the second retirement date, the member and office will submit information as required to make an actuarial determination of the elected benefit and the related payment of such, and actuarial factors in effect at subsequent retirement.~~

2. If a member dies during subsequent employment, the member's initial retirement benefit option election will apply and the date of death will be considered the subsequent retirement date. ~~The member's benefit shall be based on the benefit provisions in effect at final retirement and shall include the member's and spouse's ages, salary earned during the period of reemployment, and total service credits earned before and after reemployment, adjusted to take account of benefit payments received prior to reemployment.~~

3. If a member's spouse dies during the subsequent employment of the member, section 71-05-05-04 applies to the member's initial and subsequent retirement benefit calculation.

**History:** Effective October 1, 1991; amended effective May 1, 2004; July 1, 2010; [April 1, 2020](#).

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** NDCC 39-03.1-11



## 71-05-07-02. Return to service - Disabled member.

If the recipient of a disability benefit returns to work, said member is responsible for reporting employment to the public employees retirement system.

1. If a member is working in a permanent full-time position and is eligible to participate in the North Dakota highway patrolmen's retirement system, monthly benefits from the North Dakota highway patrolmen's retirement system must be suspended. If an individual is not able to continue employment for at least a consecutive period of time resulting in nine months of service credit as a result of the disability and continues to meet eligibility requirements under the plan, ~~said that~~ member may resume disability status with the North Dakota highway patrolmen's retirement system.

2. If a member is receiving disability benefits from the North Dakota highway patrolmen's retirement system, and returns to substantial gainful activity in employment not covered under the highway patrolmen's retirement system, the disability benefits may continue for up to nine consecutive months. If the individual is not able to continue employment for a consecutive period of time resulting in nine months of service credit as a result of the disability and continues to meet eligibility requirements under the plan, that member may continue disability status with the North Dakota highway patrolmen's retirement system.

3. If a member becomes ineligible for a disability benefit from the North Dakota highway patrolmen's retirement system, the disability benefit will be discontinued on the date the member becomes ineligible for disability status.

**History:** Effective October 1, 1991; Amended April 1, 2020.

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** NDCC 39-03.1-11

**71-06-01-02. Calculation of retiree health insurance credit.**

Retiree health insurance credit will be calculated on actual years and months of service, identical to retirement benefits under North Dakota Century Code chapter 54-52.

1. Retiree health insurance credit will be subject to reduction factors in the event of early retirement.

For annuitants of the public employees retirement system defined benefit plan and North Dakota public employees retirement system judges, and for members of the defined contribution retirement plan, excluding national guard/law enforcement and highway patrol retirees, who take a periodic distribution:

Age at

<u>Retirement</u>	<u>Reduction Factor</u>	<u>Age at Retirement</u>	<u>Reduction Factor</u>
64 to 65	3%	59 to 60	33%
63 to 64	9%	58 to 59	39%
62 to 63	15%	57 to 58	45%
61 to 62	21%	56 to 57	51%
60 to 61	27%	55 to 56	57%

For annuitants of the job service retirement program: This includes those who retired under a discontinued service annuity but does not include those who retired at a normal or optional date.

<u>Age at Retirement</u>	<u>Reduction Factor</u>	<u>Age at Retirement</u>	<u>Reduction Factor</u>	<u>Age at Retirement</u>	<u>Reduction Factor</u>
64 to 65	3%	59 to 60	33%	54 to 55	63%
63 to 64	9%	58 to 59	39%	53 to 54	69%
62 to 63	15%	57 to 58	45%	52 to 53	75%
61 to 62	21%	56 to 57	51%	51 to 52	81%
60 to 61	27%	55 to 56	57%	50 to 51	87%

For annuitants of the highway patrol fund and national guard/law enforcement retirees and national guard/law enforcement retirees who transferred to the defined contribution retirement plan:

<u>Age at Retirement</u>	<u>Reduction Factor</u>
54 to 55	3%
53 to 54	9%
52 to 53	15%
51 to 52	21%
50 to 51	27%

2. Disabled annuitants receiving benefits under subdivision g of subsection 3 of North Dakota Century Code section 54-52-17, subdivision d of subsection 3 of North Dakota Century Code section 39-03.1-11, North Dakota Century Code section 52-11-01, or section 71-02-05-05 will be eligible for full retiree health insurance credit benefits. No age reduction factor will be applied.

3. A surviving spouse eligible to receive benefits under paragraph 2 of subdivision a and paragraphs 2 and 3 of subdivision b of subsection 6 of North Dakota Century Code section 54-52-17, subdivisions ~~b and c~~ of subsection 6 of North Dakota Century Code section 39-03.1-11, or North Dakota Century Code section 52-11-01 will receive retiree health insurance credit based on the deceased member's years of service without any age reduction applied.

4. A surviving spouse receiving benefits under the provisions of subdivision b, ~~c~~ d, or e of subsection 9 of North Dakota Century Code section 54-52-17; subdivisions a, b, and c of subsection 5 of North Dakota Century Code section 27-17-01; subsection 9 of North Dakota Century Code section 39-03.1-11; or North Dakota Century Code section 52-11-01 will receive retiree health insurance credit for the duration benefits are paid, based upon the original annuitant's retirement age.

**History:** Effective April 1, 1992; amended effective June 1, 1996; July 1, 2000; July 1, 2010; April 1, 2016; April 1, 2020.

**General Authority:** NDCC 54-52.1-03.2(b)

**Law Implemented:** NDCC 54-52.1-03.3

**71-08-02-01. Membership of individuals who become employees covered under the judges' retirement plan, the highway patrol retirement plan, ~~the law enforcement plan~~, the teachers' fund for retirement plan, or the alternate retirement plan of the state board of higher education.**

If a member of the defined contribution retirement plan begins employment in a position covered under the judges' retirement plan, the highway patrol retirement plan, ~~the law enforcement plan~~, the teachers' fund for retirement plan, or the alternate retirement plan of the state board of higher education, the member's status as a member of the defined contribution retirement plan is suspended and the member becomes a new member of the retirement plan for which that member's new position is eligible. The member's account balance remains in the defined contribution retirement plan, but no new contributions may be made to that account. The member's service credit and salary history that were forfeited as a result of the member's transfer to the defined contribution retirement plan remain forfeited, and service credit accumulation in the new retirement plan begins from the first day of employment in the new position. If the member later returns to employment that is eligible for the defined contribution plan, the member's suspension is terminated, the member again becomes a member of the defined contribution plan, and the member's account shall resume accepting contributions. The contributions to the alternate retirement plan shall remain with that plan unless at the member's option, the member elects to transfer any available balance as determined by the provisions of the alternate retirement plan into the member's account in the defined contribution retirement plan.

**History:** Effective July 1, 2000; amended effective April 1, 2002; July 1, 2006; [April 1, 2020](#).

**General Authority:** NDCC 28-32-02(1)

**Law Implemented:** NDCC 54-52.6-01(3)