

## **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71-02-06-03	Inapplicability of Return of Contribution Guarantee [Repealed]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
71-02-06-12	Employee-Paid Contributions - Repayment Options
71-02-06-13	Refusal of Interest on Contributions

### **71-02-06-01. Conditions for return.**

The accumulated contributions of a member who terminates permanent employment:

1. Before accumulating three years of service credit and whose account balance is less than one thousand dollars shall be automatically refunded unless the member elects to remain in an inactive status.
2. After accumulating three years of service credit shall be refunded upon application filed with the executive director.
3. The termination date for purposes of processing an application for refund or rollover must be the last date for which a member receives salary except for a member who is on an approved leave of absence. For members who are paid salary in any month following actual separation from employment if the salary is received after the normal processing date, the termination date for purposes of processing the application must be the same date as the date that the last paycheck was issued as salary.

**History:** Amended effective November 1, 1990; June 1, 1996; July 1, 1998; July 1, 2000; May 1, 2004; July 1, 2010; July 1, 2018.

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

**Law Implemented:** NDCC 54-52-06, 54-52-17

### **71-02-06-02. Effect of return.**

Refund of accumulated contributions shall cancel all service credit accumulated prior to the refund and shall extinguish the right to any benefits provided by North Dakota Century Code chapter 54-52. Any former member returning their refund, with interest at the actuarial rate of return, within sixty days from withdrawal must be reinstated.

**History:** Amended effective November 1, 1990; July 1, 1994.

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

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

### **71-02-06-03. Inapplicability of return of contribution guarantee.**

Repealed effective September 1, 1982.

**71-02-06-04. Adjustment for bonuses, profit sharing, and contributions paid in a month other than month earned.**

Adjustments for the following must be made for all members:

1. Participating employers shall report bonuses or profit-sharing amounts paid when remitting the contribution associated with the bonus. Recruitment and retention bonuses under North Dakota Century Code section 54-06-31 are not eligible for consideration as salary and no contributions associated with those types of bonuses shall be submitted.
2. Bonuses or profit-sharing amounts paid by a participating employer other than pursuant to North Dakota Century Code section 54-06-31 will be retroactively prorated over the applicable prior twelve month period. Bonuses or profit-sharing amounts may not be submitted to the public employees retirement system for future months.
3. Upon receiving notice of contributions received in a month other than the month earned, the office will assign contributions to the appropriate month.

**History:** Effective June 1, 1993; amended effective June 1, 1996; July 1, 1998; July 1, 2000; April 1, 2002; April 1, 2008; July 1, 2018.

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

**Law Implemented:** NDCC 54-52-05, 54-52-06

**71-02-06-05. Basis for calculating contributions - Salary reduction - Salary deferral arrangements.**

1. Amounts deducted from a member's salary at the member's option to a qualified section 125 cafeteria plan, 401(k) plan, 403(b) plan, or 457 plan are part of wages or salary when calculating retirement contributions.
2. Employee contributions paid by the employer under IRC 414(h) pursuant to a salary reduction agreement do not reduce wages or salary when calculating retirement contributions.
3. Amounts contributed to a qualified section 125 cafeteria plan, 401(k) plan, 403(b) plan, or 457 plan by the employer are not part of wages or salary when calculating retirement contributions.

**History:** Effective June 1, 1993.

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

**Law Implemented:** NDCC 54-52-05, 54-52-06

**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 in its contributions to eligible participating employees within the same plan under North Dakota Century Code section 54-52-05.

**History:** Effective July 1, 1994; amended effective May 1, 2004; April 1, 2022.

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

**Law Implemented:** NDCC 54-52-05

**71-02-06-07. Employer contribution - National guard/law enforcement.**

As part of its annual actuarial evaluation, the board shall determine the amount required to support the level of benefits for national guard/law enforcement specified in North Dakota Century Code section

54-52-17. The board shall set the employer's contribution rate on a biennial basis, but may adjust that rate if it is actuarially necessary to maintain appropriate funding levels.

**History:** Effective July 1, 1994; amended effective May 1, 2004; April 1, 2016.

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

**Law Implemented:** NDCC 54-52-06.4

**71-02-06-08. Retirement contributions for individuals working less than a forty-hour workweek.**

Retirement contributions must be made on wages paid to eligible permanent employees who are regularly scheduled for less than forty hours per week but who work at least twenty hours per week during a twelve-month period.

**History:** Effective June 1, 1996; amended effective July 1, 1998.

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

**Law Implemented:** NDCC 54-52-05, 54-52-06

**71-02-06-09. Individual employee incentive payments.**

Individual employee incentive payments received under North Dakota Century Code section 54-06-24 or similar programs are not considered to be salary and are not subject to retirement contributions.

**History:** Effective June 1, 1996.

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

**Law Implemented:** NDCC 54-52-01(19), 54-52-05, 54-52-06

**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 of America - college retirement equities fund.
2. Notice of termination and verification of teachers' insurance and annuity association of America - 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 nonvested 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 April 1, 2012.

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

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

**71-02-06-11. Transfer date.**

Transfer of funds will be sent to the teachers' insurance and annuity association of America - 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 April 1, 2012.

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

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

**71-02-06-12. Employee-paid contributions - Repayment options.**

If the office determines that any required employee-paid contributions have not been made, the cost of any required employee-paid contributions may be paid in a lump sum or in installments in a manner consistent with installment payments permitted under section 71-02-03-02.2.

**History:** Effective April 1, 2016.

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

**Law Implemented:** NDCC 39-03.1-09, 54-52-02.9, 54-52-05, 54-52-06.1, 54-52-06.3, 54-52-06.4

**71-02-06-13. Refusal of interest on contributions.**

A member or beneficiary may decline to receive interest on the member's contributions and vested employer contributions, if any, by notifying the public employees retirement system, in writing, of that decision when the member or beneficiary applies for a distribution of the accumulated contributions. A member or beneficiary who does so waives any right to that interest.

**History:** Effective April 1, 2022.

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

**Law Implemented:** NDCC 39-03.1-09, 54-52-02.9, 54-52-05, 54-52-06.1, 54-52-06.3, 54-52-06.4