

Section 71-01-02-02 is amended as follows:

**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 retirement benefits ~~or who are eligible to receive deferred vested retirement benefits~~ are eligible to cast one vote for a retiree member vacancy on the retirement board.
3. Persons participating in the health 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; \_\_\_\_\_, 2012.

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

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

Section 71-01-02-03 is amended as follows:

**71-01-02-03. Candidate eligibility.**

1. Any active participating member, members of the defined contribution retirement plan, the highway patrol retirement system, and the job service retirement plan are eligible to serve as an elected member of the board in accordance with subsection 4 of North Dakota Century Code section 54-52-03, may become a candidate for election to the board. A department or political subdivision may not be represented by more than one elected member. Employees who have terminated their employment for whatever reason are not eligible to serve as an active elected member of the board.
2. Any person, as of April fifteenth of the election year, who has accepted a retirement allowance ~~or who is eligible to receive deferred vested retirement benefits~~, may become a candidate for the retiree member to the board.

**History:** Effective April 1, 1992; amended effective July 1, 1994; July 1, 2000; April 1, 2008; July 1, 2010; \_\_\_\_\_, 2012.

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

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

Subsection 1 of Section 71-01-02-05 is amended as follows:

**71-01-02-05. Petition format.**

1. The nomination petition for an active member on the board must include the signatures of at least one hundred active eligible voters. The nomination petition for the retiree member on the board must include the signature signatures of at least twenty-five persons receiving a retirement allowance ~~or who are eligible to receive a deferred vested retirement allowance.~~

**History:** Effective April 1, 1992; amended effective May 1, 2004; April 1, 2008; \_\_\_\_\_, 2012.

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

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

Section 71-02-04-04 is amended as follows:

**71-02-04-04. Optional benefits.** A member may elect, as provided in section 71-02-04-02, to receive one of the following optional benefits in lieu of the regular single life, or normal for judges, retirement benefit.

1. **One hundred percent joint and survivor benefit.** A member shall receive an actuarially reduced retirement benefit during the member's lifetime and after the member's death the same amount will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Payments of benefits to a member's surviving spouse shall be made on the first day of each month commencing on the first day of the month following the member's death, providing the beneficiary has supplied a marriage certificate and death certificate and is still living. Benefits shall terminate in the month in which the death of the beneficiary occurs. In the event the designated beneficiary predeceases the member or, in the event of divorce, the option shall be canceled and the member's benefit shall be returned to the single life or normal amount. Payment of the single life or normal amount shall commence on the first day of the month following the spouse's death providing written notification of death and a death certificate has been submitted or, in the event of divorce, a photocopy of the divorce decree.
2. **Fifty percent joint and survivor benefit.** A member shall receive an actuarially reduced retirement benefit during the member's lifetime and after the member's death one-half the rate of the reduced benefit will be continued to the member's surviving spouse during the spouse's lifetime.

The designated beneficiary is limited to the member's spouse. Payments of benefits to a member's surviving spouse shall be made on the first day of each month commencing on the first day of the month following the member's death, providing the beneficiary has supplied a marriage certificate and death certificate and is still living. Benefits shall terminate in the month in which the death of the beneficiary occurs. In the event the designated beneficiary predeceases the member or, in the event of divorce, the option shall be canceled and the member's benefit shall be returned to the single life or normal amount. Payment of the single life or normal amount shall commence on the first day of the month following the spouse's death providing written notification of death and a death certificate has been submitted or, in the event of divorce, a photocopy of the divorce decree.

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**History:** Amended effective September 1, 1982; November 1, 1990; July 1, 1994; May 1, 2004; July 1, 2006; April 1, 2008; July 1, 2010; \_\_\_\_\_, 2012.

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

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

Section 71-02-04-09.1 is amended as follows:

**71-02-04-09.1. Dual membership limitations.** The following limitations apply when a member elects an option under subsection 1 of section 71-02-04-09.

1. Eligible service credit may be used for vesting purposes and determining when the dual member may begin drawing normal retirement benefits. A member may begin drawing retirement benefits from one fund and use the same years, and any additional years, for reaching retirement from the alternate fund if the service credit is earned at different times.
2. If a dual member elects to receive retirement benefits as provided in ~~subdivision a or b~~ of subsection 1 of section 71-02-04-09, the final salary, service credit, and member's age used to calculate the benefit that is applicable at the time retirement benefits begin may not be adjusted after the benefit effective date.
3. The salary used in calculating the retirement benefit must be certified in writing by the alternate retirement system. Months not employed are excluded for the purpose of computing the final average salary. If a dual member works less than thirty-six months at retirement, the final average salary is the average salary for total months of employment.

**History:** Effective June 1, 1996; amended effective May 1, 2004; \_\_\_\_\_, 2012.  
**General Authority:** NDCC 54-52-04, 54-52-17, 54-52-17.2  
**Law Implemented:** NDCC 54-52-17, 54-52-17.2

Section 71-02-05-07 is amended as follows:

**71-02-05-07. Optional benefits.** For the main system and national guard or law enforcement retirement plans, an individual deemed eligible for a disability benefit may elect, as provided in this section, to receive one of the following optional benefits in lieu of the regular disability benefit. ~~Under no circumstances is an option available if the calculation of the optional benefit to which the member is entitled results in an amount which is less than one hundred dollars.~~

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**History:** Effective January 1, 1992; amended effective July 1, 1994; May 1, 2004; July 1, 2006; April 1, 2008; \_\_\_\_\_, 2012.  
**General Authority:** NDCC 54-52-04  
**Law Implemented:** NDCC 54-52-17

Section 71-02-05-07.1 is amended as follows:

**71-02-05-07.1. Judges' retirement plan optional benefits.** For the judges' retirement plan, an individual deemed eligible for a disability benefit may elect, as provided in this section, to receive one of the following optional benefits in lieu of the regular disability benefit. ~~Under no circumstances is an option available if the calculation of the optional benefit to which the member is entitled results in an amount which is less than one hundred dollars.~~

...

**History:** Effective May 1, 2004; amended effective July 1, 2006; April 1, 2008; July 1, 2010; \_\_\_\_\_, 2012.  
**General Authority:** NDCC 54-52-04  
**Law Implemented:** NDCC 54-52-17

## CHAPTER 71-02-06 CONTRIBUTIONS

### Section

- 71-02-06-01 Conditions for Return
- 71-02-06-02 Effect of Return
- 71-02-06-03 Inapplicability of Return of Contribution Guarantee [Repealed]
- 71-02-06-04 Adjustment for Bonuses, Profit Sharing, and Contributions Paid in a Month Other Than Month Earned
- 71-02-06-05 Basis for Calculating Contribution - Salary Reduction – Salary Deferral Arrangements

71-02-06-06 Employer Payment of Employee Contributions  
71-02-06-07 Employer Contribution - National Guard/Law Enforcement  
71-02-06-08 Retirement Contributions for Individuals Working Less Than a Forty-  
Hour Workweek  
71-02-06-09 Individual Employee Incentive Payments  
71-02-06-10 Transfer of funds  
71-02-06-11 Transfer date

Section 71-02-06-10 is created as follows:

**71-02-06-10. Transfer of funds.** Pursuant to subdivision a of subsection 4 of North Dakota Century Code section 15-10-17, funds may be transferred on behalf of those persons who are eligible through their employment with the state board of higher education. The following requirements apply:

1. Applicant must file a completed application for the teachers insurance and annuity association-college retirement equities fund.
2. Notice of termination and verification of teachers insurance and annuity association-college retirement equities fund eligibility must be filed by either the applicant or appropriate payroll officer.
3. Interest at the rate of seven percent must be used in calculating interest on the non vested employer contribution, beginning from the date of first contribution through the date of transfer to the teachers' insurance and annuity association of America-college retirement equities fund.

**History:** Effective \_\_\_\_\_, 2012.

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

**Law Implemented:** NDCC 15-10-17

Section 71-02-06-11 is created as follows:

**71-02-06-11. Transfer date.** Transfer of funds will be sent to the teachers insurance and annuity association-college retirement equities fund program within six months of receiving the application package. Any application received prior to the applicant's eligibility to participate in the alternate retirement program will be considered ineffective and the applicant shall reapply upon achieving eligible status.

**History:** Effective, 2012.

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

**Law Implemented:** NDCC 15-10-17

**CHAPTER 71-02-08  
PARTICIPATION BY GOVERNMENTAL UNITS**

Section

71-02-08-01 Participation

71-02-08-02 Withdrawal

71-02-08-03 Transfer of Funds [Repealed]

71-02-08-04 Transfer Date [Repealed]

71-02-08-05 Merger of Eligible Employer Groups

Section 71-02-08-01 is amended as follows:

**71-02-08-01. Participation.** Any governmental unit not participating in the retirement system on July 1, 1977, may choose to participate in the retirement system. Prior and may elect to purchase past service in accordance with North Dakota Century Code section 54-52-02.1. If the governmental unit elects to purchase past service and prior to the governmental unit's governing authority contracting with the retirement board, the governmental unit must furnish the board with information concerning the permanent employees of the governmental unit. This information should contain, but is not limited to (1) name; (2) social security number; (3) date of birth; (4) date of employment; (5) current monthly salary; and (6) any previous public employment.

After receipt of this data, the retirement office will calculate the cost to the governmental unit to participate in the retirement plan as offered in North Dakota Century Code section 54-52-17. The governmental unit's governing authority will then decide whether or not to participate in the plan and whether or not to provide service credit for employment prior to the date of participation.

**History:** Amended effective September 1, 1982; \_\_\_\_\_, 2012.

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

**Law Implemented:** NDCC 54-52-02.1

Section 71-02-08-03 is repealed:

**71-02-08-03. Transfer of funds.** Pursuant to paragraph 4 of subdivision a of subsection 4 of North Dakota Century Code section 15-10-17, funds may be transferred on behalf of those persons who are eligible through their employment with the state board of higher education. The following requirements apply:

1. ~~Applicant must file a completed application for the teachers insurance and annuity association college retirement equities fund.~~
2. ~~Notice of termination and verification of teachers insurance and annuity association college retirement equities fund eligibility must be filed by either the applicant or appropriate payroll officer.~~

~~3. Interest at the rate of seven percent must be used in calculating interest on the employer contribution, beginning from the date of first contribution through the date of transfer to the teachers' insurance and annuity association of America college retirement equities fund. Repealed effective \_\_\_\_\_, 2012.~~

~~History: Effective November 1, 1990; amended effective June 1, 1996; April 1, 2002.~~

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

~~Law Implemented: NDCC 15-10-17~~

Section 71-02-08-04 is repealed:

~~**71-02-08-04. Transfer date.** Transfer of funds will be sent to the teachers insurance and annuity association college retirement equities fund program within six months of receiving the application package. Any application received prior to the applicant's eligibility to participate in the alternate retirement program will be considered ineffective and the applicant shall reapply upon achieving eligible status. Repealed effective \_\_\_\_\_, 2012.~~

~~History: Effective November 1, 1990.~~

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

~~Law Implemented: NDCC 15-10-17~~

Section 71-02-09-01 is amended as follows:

**71-02-09-01. Review procedure.** A member who has received notice that the member's application for benefits has have been denied in whole or in part may within thirty days of receipt of such notice secure review by written request addressed to the board in care of the executive director of the public employees retirement system. The applicant has the right to all relevant information available to the board and may submit arguments or comments in writing. The board must render a decision within one hundred twenty days after the request for a review is timely filed. The decision by the board must be submitted to the applicant in writing and include the specific reason or reasons for the decision and the specific references to the provisions of the plan on which the decision is based.

**History:** Amended effective June 1, 1996; \_\_\_\_\_, 2012.

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

**Law Implemented:** NDCC 54-52-04

Section 71-02-10-02 is amended as follows:

**71-02-10-02. Qualified domestic relations orders procedures.**

1. Upon receipt of a proposed domestic relations order, the public employees retirement system shall send an initial notice to each person named therein, including the member and the alternate payee named in the order, together with an explanation of the procedures followed by the fund.
2. ~~Upon receipt of a domestic relations order, the executive director shall, if the account is in pay status or begins pay status during the review, order funds segregated in a separate account of the fund or in an escrow account which the alternate payee would be entitled to by direction of the order, if ascertainable from the proposed order~~ If a member who is not in pay status at the time the proposed domestic relations order was received makes application for a lump sum distribution due to termination of employment, the application for lump sum distribution will be held until such time as the proposed domestic relations order is determined to be qualified and a certified copy of such order is received at the NDPERS office or until the end of the eighteen-month review period, whichever occurs first.
3. Upon receipt of a domestic relations order, the public employees retirement system shall review the domestic relations order to determine if it is a qualified order as established by the model language format specified by the board.
4. The domestic relations order shall be considered a qualified order when the executive director notifies the parties the order is approved and a certified copy of the court order has been submitted to the office.
5. If the order becomes qualified, the executive director shall:
  - a. Send notice to all persons named in the order and any representatives designated in writing by such person that a determination has been made that the order is a qualified domestic relations order.
  - b. Comply with the terms of the order.
  - c. ~~If a segregated account or an escrow account has been established for an alternate payee, distribute the amounts, plus interest, as provided under subdivision d of subsection 1 of section 71-02-01-01 to the alternate payee.~~
6. If the order is determined not to be a qualified domestic relations order or a determination cannot be made as to whether the order is qualified or not



qualified within eighteen months of receipt of such order, the public employees retirement system shall send written notification of termination of review to all parties at least forty-five days prior to the end of the eighteen-month review period. At the end of the eighteen-month review period, the proposed order is deemed to be withdrawn and of no legal effect.

- a. ~~If a segregated account or an escrow account has been established for an alternate payee, the executive director shall distribute the amounts in the segregated account or escrow account, plus interest at a rate determined by the board, to the person or persons who would be entitled to receive such amount in the absence of an order member who was not in pay status at the time the proposed domestic relations order was received~~ made application for a lump sum distribution due to termination of employment, the application for lump sum distribution will be processed at the end of the eighteen-month review period.
- b. If determined after the expiration of the eighteen-month period the order is a qualified domestic relations order, the qualified domestic relations order must be applied prospectively only.

**History:** Effective November 1, 1990; amended effective July 1, 1994; July 1, 2006; \_\_\_\_\_, 2012.

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

**Law Implemented:** NDCC 54-52-17.6

Subsection 1 of Section 71-02-11-02 is amended as follows:

**71-02-11-02. Award of service credit.**

1. ~~An individual~~ A veteran with eligible time may receive up to sixty months' credit upon proper application. A veteran eligible to receive service credit for military time must apply for and, if required to pay any portion of the employee contribution, purchase that time within the lesser of three times the length of active duty or five years from the date of the veteran's return to covered employment. Service credit will not be awarded until all required documentation is received by the North Dakota public employees retirement system, ~~and payment of both the employer and the employee contributions is made in full.~~ If payment of required employer and employee contributions is made, the service will be recognized for both benefit eligibility and benefit calculation purposes. If payment of required employer and employee contributions is not made, then the veteran's application for service will be recognized and credit will be used for benefit eligibility purposes only.

**History:** Effective September 1, 1991; amended effective May 1, 2004; July 1, 2006; \_\_\_\_\_, 2012.

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

**Law Implemented:** NDCC 54-52-17.4(5), 54-52-17.14; 38 USC 4318(a)(2)(A), 38 USC 4318(a)(2)(B), 38 USC 4318(b)(2); 20 CFR 1002.259-262.

Section 71-02-11-04 is amended as follows:

**71-02-11-04. Payment.** The cost for purchase of eligible military service in the North Dakota public employees retirement system and the North Dakota highway patrolmen's retirement system is as follows:

1. The cost for any required employee contributions to be paid by the member may be paid in a lump sum or in installments pursuant to the rules established for purchase or repurchase payment under subsection 1, 2, or 3 of section 71-02-03-02.2. If no payments have been made, no credit will be awarded for benefit calculation purposes. To prevent any delay in issuing the employee's first retirement check, purchase must be completed at least thirty days prior to retirement date.

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**History:** Effective September 1, 1991; amended effective May 1, 2004; July 1, 2006; July 1, 2010; \_\_\_\_\_, 2012.

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

**Law Implemented:** NDCC 54-52-17.4(5), 54-52-17.14; 38 USC 4318(a)(2)(A), 38 USC 4318(a)(2)(B), 38 USC 4318(b)(2); 20 CFR 1002.259-262.

## CHAPTER 71-03-01 BID PROCESS

Section

71-03-01-01 Bid Contracts

71-03-01-02 Bid Specifications

71-03-01-03 Bid Deadlines [Repealed]

71-03-01-04 Bid Letting [Repealed]

Section 71-03-01-02 is amended as follows:

**71-03-01-02. Bid specifications.** Bid solicitations ~~will~~ may be for:

1. Life insurance.
2. Hospital and medical coverages for active or retired members or both - fully insured contract.
3. ~~Individual and aggregate stop-loss insurance~~ Self insured coverage for active or retired member or both.

- 4. ~~Administrative services only.~~
- 5. ~~Third party administrators~~
- 6. ~~Dental insurance.~~
- 7.5. ~~Vision insurance.~~
- 8.6. ~~Long-term care insurance.~~
- 9. ~~Retired medicare-eligible employee group prescription drug coverage~~
- 7. Prescription drug coverage for active or retired members or both.

**History:** Effective October 1, 1986; amended effective May 1, 2004; April 1, 2008; \_\_\_\_\_, 2012.

**General Authority:** NDCC 54-52.1-08

**Law Implemented:** NDCC 54-52.1-02, 54-52.1-04

Section 71-03-01-03 is repealed:

**71-03-01-03. Bid deadlines.** ~~Bid solicitations will be sent to prospective bidders, licensed to do business in North Dakota, on or before December first of the year preceding the end of a biennium.~~

~~All bids must be postmarked no later than midnight, December thirty first, of the year preceding the end of a biennium. Bids postmarked after the deadline will be invalid. Bids must be in a sealed envelope, clearly marked with "BID - GROUP MEDICAL AND LIFE PROGRAMS". Repealed effective \_\_\_\_\_, 2012.~~

**History:** Effective October 1, 1986.

**General Authority:** NDCC 54-52.1-08

**Law Implemented:** NDCC 54-52.1-04.2

Section 71-03-01-04 is repealed:

**71-03-01-04. Bid letting.** ~~Bids that are incomplete or otherwise not following the bid specifications will be invalid.~~

~~Bids will be opened at a public meeting of the board in January of the year in which the biennium ends.~~

Contracts will be awarded to the successful bidders prior to March first of the year in which the biennium ends. ~~Repealed effective \_\_\_\_\_, 2012.~~

~~History: Effective October 1, 1986.~~

~~General Authority: NDCC 54-52.1-08~~

~~Law Implemented: NDCC 54-52.1-04.2~~

## CHAPTER 71-03-03 EMPLOYEE RESPONSIBILITIES

Section

71-03-03-01	Enrollment
71-03-03-02	Late Enrollment
71-03-03-03	Early Enrollment [Repealed]
71-03-03-04	Open Enrollment [Repealed]
71-03-03-05	Special Enrollment for Certain Qualifying Events
71-03-03-06	Continuation of <del>Hospital and Medical</del> <u>Health, Dental, Vision or Prescription Drug</u> Coverage After Termination
71-03-03-07	Continuation of <u>Health, Dental, Vision, or Prescription Drug</u> Benefits Coverage for Dependents
71-03-03-08	Continuation of Life Insurance After Retirement
71-03-03-09	Leave Without Pay
71-03-03-10	Employee Contribution

Section 71-03-03-01 is amended as follows:

**71-03-03-01. Enrollment.** An eligible employee is entitled to coverage the first of the month following the month of employment, if the employee submits an application for coverage within the first thirty-one days of employment or eligibility for one of the following special enrollment periods:

1. Loss of coverage under any other health, dental, vision, or prescription drug insurance plan.

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**History:** Effective October 1, 1986; amended effective July 1, 1994; June 1, 1996; July 1, 1998; July 1, 2010; \_\_\_\_\_, 2012.

**General Authority:** NDCC 54-52.1-08

**Law Implemented:** NDCC 54-52.1-02, 54-52.1-03

Section 71-03-03-05 is amended as follows:

**71-03-03-05. Special enrollment for certain qualifying events.** An eligible employee, retiree, or surviving spouse who elects to take a periodic distribution from the

defined contribution retirement plan or a monthly retirement benefit from the North Dakota public employees retirement system, North Dakota highway patrolmen's retirement system, the retirement system established by job service North Dakota, the teachers' fund for retirement, or teachers' insurance and annuity association of America-college retirement equities fund, or retirees who have accepted a retirement allowance from a participating political subdivision's retirement plan and provide verification of distribution are eligible for coverage with the group health, dental, vision, or prescription drug insurance program.

1. The employee, retiree, or surviving spouse must submit application for coverage within thirty-one days from one of the following qualifying events:
  - a. The month in which the eligible employee or retiree turns age sixty-five or becomes eligible for medicare.
  - b. The month in which the eligible employee's or retiree's spouse turns age sixty-five or becomes eligible for medicare.
  - c. The month in which the eligible employee terminates employment.
  - d. The month in which the eligible retiree or surviving spouse receives the first monthly retirement benefit from one of the eligible retirement systems outlined above.
  - e. The month in which an eligible employee or retiree who is covered through a spouse's plan becomes ineligible for the spouse's plan due to divorce, death, loss of employment, reduction in hours or other events which may cause loss of coverage as determined by the board.
  - f. The month in which the eligible employee or retiree is no longer eligible for employer-sponsored insurance, including coverage provided under the Consolidated Omnibus Budget Reconciliation Act.
2. Coverage will become effective on the first day of the month following the month in which the qualifying event occurred. If an application is not submitted within thirty-one days of a qualifying event, the eligible individual must be considered to have waived coverage and may not be enrolled unless the individual meets the criteria of another qualifying event. Upon a showing of good cause, the executive director may waive the thirty-one day application requirement.
3. Other individuals eligible for the health, dental, vision, or prescription drug insurance plan include a surviving spouse who is not receiving a qualified monthly retirement benefit from one of the eligible retirement systems outlined above, but who was a covered dependent on the eligible retiree's

group health, dental, vision, or prescription drug insurance plan at the time of the eligible retiree's death, if there is no lapse in coverage.

4. Individuals not eligible for the group health, dental, vision, or prescription drug insurance plan include:
- a. A former employee who received a refund of the employee's retirement account, including individuals in the defined contribution plan who take a cash withdrawal of the employee's account, roll their account into another qualified plan, or use the moneys in their account to purchase an annuity.
  - b. A nonspouse beneficiary (eligible for Consolidated Omnibus Budget Reconciliation Act).
  - c. A deferred retiree or surviving spouse between the time in which the retiree or surviving spouse's eligibility for the Consolidated Omnibus Budget Reconciliation Act (if eligible) ends and the month in which the eligible retiree or surviving spouse receives the first monthly retirement benefit from one of the eligible retirement systems.
  - d. A formerly deferred retiree who received a refund of the retiree's retirement account.
  - e. A surviving spouse of a nonvested employee eligible for the Consolidated Omnibus Budget Reconciliation Act.
  - f. A surviving spouse of a former employee who received a refund of the employee's retirement account.
  - g. A former participating member of the defined contribution retirement program who would not qualify for one of the retirement dates set forth in subsection 3 of North Dakota Century Code section 54-52-17 if that employee was a member of the defined benefit retirement plan, unless eligible under the Consolidated Omnibus Budget Reconciliation Act, and then only for the required duration of eligibility under the Act.

**History:** Effective October 1, 1986; amended effective November 1, 1990; July 1, 1994; June 1, 1996; July 1, 1998; July 1, 2000; May 1, 2004; \_\_\_\_\_, 2012.

**General Authority:** NDCC 54-52.1-08

**Law Implemented:** NDCC 54-52.1-02, 54-52.1-03, 54-52.1-03.1; Pub. L. 99-272; 100 Stat. 222; 26 USC 162 et seq.

Section 71-03-03-06 is amended as follows:

**71-03-03-06. Continuation of ~~hospital and medical~~ health, dental, vision, or prescription coverage after termination.** An employee who terminates employment and is not receiving a monthly retirement benefit from one of the eligible retirement systems, and applies for continued ~~hospital and medical~~ health, dental, vision, or prescription drug plan may continue such coverage for a maximum of eighteen months by remitting timely payments to the board. The employee desiring coverage shall notify the board within sixty days of the termination. Coverage will become effective on the first day of the month following the last day of coverage by the employing agency, if an application is submitted within sixty days. An individual who fails to timely notify the board is not eligible for coverage.

**History:** Effective October 1, 1986; amended effective November 1, 1990; June 1, 1996; \_\_\_\_\_, 2012.

**General Authority:** NDCC 54-52.1-08

**Law Implemented:** NDCC 54-52.1-02; Pub. L. 99-272; 100 Stat. 222; 26 USC 162 et seq.

Section 71-03-03-07 is amended as follows:

**71-03-03-07. Continuation of health, dental, vision, or prescription drug ~~benefits~~ coverage for dependents.** Dependents of employees with family coverage may continue coverage with the group after their eligibility would ordinarily cease. This provision includes divorced or widowed spouses and children when they are no longer dependent on the employee. Coverage is contingent on the prompt payment of the premium, and in no case will coverage continue for more than thirty-six months. Dependents desiring coverage shall notify the board within sixty days of the qualifying event and must submit an application in a timely manner. An individual who fails to notify the board within the sixty days, and who desires subsequent coverage, will not be eligible for coverage.

**History:** Effective October 1, 1986; amended effective November 1, 1990; \_\_\_\_\_, 2012.

**General Authority:** NDCC 54-52.1-08

**Law Implemented:** NDCC 54-52.1-02; Pub. L. 99-272; 100 Stat. 232; 42 USC 300 et seq.

Section 71-03-03-09 is amended as follows:

**71-03-03-09. Leave without pay.** An employee on an approved leave without pay may elect to continue coverage for the periods specified in the plans for life insurance, ~~hospital and medical~~ health, dental, vision, or prescription drug coverages by paying the full premium to the agency. An eligible employee electing not to continue coverage during a leave of absence is entitled to renew coverage for the first of the

month following the month that the employee has returned to work if the employee submits an application for coverage within the first thirty-one days of returning to work. An eligible employee failing to submit an application for coverage within the first thirty-one days of returning to work or eligibility for a special enrollment period, may enroll during the annual open enrollment and may be subject to a six-month waiting period for preexisting conditions. Upon a showing of good cause, the executive director may waive the thirty-one day application requirement.

**History:** Effective October 1, 1986; amended effective November 1, 1990; June 1, 1996; September 1, 1997; July 1, 1998; May 1, 2004; \_\_\_\_\_, 2012.

**General Authority:** NDCC 54-52.1-08

**Law Implemented:** NDCC 54-52.1-02, 54-52.1-03

## CHAPTER 71-03-05 BOARD RESPONSIBILITIES

### Section

71-03-05-01	Premium Billing
71-03-05-02	Retiree Billing
71-03-05-03	Late Premium for Retirees [Repealed]
71-03-05-04	Late Premium for Terminated Employees <u>[Repealed]</u>
71-03-05-05	Appeal Process
71-03-05-06	Recovery of Benefit Payments
71-03-05-07	Erroneous Payment of Premiums - Overpayments
71-03-05-08	Erroneous Payment of Premiums - Underpayments
71-03-05-09	Erroneous Payment of Premiums - Appeals
71-03-05-10	Determining Amount of Premium Overpayments and Underpayments
71-03-05-11	Failure to Provide Notification and Errors

Section 71-03-05-04 is repealed:

**71-03-05-04. Late premium for terminated employees.** ~~If the premium due for a terminated employee with continued coverage is not received by the due date, coverage will be canceled retroactively to the last day of the period for which payment was received following a thirty-day grace period. Repealed effective \_\_\_\_\_, 2012.~~

**History:** ~~Effective October 1, 1986; amended effective May 1, 2004.~~

**General Authority:** ~~NDCC 54-52.1-08~~

**Law Implemented:** ~~NDCC 26.1-36-23~~

Section 71-03-05-05 is amended as follows:

**71-03-05-05. Appeal process.** ~~If an employee's application for a member's~~ benefits ~~has~~ have been denied in whole or in part by the board or its agent, the



employee member will be notified in writing of the denial and the reasons. Within sixty days of the date shown on the denial notice, the employee member may file a petition for review. The petition must be in writing, the reasons stated for disputing the denial and be accompanied by any documentation. Should the employee member filing a petition for review, or should the board or its agent desire information which cannot be presented satisfactorily by correspondence, the board or its designated appeals committee may schedule a hearing. The person member filing the appeal will be notified in writing at least fifteen days prior to hearing of the time, date, and place.

The board or its agent will render a decision as soon as possible, but not later than one hundred twenty days after the receipt of the petition for review. The decision will be in writing.

**History:** Effective October 1, 1986; amended effective November 1, 1990; July 1, 2010; \_\_\_\_\_, 2012.

**General Authority:** NDCC 54-52.1-08

**Law Implemented:** NDCC 54-52.1-08

Section 71-05-02-04 is amended as follows:

**71-05-02-04. Optional benefits.** An individual deemed eligible for a disability benefit may elect, as provided in this section, to receive one of the following optional benefits in lieu of the regular disability benefit. ~~These options are not available if the calculation of the optional benefit to which the member is entitled would result in an amount that is less than one hundred dollars.~~

1. **One hundred percent joint and survivor benefit.** A member shall receive an actuarially reduced disability retirement benefit as long as the member remains eligible for benefits under subdivision d of subsection 3 of North Dakota Century Code section 39-03.1-11 and after the member's death the same amount will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Payments of benefits to a member's surviving spouse must be made on the first day of each month commencing on the first day of the month following the member's death, provided the beneficiary supplies a marriage certificate and death certificate and is still living. Benefits must terminate in the month in which the death of the beneficiary occurs. If the designated beneficiary predeceases the member or, in the event of divorce, the member's benefit must be returned to the normal retirement amount. Payment of the normal retirement amount must commence on the first day of the month following the spouse's death if written notification of death, provided a death certificate has been submitted or, in the event of divorce, a photocopy of the divorce decree. ~~Should the member remarry and wish to change such designation, a new actuarial retirement benefit will be calculated.~~

...

**History:** Effective July 1, 1998; amended effective May 1, 2004; July 1, 2006; April 1, 2008; \_\_\_\_\_, 2012.

**General Authority:** NDCC 39-03.1-06, 39-03.1-11

**Law Implemented:** NDCC 39-03.1-11.4(d)

Section 71-05-05-04 is amended as follows:

**71-05-05-04. Optional benefits.** A member may elect, as provided in section 71-05-05-02, to receive one of the following optional benefits in lieu of the regular early or normal retirement benefit.

1. **One hundred percent joint and survivor benefit.** A member may receive an actuarially reduced retirement benefit during the member's lifetime and after the member's death the same amount will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. In the event the member's spouse predeceases the member or, in the event of divorce, the option shall be canceled and the member's benefit shall be returned to the normal retirement amount. Payment of the normal retirement amount shall commence on the first day of the month following the spouse's death providing written notification of death and a death certificate has been submitted or, in the event of divorce, a photocopy of the divorce decree. ~~Should the member remarry and wish to change such designation, a new actuarial retirement benefit will be calculated.~~

Payments of benefits to a member's surviving spouse must be made on the first day of each month, commencing on the first day of the month following the member's death, providing the beneficiary has supplied a marriage certificate, death certificate, birth certificate verifying age, and is still living. Benefits must terminate in the month in which the death of the beneficiary occurs.

...

**History:** Effective October 1, 1991; amended effective July 1, 2006; April 1, 2008; July 1, 2010; \_\_\_\_\_, 2012.

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

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

Section 71-05-08-02 is amended as follows:

**71-05-08-02. Qualified domestic relations orders procedures.**

1. Upon receipt of a proposed domestic relations order, the public employees retirement system shall send an initial notice to each person named

therein, including the member and the alternate payee named in the order, together with an explanation of the procedures followed by the fund.

2. ~~Upon receipt of a domestic relations order, the executive director shall, if the account is in pay status or begins pay status during the review, order funds segregated in a separate account of the fund or in an escrow account which the alternate payee would be entitled to by direction of the order, if ascertainable from the proposed order. If a member who is not in pay status at the time the proposed domestic relations order was received makes application for a lump sum distribution due to termination of employment, the application for lump sum distribution will be held until such time as the proposed domestic relations order is determined to be qualified and a certified copy of such order is received at the NDPERS office or until the end of the eighteen-month review period, whichever occurs first.~~
3. Upon receipt of a domestic relations order, the public employees retirement system shall review the domestic relations order to determine if it is a qualified order as established by the model language format specified by the board.
4. The domestic relations order shall be considered a qualified order when the executive director notifies the parties the order is approved and a certified copy of the court order has been submitted to the office.
5. If the order becomes qualified, the executive director shall:
  - a. Send notice to all persons named in the order and any representatives designated in writing by such person that a determination has been made that the order is a qualified domestic relations order.
  - b. Comply with the terms of the order.
  - c. ~~If a segregated account or an escrow account has been established for an alternate payee, distribute the amount, plus interest, as provided under subdivision d of subsection 1 of section 71-02-01-01 to the alternate payee.~~
6.
  - a. If the order is determined not to be a qualified domestic relations order or a determination cannot be made as to whether the order is qualified or not qualified within eighteen months of receipt of such order, the public employees retirement system shall send written notification of termination of review to all parties at least forty-five days prior to the end of the eighteen-month review period. At the end of the eighteen-month review period, the proposed order is deemed to be withdrawn and of no legal effect.

- b. ~~If a segregated account or an escrow account has been established for an alternate payee, the executive director shall distribute the amounts in the segregated account or escrow account, plus interest at a rate determined by the board, to the person or persons who would be entitled to receive such amount in the absence of an order member who was not in pay status at the time the proposed domestic relations order was received made application for a lump sum distribution due to termination of eligible employment, the application for lump sum distribution will be processed at the end of the eighteen-month review period.~~

...

**History:** Effective October 1, 1991; amended effective July 1, 1994; July 1, 2006; \_\_\_\_\_, 2012.

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

**Law Implemented:** NDCC 39-03.1-14.2

Section 71-06-01-03 is amended as follows:

**71-06-01-03. For retirees receiving more than one benefit entitled to retiree health insurance credit.**

1. ~~If a retiree is receiving more than one benefit from the public employees retirement system, or other participating system; one as a surviving spouse, and the other based upon the retiree's own service credit, the retiree may make application with the public employees retirement system to combine retiree health insurance credits~~ credit for each benefit will be combined with an effective date based on eligibility in accordance with the North Dakota Century Code section 54-52.1-03.3.
2. If a retiree is receiving a public employees retirement system retirement benefit as a surviving spouse and is also an active contributor to either the public employees retirement system, the highway patrol retirement system, the judges retirement system, or the job service retirement program, the individual will not be eligible for retiree health insurance credit until one of the following events occurs:
  - a. The active contributor terminates employment, at which time the active contributor may receive the retiree health insurance credit as any other surviving spouse.
  - b. The active contributor retires and begins receiving a benefit through an eligible retirement system, ~~at which time the active contributor may make application with the public employees retirement system to combine retiree health insurance credits.~~

3. If the retiree was employed by a political subdivision which does not participate in the public employees retirement system health plan, and is drawing a retirement benefit or a surviving spouse benefit, the individual may receive the retiree health insurance credit as any other ~~annuitant~~ retiree based upon a retiree premium.
4. If a husband and wife are both ~~participants of a retirement system that provides the retiree health insurance credit, and are both receiving a benefit from a retirement system that provides the retiree health insurance credit,~~ the retiree health insurance credit will be applied as follows:
  - a. If each retiree takes a single health insurance plan under the uniform group health insurance program, each will have their respective retiree health insurance credit applied to their respective premiums.
  - b. If only one retiree takes a family health plan under the uniform group health insurance program, they may make application with the public employees retirement system to combine retiree health insurance credits.

Retirees are responsible for making application with the public employees retirement system to combine and discontinue combining retiree health insurance credits.

5. ~~Persons~~ Retirees with service credit in more than one of the participating retirement systems ~~may combine that credit for retiree health insurance purposes, using the credit earned from the system the member contributed to most recently as primary will have their respective retiree health insurance credit for each benefit combined with an effective date based on eligibility in accordance with North Dakota Century Code section 54-52.1-03.3.~~
6. ~~Retirees are responsible for making application with the public employees retirement system to combine and discontinue combining retiree health insurance credits.~~ Surviving spouses receiving multiple benefits from retirement systems that provide the retiree health insurance credit will have their respective retiree health insurance credit for each benefit combined with an effective date based on eligibility in accordance with North Dakota Code section 54-52.1-03.3.

**History:** Effective April 1, 1992; amended effective June 1, 1996; July 1, 1998; April 1, 2008; \_\_\_\_\_, 2012.

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

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

**CHAPTER 71-08-01  
ELECTION AND TRANSFER**

Section

71-08-01-01	Ability to Elect to Transfer Into the Defined Contribution Retirement Plan
71-08-01-02	Vesting in Transferred Accumulated Fund Balance
71-08-01-03	Spousal Signature Requirements
71-08-01-04	Transfer of Members With Qualified Domestic Relations Orders on Their Accounts
71-08-01-05	Transfer Amount of Persons Transferring Into Eligible Employment After December 31, 1999
71-08-01-06	Public Employees Retirement System Retirees Not Eligible to Transfer Upon Return to Work
71-08-01-07	Late Election Opportunity
<u>71-08-01-08</u>	<u>Transfer of Funds</u>

Section 71-08-01-08 is created as follows:

**71-08-01-08. Transfer of funds.** Pursuant to subdivision a of subsection 4 of North Dakota Century Code section 15-10-17, funds may be transferred on behalf of those person who are eligible through their employment with the state board of higher education. The following requirements apply:

1. Applicant must file a completed application for the teachers insurance and annuity association-college retirement equities fund.
2. Notice of termination and verification of teachers insurance and annuity association-college retirement equities fund eligibility must be filed by either the applicant or appropriate payroll officer.
3. A participating member is eligible to transfer that person's accumulated balance in the plan upon becoming a former participating member.

**History:** Effective

**General Authority:** NDCC 15-10-17

**Law Implemented:** NDCC 15-10-17

Section 71-08-04-02 is amended as follows:

**71-08-04-02. Qualified domestic relations orders procedures.**

1. Upon receipt of a proposed domestic relations order, the public employees retirement system shall:

- a. Send an initial notice to each person named therein, including the member and the alternate payee named in the order, with an explanation of the procedures followed by the fund.
  - b. ~~Order the funds to which the alternate payee would be entitled by direction of the order segregated into the available stable value account of the fund, if those funds are ascertainable from the proposed order.~~ If a member who is not in pay status at the time the proposed domestic relations order was received makes application for a lump sum distribution due to termination of employment, the application for lump sum distribution will be held until such time as the proposed domestic relations order is determined to be qualified and a certified copy of such order is received at the NDPERS office or until the end of the eighteen-month review period, whichever occurs first.
  - c. Review the domestic relations order to determine if it is a qualified order as established by the model language format specified by the board.
2. The domestic relations order shall be considered a qualified order when the executive director notifies the parties the order is approved and a certified copy of the court order has been submitted to the office.
  3. If the order becomes qualified, the executive director shall:
    - a. Send notice to all persons named in the order and any representative designated in writing by such person that a determination has been made that the order is a qualified domestic relations order.
    - b. Comply with the terms of the order.
    - c. Allow the alternate payee to choose the appropriate investment options for the alternate payee's account.
    - d. Allow the alternate payee to choose the same payout options allowed for the member.
  4. If the order is determined not to be a qualified domestic relations order or a determination cannot be made as to whether the order is qualified or not qualified within eighteen months of receipt of such order, the public employees retirement system shall send written notification of termination of review to all parties at least forty-five days prior to the end of the eighteen-month review period. At the end of the eighteen-month review period, the proposed order is deemed to be withdrawn and of no legal effect.

- a. ~~If a segregated account has been established for an alternate payee, the executive director shall distribute the amounts in the segregated account in the manner required in the absence of an order member who was not in pay status a the time the proposed domestic relations order was received made application for a lump sum distribution due to termination of employment, the application for lump sum distribution will be processed at the end of the eighteen-month review period.~~
- b. If determined after the expiration of the eighteen-month period the order is a qualified domestic relations order, the qualified domestic relations order must be applied prospectively only.

**History:** Effective July 1, 2000; amended effective July 1, 2006; \_\_\_\_\_, 2012.

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

**Law Implemented:** NDCC 54-52.6-12

Section 71-08-06-02 is amended as follows:

**71-08-06-02. Award of service credit.** ~~An individual~~ A veteran with eligible time may receive up to sixty months' credit upon proper application. A veteran eligible to receive service credit for military time must apply for and, if required to pay any portion of the employee contribution, purchase that time within the lesser of three times the length of active duty or five years from the date of that person's return to covered employment after an honorable discharge. Service credit will not be awarded until all required documentation is received by the North Dakota public employees retirement system ~~and payment of both the employer and the employee contributions is made in full.~~ If payment of required employer and employee contributions is made, the service will be recognized for both benefit eligibility and benefit calculation purposes. If payment of required employer and employee contributions is not made, then the veteran's application for service will be recognized and credit will be used for benefit eligibility purposes only.

**History:** Effective May 1, 2004; amended effective July 1, 2006; \_\_\_\_\_, 2012.

**General Authority:** NDCC 54-52.6-04, 54-52-04

**Law Implemented:** NDCC 54-52.6-09.3, 54-52.6-09.4; 38 USC 4318(a)(2)(A), 38 USC 4318(a)(2)(B), 38 USC 4318(b)(2); 20 CFR 1002.259-262.

Subsection 1 of Section 71-08-06-04 is amended as follows:

**71-08-06-04. Cost.** The cost for purchase of eligible military service in the defined contribution plan may be paid as follows:



1. The cost for any required employee contributions to be paid by the member may be paid in a lump sum or in installments pursuant to the rules established for purchase or repurchase payment under subsection 3, 4, or 5 of section 71-02-03-02.2. If no payments have been made, no credit will be awarded for benefit calculation purposes.

**History:** Effective May 1, 2004; amended effective July 1, 2006; July 1, 2010; \_\_\_\_\_, 2012.

**General Authority:** NDCC 54-52-04, 54-52.6-04

**Law Implemented:** NDCC ~~54-52.6-09.3~~, 54-52.6-09.4; 38 USC 4318(a)(2)(A), 38 USC 4318(a)(2)(B), 38 USC 4318(b)(2); 20 CFR 1002.259-262.