

## **ARTICLE 82-04 CONTRIBUTIONS**

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### **CHAPTER 82-04-01 CONTRIBUTIONS**

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#### **82-04-01-01. Employer contributions and member contributions.**

Employer and member contributions must be paid to the fund administrative office by the fifteenth day of the month following collection of the member contributions.

**History:** Effective September 1, 1990; amended effective July 1, 2012.

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

**Law Implemented:** NDCC 15-39.1-09

#### **82-04-01-02. Employer payment of member contributions.**

Section 414(h) of the Internal Revenue Code of 1986, as amended, allows the employer to pay its employees' contributions to a retirement plan. A participating employer that elects to pay the member contributions may reduce the members' current salaries or offset future salary increases by an amount equal to the member contributions paid by the employer. Employer payment of member contributions to the fund is allowed only if the following conditions are satisfied:

1. The participating employer must specify in writing that the contributions are being paid by the employer in lieu of contributions paid by the member.
2. Members must not have the option of choosing to receive the contributed amounts directly instead of having them paid by the participating employer to the retirement fund.
3. All members of a participating employer must be covered by the plan for employer payment of member contributions.
4. All members covered under such a plan must be treated equally.
5. The participating employer's plan to pay member contributions must comply with the fund's "plan for employer payment of member contributions to the fund" or other instructions prepared by the fund.
6. Eligible salary and member and employer contributions paid by the participating employer must be certified by the disbursing official on the required fund reports.
7. Participating employers implementing the plan must report the payment of member contributions to the fund on forms provided by the fund. The employer payment plan must be implemented at the beginning of the fiscal year. The employer payment plan will remain in effect until a notice of cancellation or a new form is filed with the fund.
8. Participating employers must file a new employer payment plan form if:

- a. The employer changes the model or amount of member contributions paid.
- b. The legislative assembly approves a change to the contribution rate.
- c. The teachers' fund for retirement board changes the models.

**History:** Effective September 1, 1990; amended effective July 1, 2012.

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

**Law Implemented:** NDCC 15-39.1-09

#### **82-04-01-03. Taxation of contributions and benefits.**

Contributions to the fund by participating employers are not subject to taxation as income or wages under state or federal law. Benefits paid by the fund to a member are subject to taxation as income under state and federal law when distributed.

**History:** Effective September 1, 1990.

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

**Law Implemented:** NDCC 15-39.1-07, 15-39.1-09(2), 21-10-07

#### **82-04-01-04. Rollover contributions permitted for service purchases.**

Teachers are permitted to roll over or transfer to the fund any tax-deferred moneys from other eligible retirement plans that meet the requirements of IRC section 402(c) to repurchase refunded service credit and to purchase additional service credit.

The amount rolled over or transferred to TFFR cannot exceed the cost of the credit to be purchased. The transferring trustee or custodian and the teacher must complete authorization forms provided by the fund prior to transfer or rollover. Copies of the original distribution paperwork must be submitted with rollover funds received from a member.

**History:** Effective September 1, 1990; amended effective May 1, 1998; May 1, 2004.

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

**Law Implemented:** NDCC 15-39.1-24(11)