{stdlongdate} Organization ID: {stdOrgCodeId}

{stdOCName}

{stdOrgName}

{stdOCAdrCorStreet1}

{x stdOCAdrCorStreet2}

{stdOCAdrCorCity} {stdOCAdrCorState} {stdOCAdrCorZip}

**RE: TAX DEFERRAL OF EMPLOYEE RETIREMENT CONTRIBUTIONS**

Dear {stdOCSalutation}:

It has come to our attention that we may have an issue with {stdOrgName} reporting of employee contributions to North Dakota Public Employees Retirement System. North Dakota Century Code 54-52-05(3) states "Each employer, at its option, may pay the employee contributions required by subsection 2 and sections 54-52-06.1 and 54-52-06.2. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee or from the levy authorized by subsection 5 of section 57-15-28.1. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases, or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the board, in writing, by June fifteenth of each odd-numbered year."

We requested your authorized agent to fill out one of two forms, whichever applied to your organizations' method on {qu InputDate}. One form was to be completed if your employees were paying their retirement contributions on an after tax basis. The other form was to be filled out if your employees were not paying contributions after tax, but were having their contributions tax deferred. Please refer to your "Inside NDPERS Employer's Handbook" dated {qu HandbookVersion} {qu VersionDate}, pages {qu Pages} for more information on the election to tax defer the employee contributions.

The information provided by your authorized agent is different from what we show in our system. As a result, we will update our system to reflect what you indicated on your form for 2002 (copy enclosed). However, if your organization changed to this method prior to 2002, there is an inconsistency in the way you reported the retirement contributions on your employee’s W-2’s and the way NDPERS is recording the contributions in the retirement plan. In order to comply with internal revenue regulations and state law, you must correct the W-2’s for

Tax Deferral of Employee Retirement Contributions your employees or PERS must correct the way contributions have been recorded and correct any 1099Rs that have been issued to employee’s who are receiving retirement benefits or who received a refund of their account balance.

If you are submitting your own computerized retirement transmittal, **you will need to make the appropriate change to your transmittal** so you are accurately reporting to our office whether the employee contribution is being paid after tax or on a tax deferred basis. If you are using the NDPERS retirement transmittal, the employee contribution information at the bottom of the transmittal will be changed once we've updated our system to reflect your election. For more information please see the “Employer Payment Plans” section of the “NDPERS Employer's Guide".

Please forward to us a copy of your election to tax defer employee contributions if one was filed previously. Below is the information we have at this time. Please verify the following, and inform us how you would like to proceed in correcting your employees' accounts **by** **{qu DueDateForCorrections}.**

Enrollment date in NDPERS retirement plan: {qu ParticipationStartDate}

Effective date of tax deferral method: {qu TaxDeferralDate}

Method of tax deferral: {qu Method}

I appreciate your efforts in correcting this situation with us. I look forward to working with you. If you have any questions, please call NDPERS at {stdNDPERSPhoneNumber} or {stdNDPERSTollFreePhoneNumber}.

Sincerely,

NDPERS Benefits Division