

Section 82-02-01-01 is amended as follows:

**82-02-01-01. Definitions.** Unless made inappropriate by context, all words used in this title have the meanings given to them under North Dakota Century Code chapter 15-39.1. The following definitions are not established by statute and apply for the purpose of this title:

1. "Acceptance of benefit" means the benefit payment date that is the first calendar day of each month for benefits paid by paper check or electronic funds transfer to a financial institution.
2. "Account balance" or "value of account" means the member's accumulated contributions or assessments, plus the sum of any member purchase or repurchase payments, plus interest at an annual rate of six percent compounded monthly.
3. "Administrative" means to manage, direct, or superintend a program, service, or school district or other participating employer.
4. "Benefit payment date" means the date the member is paid a benefit which is the first day of the month. Benefits may be paid retroactive to a member's retirement date.
5. "Benefit service credit" means employment service used to determine benefits payable under the fund.
56. "Bonus" means an amount paid to a member in addition to regular contract salary which does not increase the member's base rate of pay, is not expected to recur or continue in future fiscal years, or is not expected to be a permanent salary increase. A bonus is not considered eligible retirement salary and is not subject to payment of member and employer contributions.

Bonuses include the following:

- a. Recruitment or contract signing payments defined in North Dakota Century Code section 15.1-09-33.1.
- b. Retention, experience, or service-related payments.
- c. Early retirement incentive payments, severance payments, or other payments conditioned on or made in anticipation of a member's retirement or termination.
- d. Payments made to recognize or reward a member's accomplishments or service.

- e. Other special or irregular payments which the board determines to be bonuses using criteria and documentation described in section 82-04-02-01.
- 67. "Cessation of employment" means severance or termination of employment.
- 78. "Contributions" means the assessments or payments made to the fund.
- 89. "Covered employment" means employment as a teacher in a North Dakota state agency, state institution, school district, special education unit, regional education association, or other governing body of a school district.
- 910. "Covered payroll" means all amounts included in payroll, salary or compensation paid to active members on which contributions to and benefits from the pension plan are based according to the definition of salary in NDCC 15-39.1-04(10). Covered payroll may also be referred to as pensionable or eligible payroll, salary, compensation, or earnings.
- 11. "Eligibility service credit" means employment service used to determine vesting and benefit eligibility for dual members and qualified veterans under the Uniformed Services Employment and Reemployment Rights Act of 1994. Eligibility service credit is not used for benefit calculation purposes.
- 4012. "Extracurricular services" means outside of the regular curriculum of a school district or other participating employer which includes advising, directing, monitoring, or coaching athletics, music, drama, journalism, and other supplemental programs.
- 4413. "Member" is a teacher as defined in North Dakota Century Code section 15-39.1-04 who is a participant in the fund.
- 4214. "Participating employer" means the employer of a teacher, including a North Dakota state agency, state institution, school district, special education unit, area career and technology center, regional education association, or other governing body of a school district who contributes to the teachers' fund for retirement.
- 4315. "Performance or merit pay" means an amount paid to a member pursuant to a written compensation plan or policy that links a member's compensation to attainment of specific performance goals and duties. The specific goals, duties, and performance measures under which performance pay is expected to be made must be determined in advance

of the performance period and documented in writing. Performance or merit pay may be in addition to regular salary or may replace regular salary increases. Performance or merit pay is considered eligible retirement salary and subject to payment of member and employer contributions, unless the teachers' fund for retirement board determines the payments are ineligible salary using criteria and documentation described in section 82-04-02-01.

4416. "Plan year" means the twelve consecutive months commencing July first of the calendar year and ending June thirtieth of the subsequent year.
4517. "Referee" means all sporting and nonsporting event judges and officials, including referees, umpires, line judges, scorekeepers, timekeepers, ticket takers, ushers, and other judges or officials.
4618. "Retirement date" means the date selected by the member to begin retirement benefits. The benefit is calculated as of the retirement date and can be no earlier than the first or fifteenth day of the month following eligibility for retirement benefits or the first day of the month following eligibility for disability or death benefits. Notwithstanding the foregoing a member's retirement will not be effective until the member accepts the first benefit payment.
19. "Salary reduction or salary deferral amounts under 26 U.S.C. section 125, 132(f), 401(k), 403(b), or 457" means amounts deducted from a member's salary, at the member's option, to these plans. These reductions or deferrals are part of salary when calculating retirement contributions. Employer contributions to plans specified in 26 U.S.C. section 125, 132(f), 401(k), 403(b), or 457 which are made for the benefit of the member will not be counted as retirement salary when calculating retirement contributions. Member contributions paid by the employer under IRC section 414(h) pursuant to a salary reduction agreement do not reduce salary when calculating retirement contributions.
4720. "Special teachers" include licensed special education teachers, guidance and school counselors, speech therapists and language pathologists, social workers, school psychologists, librarians, ~~audio-visual or media coordinators~~ specialists, technology coordinators, program coordinators, and other staff members licensed by the education standards and practices board provided they are under contract with a school district or other participating employer to provide teaching, supervisory, administrative, or extracurricular services.
4821. "Supervisory" means to have general oversight or authority over students or teachers, or both, of a school district or other participating employer.

- ~~19~~22. "Teaching" means to impart knowledge or skills to students or teachers, or both, by means of oral or written lessons, instructions, and information.
- ~~20~~23. "Vested" means the status attained by a teacher when the teacher has earned three years of service credit for a tier one member or five years of service credit for a tier two member for covered employment in this state.
- ~~21~~24. "Written agreement" means a teaching contract, school board minutes, or other official document evidencing a contractual relationship between a teacher and participating employer.

**History:** Effective September 1, 1990; amended effective May 1, 1992; May 1, 1998; May 1, 2000; May 1, 2004; July 1, 2008; July 1, 2012; \_\_\_\_\_.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1, ~~15-39.1-04~~, ~~15-39.1-07~~

Section 82-03-01-06 is amended as follows:

**82-03-01-06. Veterans' rights.** A member may be entitled to eligibility service credit for military service under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301 et seq.] provided that the member received an honorable discharge and had the member's North Dakota teaching service interrupted by military duty after December 31, 1994. Interruption of service requires the member to enter military service within ninety days of leaving covered teaching employment and reenter covered employment within ninety days of the member's honorable discharge. Notwithstanding the preceding sentence, ~~a member who dies or becomes disabled (under the terms of the plan) while performing USERRA-qualified military service effective for deaths occurring on or after January 1, 2007, shall be treated as if the member has died while performing qualified military service (as defined in the Internal Revenue Code section 414(u)(5)), the fund shall provide all applicable benefits required in accordance with Internal Revenue Code section 401(a)(37), as if the member had resumed covered employment in accordance with USERRA on the day preceding death or disability and terminated employment on as of the actual date of death or disability. For benefit calculation purposes, the fund will treat a member who dies or becomes disabled (as defined under the terms of the fund) while performing qualified military service as if the member resumed employment in accordance with the member's reemployment rights under USERRA on the day preceding death or disability and terminated employment on the actual date of death or disability.~~ A member eligible to receive military credit under USERRA will have the service credit recognized for vesting and benefit eligibility purposes.

In addition to having the service credit recognized for vesting and benefit eligibility purposes, at the member's option, a member eligible to receive military credit under USERRA may pay an amount calculated by the fund to allow the credit to be

used for benefit calculation purposes. A member may purchase up to five years of military credit and must apply for and complete the purchase prior to retirement. The member must provide a copy of the member's military discharge papers (DD214) as proof of eligibility. The timeframe to purchase military service under USERRA begins with reemployment and is equal to three times the length of the military service but may not exceed five years.

The cost to purchase USERRA military credit for benefit calculation purposes is the member and employer contributions required under North Dakota Century Code section 15-39.1-09 had the member's employment not been interrupted by military service. The member contributions must be applied to the member's annual salary at the time of the military leave. The member contributions must be paid by the member if the employer is withholding contributions under a salary reduction plan. If the employer is paying all of the member contributions ~~in lieu of~~ as a salary increase supplement, the employer is responsible for payment of any member contributions owed. If the employer is paying a portion of the member contributions ~~in lieu of~~ as a salary increase supplement, both the member and employer are responsible for payment of the member contributions. The employer is required to pay the employer contributions. No interest is charged if the credit is purchased within the timeframe allowed under USERRA.

~~Effective January 1, 2009, any employee receiving a differential wage payment on account of military service shall be treated as an employee of the employer making the payment and the payment shall be treated as compensation~~ shall include military differential wage payments, as defined in Internal Revenue Code section 3401(h), for purposes of calculation of contributions and benefits.

If the credit is not purchased within the USERRA timeframe, the cost becomes the responsibility of the member and six percent interest is charged beginning with the date the USERRA timeframe elapsed.

**History:** Effective May 1, 1992; amended effective May 1, 1998; May 1, 2000; July 1, 2012;\_\_\_\_\_.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-24, 15-39.2-01.2; 26 USC 401(a)(37), 26 USC 414(u)(12)(A)

Section 82-03-01-08 is amended as follows:

**82-03-01-08. Dual membership - Receipt of retirement benefits while contributing to the public employees retirement system or the highway patrolmen's retirement system.**

1. Dual members may select one of the following options at retirement eligibility:

- a. Begin receiving retirement benefits from one plan prior to ceasing employment covered by the alternate plan, unless the continued employment is with the same employer.
  - b. Begin receiving retirement benefits from one plan and begin work in a job covered by the alternate plan if for a different employer.
  - c. Continue participating as a dual member and begin receiving retirement benefits from both plans after ceasing employment.
2. The following limitations apply when a member elects an option under subsection 1:
- a. 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 so long as service credit does not exceed one year in any fiscal year.
  - b. If a dual member elects to receive retirement benefits as provided in subdivision a or b of subsection 1, the final average 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.
  - c. The salary used in calculating the retirement benefit must be ~~certified~~provided in writing by the alternate retirement system.

**History:** Effective May 1, 2004; \_\_\_\_\_.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-10.3

Section 82-05-03-03 is created as follows:

**82-05-03-03. Overpayment of retirement benefits- Write-offs.** If the cost of recovering the amount of the overpayment of retirement benefits is estimated to exceed the overpayment, the TFFR Board may consider the repayment to be unrecoverable and written off.

**History:** Effective

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-29, NDCC 15-39.1-31

Section 82-05-04-01 is amended as follows:

**82-05-04-01. Actuarial factors - Early retirement.** In determining early retirement benefits under North Dakota Century Code section 15-39.1-12, the benefits to which a member is entitled shall be reduced 0.5 percent for each month that the early retirement date precedes the first day of the month coincident with or next following the earlier of the member's sixty-fifth birthday or the date at which current service plus the member's age will equal eighty-five for a tier one grandfathered member or current service plus member's age will equal ninety for a. Effective July 1, 2013, for members who are either tier one non-grandfathered or tier two, in determining the early retirement benefit under North Dakota Century Code section 15-39.1-12, the benefits to which a member is entitled shall be reduced 0.6667 percent for each month that the early retirement date precedes the first day of the month coincident with or next following the earlier of the member's sixty-fifth birthday or the date at which current service plus the member's age will equal ninety, with a minimum age of 60.

**History:** Effective September 1, 1990; amended effective May 1, 2000; July 1, 2008; \_\_\_\_\_

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-12, 15-39.1-16, 15-39.1-24

Section 82-05-04-02 is amended as follows:

**82-05-04-02. Actuarial factors - Optional payment forms.** Under North Dakota Century Code section 15-39.1-16, the actuarial factors used to determine benefit amounts under the optional joint and survivor, term certain and life, partial lump sum and level income forms of annuity payment shall be based on the following actuarial assumptions:

1. Interest rate - ~~8.00~~7.75 percent per year, compounded annually.
2. Member's mortality (used for nondisabled members) - a mortality table constructed by blending ~~forty~~thirty-three percent of the mortality rates under the ~~1983 group annuity mortality table~~RP-2014 male "combined" table, Employee and Healthy Annuitant Tables for males, without margins, setback four years~~adjusted and projected to 2017 using projection scale MP-2014, set back one year, with sixty~~sixty-seven percent of the mortality rates under the ~~1983 group annuity mortality table~~years RP-2014 female "combined" table, Employee and Healthy Annuitant Tables for females, without margins, setback three~~adjusted and projected to 2017 using projection scale MP-2014, set back one year.~~
3. Beneficiary's mortality - a mortality table constructed by blending ~~sixty~~sixty-seven percent of the mortality rates under the ~~1983 group~~

~~annuity mortality table table~~ RP-2014 male “combined” table, Employee and Healthy Annuitant Tables for males, without margins, setback four years adjusted and projected to 2017 using projection scale MP-2014, set back one year, with forty-three percent of the mortality rates under the 1983 group annuity mortality table RP-2014 female “combined” table, Employee and Healthy Annuitant Tables for females, without margins, setback three years adjusted and projected to 2017 using projection scale MP-2014, set back one year.

4. Disabled member’s mortality - a mortality table constructed by blending ~~forty-three~~ thirty-three percent of the mortality rates under ~~pension benefit guaranty corporation table V~~ the RP-2014 Disabled Mortality Table for disabled males, set forward four years, with sixty-seven percent of the mortality rates under ~~pension benefit guaranty corporation table VI~~ the RP-2014 Disabled Mortality Table for disabled females, set forward four years.

In addition, the above actuarial assumptions shall be used to determine actuarial equivalence for other purposes not covered by sections 82-05-04-01, 82-05-04-03, and 82-05-04-04, such as the determination of the reduction to a member’s benefit because of the existence of a qualified domestic relations order.

**History:** Effective May 1, 2000; amended effective May 1, 2004; July 1, 2008; \_\_\_\_\_

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-16, 15-39.1-24

Section 82-05-04-04 is amended as follows:

**82-05-04-04. Actuarial factors - Purchase of service.** Whenever the North Dakota Century Code permits a member to purchase service on an actuarially equivalent basis, the following actuarial assumptions shall be used:

1. Interest rate - ~~8.00~~ 7.75 percent per year, compounded annually.
2. Mortality rates - the same table specified in section 82-05-04-02 for nondisabled members.
3. Retirement - the member will be assumed to retire at the age at which the member is first eligible for an unreduced retirement benefit. Such unreduced retirement date will be determined taking into account any purchased service and assuming the member continues in full-time covered service.

4. Salary increase rate - Increases are assumed to occur once each year. The following table shows the increase rates indexed by the member's service (excluding any service being purchased):

Nearest Service at the Beginning of the Year	Percentage Increase at End of Year
0	14.0014.50%
1	8.007.75%
2	7.757.50%
3	7.507.25%
4	7.257.00%
5	7.006.75%
6	6.756.50%
7	6.506.25%
8-9	6.256.00%
910-11	6.005.75%
1012-13	5.755.50%
1114-15	5.505.25%
1216-18	5.505.00%
1319-22	5.504.75%
1423-24	5.254.50%
1525 or more	4.504.25%

**History:** Effective May 1, 2000; amended effective July 1, 2008;\_\_\_\_\_.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-16, 15-39.1-24