



## EMPLOYER PAYMENT ELECTION

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM  
SFN 52799 (Rev. 09-2021)

NDPERS • PO Box 1657 • Bismarck • ND • 58502-1657  
(701) 328-3900 • (800) 803-7377 • Fax (701) 328-3920 • ndpers-info@nd.gov

This form is used by a participating employer in the NDPERS retirement plan to advise NDPERS who is paying the EMPLOYEE contribution and how it is being taxed. This payment plan does not refer to the employer contribution, which is always paid by the employer. **Refer to page 2 of this form for information on the models available to the employer.**

### PART A ORGANIZATION INFORMATION

Organization Name	NDPERS Organization ID
-------------------	------------------------

### PART B PAYMENT ELECTION

Effective Date of Election <div style="border: 1px solid black; width: 250px; height: 30px; margin: 5px auto; text-align: center;">/1/</div>	The election to tax defer contributions will be effective in the month adopted by the employer, however, the effective date cannot be earlier than the month the election form is received by NDPERS.
---	---

Plan:  Main/Main 2020/Defined Contribution Retirement Plans  Public Safety Retirement Plan

Payment Plan: Please answer the following questions to determine how the EMPLOYEE contribution is withheld in your payroll.

1. Is the **entire** employee contribution being **deducted** from the **employee's paycheck**?
  - Yes **If yes, go to question #2**
  - No **If no, go to question #3**
2. Is federal withholding computed on the employee's salary **before** retirement contributions are deducted?
  - Yes **If yes**, then Basic Model applies. The employee contributions are being paid on an after-tax (Post Tax) (Post Tax) basis. Do **not** answer questions #3 and #4. Sign and date bottom of form.
  - No **If no**, then Model 1 applies. Employee contributions are **tax deferred** (Pre-Tax). Do **not** answer questions #3 and #4. Sign and date bottom of form.
3. Is the **employer** paying the **entire** employee contribution for the employee?
  - Yes **If yes**, then Model 2 applies. Employee contributions are **tax deferred** (Pre-Tax). Do not answer question #4. Sign and date bottom of form.
  - No **If no, go to question #4**
4. If questions #1 or #3 were answered no, then Model 3 applies. Please complete the following information:
  - A. What **portion** of the employee contribution is the **employer** paying for the employee? (this is the portion the Employer is "picking up")
 

Percent of Employee contributions for this portion are **tax deferred** (Pre-Tax) \_\_\_\_\_% **Also answer question #4B.**
  - B. What **portion** of the employee retirement contribution is being **deducted** from the **employee's paycheck**? \_\_\_\_\_%, **go to question #4C**
  - Note: The sum of the percentages in #4A and #4B cannot exceed total employee contribution rate**
  - C. Is federal withholding computed on the employee's salary **before** the portion of retirement contributions in question #4B are deducted?
    - Yes Employee contributions for this portion are **after tax** (Post Tax).
    - No Employee contributions for this portion are **tax deferred** (Pre-Tax).

I understand the terms and conditions of the Model selected above under which the employer will report employee and employer contributions. I understand that this Employer Payment Election will remain in effect until a written notice of cancellation or a new election is filed. I also understand that any penalties levied by the Internal Revenue Service or Social Security Administration for improper reporting are the liability of the employer, not NDPERS.

Authorized Signature for Employer (Electronic Signatures will <u>not</u> be accepted)	Date of Signature
---	-------------------

NDPERS Use Only

### **Basic Model**

State law requires that employee contributions be paid on an after-tax basis (Post Tax) basis (Basic Model) unless the employer elects to pay the employee contributions on a tax deferred (Pre-Tax) basis.

Section 414(h)(2) of the Internal Revenue Code (IRC) and subsection 3 of section 54-52-05 of the North Dakota Century Code allow for employee contributions to a qualified retirement plan, such as NDPERS, to be made on a tax deferred (Pre-Tax) basis. Tax deferred (Pre-Tax) means that the contributions are not taxed as income to the employee at the time they are made, rather they are taxed at the time the employee receives a distribution from the retirement plan. Presently, the State of North Dakota is paying 4.0% of the employee contribution for state employees on a tax-deferred (Pre-Tax) basis, in lieu of a salary increase (Model 2).

The IRC states that in order to pay employee contributions on a tax deferred (Pre-Tax) basis, the contributions must be "picked-up" by the employer and treated as employer contributions. Employee contributions are considered to be "employer" contributions, and thus tax deferred, in the following instances:

### **Model 1**

Salary reduction - The employee contribution is deducted from the employee's paycheck and deducted from the employee's gross wages when computing federal withholding.

### **Model 2**

Offset against future salary increase -The employer is paying the employee contribution.

### **Model 3**

Combination of Models 1 and 2.

Any specific questions concerning the tax status or Social Security status of member assessments should be directed to the IRS or Social Security Administration (SSA) since any penalties levied by those agencies for improper reporting are the liability of the employer, not NDPERS.

### **ADMINISTRATIVE CODE**

71-02-06-06 Employer payment of employee contributions

1. A written election submitted under subsection 3 of North Dakota Century Code section 54-52-05 shall be reported to the board a minimum of thirty-one days prior to the effective date.
2. An employer may not discriminate between eligible participating employees as to its contribution under North Dakota Century Code section 54-52-05.

**Please note:** This means that if the employer chooses to pay for ("pickup") all or part of an employee's contributions, employers cannot select individual employees to receive this preference - the employer must do the same for all eligible participating employees.