

## **CHAPTER 71-08-06**

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

#### **Section**

|             |                            |
|-------------|----------------------------|
| 71-08-06-01 | Eligibility Requirements   |
| 71-08-06-02 | Award of Service Credit    |
| 71-08-06-03 | Documentation Requirements |
| 71-08-06-04 | Cost                       |
| 71-08-06-05 | Refund of Overpayments     |

#### **71-08-06-01. Eligibility requirements.**

To be eligible to receive service credit with the defined contribution plan for military time under this chapter, a veteran must have had an interruption of the veteran's employment and been discharged under honorable conditions.

**History:** Effective May 1, 2004.

**General Authority:** NDCC 54-52.6-04, 54-52-02

**Law Implemented:** NDCC 54-52.6-09.4

#### **71-08-06-02. Award of service credit.**

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 that person's return to covered employment after an honorable discharge. 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 contribution is not made, then the veteran's application for service will be recognized and credit will be used for benefit eligibility purposes only.

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

**General Authority:** NDCC 54-52.6-04, 54-52-04

**Law Implemented:** NDCC 54-52.6-09.4; 38 USC 4318(a)(2)(A), 38 USC 4318(a)(2)(B), 38 USC 4318(b)(2); 20 CFR1002.259-262

#### **71-08-06-03. 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 indicating an honorable discharge (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. A member who elects to purchase military time must submit a completed purchase agreement.

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

**General Authority:** NDCC 54-52-04, 54-52.6-04

**Law Implemented:** NDCC 54-52.6-09.4

#### **71-08-06-04. Cost.**

The cost for purchase of eligible military service in the defined contribution plan may be paid 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 3, 4, or 5 of section 71-02-03-02.2. If no payments have been made, no credit will be awarded for benefit calculation purposes.
2. The employer cost will be assessed to the member's most recent participating employer. Upon being billed by the 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 of 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.

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

**General Authority:** NDCC 54-52-04, 54-52.6-04

**Law Implemented:** NDCC 54-52.6-09.4; 38 USC 4318(a)(2)(A), 38 USC 4318(a)(2)(B), 38 USC 4318(b)(2); 20 CFR 1002.259-262

#### **71-08-06-05. Refund of overpayments.**

If an employee purchased military service at a cost higher than determined in this chapter, overpayments may be refunded. Upon verification that the previously purchased military service meets the general eligibility requirements under section 71-08-06-01, 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. 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 the 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 toward 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.

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

**General Authority:** NDCC 54-52-04, 54-52.6-04

**Law Implemented:** NDCC 54-52.6-09.4