

CHAPTER 71-08-02
MEMBERSHIP IN DEFINED CONTRIBUTION RETIREMENT PLAN

Section

- 71-08-02-01 Membership of Individuals Who Become Employees Covered Under the Judges' Plan, the National Guard Plan, the Bureau of Criminal Investigation Plan, the Public Safety Plan, the Highway Patrol Retirement Plan, the Teachers' Fund for Retirement Plan, or the Alternate Retirement Plan of the State Board of Higher Education
- 71-08-02-02 Continuation of Membership
- 71-08-02-03 Nonstate Elected Officials - Membership and Return to Service

71-08-02-01. Membership of individuals who become employees covered under the judges' plan, the national guard plan, the bureau of criminal investigation plan, the public safety plan, the highway patrol retirement plan, the teachers' fund for retirement plan, or the alternate retirement plan of the state board of higher education.

1. If a member of the defined contribution retirement plan begins employment in a position covered under the judges' plan, the national guard plan, the bureau of criminal investigation plan, the public safety plan, the highway patrol retirement 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 new contributions may not 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 must 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.
2. Any membership service and vesting obtained the judges' plan, the main plan, the national guard plan, the bureau of criminal investigation plan, the public safety plan, the highway patrol retirement plan, the teachers' fund for retirement plan, or the alternate retirement plan of the state board of higher education, may not be used toward credited service and vesting in the defined contribution plan under North Dakota Century Code chapter 54-52.6.

History: Effective July 1, 2000; amended effective April 1, 2002; July 1, 2006; April 1, 2020; July 1, 2026.

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

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

71-08-02-02. Continuation of membership.

Other than as provided in section 71-08-02-01, a former participating member of the defined contribution retirement plan who returns to state employment following a previous termination or retirement continues to be a member of the defined contribution retirement plan even if the member took one of the distributions allowed by North Dakota Century Code section 54-52.6-13.

History: Effective July 1, 2000.

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

Law Implemented: NDCC 54-52.6-02

71-08-02-03. Nonstate elected officials - Membership and return to service.

1. Purpose. North Dakota Century Code section 54-52-02.11 and subsection 3 of section 54-52.6-02.1 conflict with Internal Revenue Code sections 401(a)(36) and 401(k)(4)(B)(ii) and related regulations and relevant guidance.

Pursuant to the authority granted to the board under North Dakota Century Code sections 54-52-23 and 54-52.6-23, the purpose of this section is to ensure compliance with federal statutes and rules until the conflict between North Dakota Century Code section 54-52-02.11 and subsection 3 of section 54-52.6-02.1 and federal law is addressed by the legislative assembly.

2. Membership. A county elected official shall participate in the defined contribution retirement plan as provided under section 71-02-02-02.
3. Return to service.
 - a. Before August 1, 2027, a request by a county elected official to receive in-service benefit distributions must be approved as provided under section 71-02-02-02.
 - b. Retroactive effective date. This subsection is retroactive to July 1, 2007.
4. Sunset provision. This section must terminate on the effective date of any measure enacted by the legislative assembly providing the necessary amendments to the North Dakota Century Code to ensure compliance with the federal statutes or rules.

History: Effective July 31, 2025; amended effective January 1, 2026.

General Authority: NDCC 54-52-04, 54-52.6-23

Law Implemented: NDCC 54-52-02.15, 54-52.6-02