

## **CHAPTER 71-02-11**

### **UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT**

#### **Section**

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#### **71-02-11-01. Eligibility requirements.**

To be eligible to receive service credit with North Dakota public employees retirement system for military time under this chapter, a veteran must have had an interruption of employment and been discharged under honorable conditions.

**History:** Effective September 1, 1991; amended effective May 1, 2004.

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

**Law Implemented:** NDCC 54-52-17.4(5), 54-52-17.14

#### **71-02-11-02. Award of service credit.**

1. A veteran with eligible time may receive up to sixty months' credit upon proper application. A veteran eligible to receive service credit for military time must apply for and, if required to pay any portion of the employee contribution, purchase that time within the lesser of three times the length of active duty or five years from the date of the veteran's return to covered employment. Service credit will not be awarded until all required documentation is received by the North Dakota public employees retirement system. If payment of required employer and employee contributions is made, the service will be recognized for both benefit eligibility and benefit calculation purposes. If payment of required employer and employee contributions is not made, then the veteran's application for service will be recognized and credit will be used for benefit eligibility purposes only.
2. For persons employed by a political subdivision who will or have returned from an interruption of employment, the following applies:
  - a. If the employing political subdivision is not a participating employer in the North Dakota public employees retirement system and does not become one, no credit will be granted.
  - b. If the employing political subdivision joins the North Dakota public employees retirement system at a date later than the interruption of employment, and purchases prior service credit for its employees while the applicant is still employed, service will be granted as provided in subsection 1 of section 71-02-11-02.
  - c. If the employing political subdivision joins the North Dakota public employees retirement system while the applicant is still employed, and prior service is not purchased on behalf of the employees, no credit will be given.
  - d. If a political subdivision joins the North Dakota public employees retirement system after an employee has terminated, no credit may be granted to said employee for interruption of employment.

**History:** Effective September 1, 1991; amended effective May 1, 2004; July 1, 2006; April 1, 2012.

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

**Law Implemented:** NDCC 54-52-17.4(5), 54-52-17.14; 38 USC 4318(a)(2)(A), 38 USC 4318(a)(2)(B), 38 USC 4318(b)(2); 20 CFR 1002.259-262

#### **71-02-11-03. Documentation requirements.**

The burden of proof will be on the member for providing documentation necessary to determine what military time is eligible for service credit. At a minimum, the following documentation is required before service credit will be awarded:

1. The member must provide a legible copy of military discharge papers (DD214, DD215, or NGB22).
2. The member must provide proof of the last day of employment prior to reporting for active duty and the first day of employment following the return from active duty. This information must be certified by the authorized agent of the employing agency using a "Purchase Agreement for USERRA Covered Military Active Duty" or notice of change if returning from leave of absence.
3. The members requesting service credit for extended military terms must provide a legible copy of the appropriate military papers (DD214).
4. Members who elect to purchase military time must submit a completed purchase agreement.

**History:** Effective September 1, 1991; amended effective May 1, 2004; July 1, 2006.

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

**Law Implemented:** NDCC 54-52-17.4(5), 54-52-17.14

#### **71-02-11-04. Payment.**

The cost for purchase of eligible military service in the North Dakota public employees retirement system and the North Dakota highway patrolmen's retirement system is as follows:

1. The cost for any required employee contributions to be paid by the member may be paid in a lump sum or in installments pursuant to the rules established for purchase or repurchase payment under subsection 1, 2, or 3 of section 71-02-03-02.2. If no payments have been made, no credit will be awarded for benefit calculation purposes. To prevent any delay in issuing the employee's first retirement check, purchase must be completed at least thirty days prior to retirement date.
2. The employer cost will be assessed to the member's most recent participating employer. Upon being billed by the North Dakota public employees retirement system, the participating employer will have thirty days in which to make payment in full. If, after sixty days, the employer has not made payment in full, a civil penalty on fifty dollars will be assessed, and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date they became due, penalty and interest to be paid on delinquent contributions may be waived.

**History:** Effective September 1, 1991; amended effective May 1, 2004; July 1, 2006; July 1, 2010; April 1, 2012; July 1, 2018.

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

**Law Implemented:** NDCC 54-52-17.4(5), 54-52-17.14; 38 USC 4318(a)(2)(A), 38 USC 4318(a)(2)(B), 38 USC 4318(b)(2); 20 CFR 1002.259-262

#### **71-02-11-05. Retired members.**

Repealed effective May 1, 2004.

#### **71-02-11-06. Deceased retirees or members.**

Repealed effective May 1, 2004.

#### **71-02-11-07. Refund of overpayments.**

In the event an employee or retiree purchased military service at a cost higher than determined above, overpayments may be refunded. Upon verification that the previously purchased military service meets the general eligibility requirements under section 71-02-11-01, a refund may be issued according to the following guidelines:

1. For a purchase paid in a lump sum:
  - a. The overpayment will be refunded to the member.
  - b. Interest on the refund amount will be paid at an annual rate of seven and five-tenths percent compounded monthly. Interest will be calculated from the month the public employees retirement system received the lump sum payment to the month in which the refund is made.
  - c. The refund will be calculated and issued within one hundred eighty days of receiving all necessary documentation.
2. For a purchase paid in installments:
  - a. If an employee is currently making installment payments, the purchase amount will be recalculated using the percentage of salary that the member was required to pay times eligible months of military time being purchased. Any excess funds resulting from the recalculation will be applied towards the outstanding amount due. Should the payments made to date exceed the new contract amount, a refund of the difference will be issued within one hundred eighty days.
  - b. If an eligible employee or retiree has paid the installment contract in full, the purchase amount will be recalculated using the percentage of salary that the member was required to pay times eligible months of military time being purchased. A refund of the difference between the payments actually made and what the payments should have been on the new contract amount will be made within one hundred eighty days of receiving the necessary documentation. Interest on the refund amount will be calculated at an annual rate of seven and five-tenths percent, compounded monthly, from the month in which the purchase was paid in full to the month in which the refund is issued.

**History:** Effective September 1, 1991; amended effective July 1, 2006.

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

**Law Implemented:** NDCC 54-52-17.4(5), 54-52-17.14