

OMB Responses to Employee Benefits Programs Committee Benefits Survey August 2007

3d. Awards and Recognition

OMB provides the following Awards and Recognition to employees in accordance with the cited authority below and the May 07 OMB Human Resource Policy Manual. OMB does not provide cash incentives or awards to employees that are not authorized by either Statute or Administrative Rules.

Employee Suggestion Incentive Program (NDCC 54-06-24)

All employees, except state agency heads, administrators, and management level supervisors are eligible to participate in a State Employee Suggestion Incentive Program.

A state employee may submit a recommendation or proposal to reduce expenditures within their division to the Suggestion Incentive Committee. After review by the Suggestion Incentive Committee, the division director of the employee submitting the recommendation shall review the suggestion and determine if it is capable of implementation. If the division director approves the employee's recommendation or proposal to reduce expenditures for implementation, the employee is entitled to twenty percent of any savings realized, up to a maximum of two thousand dollars, for the twelve-month time period from the time that the proposed change is instituted. The agency savings must relate directly to the employee's proposed change.

Service Award Program (NDAC 4-07-18)

An employee is entitled to a service award if they have completed five, ten, fifteen, twenty, twenty-five, thirty, thirty-five, forty, forty-five, or fifty years of employment with the State. If an employee leaves state government and then returns, they again begin to accumulate time. That time must be added to the employee's previous service and applied to any future service award.

The type of awards given to employees is as follows:

- a. Five years – certificate or plaque and a gift not to exceed twenty-five dollars
- b. Ten years – certificate or plaque and a gift not to exceed fifty dollars
- c. Fifteen years – certificate or plaque and a gift not to exceed seventy-five dollars
- d. Twenty years – certificate or plaque and a gift not to exceed two hundred dollars
- e. Twenty-five years – certificate or plaque and a gift not to exceed two hundred and twenty-five dollars
- f. Thirty years – certificate or plaque and a gift not to exceed a value of two hundred and fifty dollars
- g. Thirty-five years – certificate or plaque and a gift not to exceed a value of two hundred and seventy-five dollars
- h. Forty years – certificate or plaque and a gift not to exceed a value of three hundred dollars
- i. Forty-five years – certificate or plaque and a gift not to exceed a value of four hundred dollars
- j. Fifty years – certificate or plaque and a gift not to exceed a value of five hundred dollars

Retirement Awards (NDAC 4-07-18)

A retirement award shall be provided to an employee who has a minimum of fifteen years of state service and who has not been previously recognized by the State as follows:

- a. A retirement certificate signed by the governor and/or a plaque
- b. A gift with a value not to exceed two hundred dollars

A farewell party may be provided upon agreement of the employee and agency. Retirement awards may be withheld if there are documented problems with an employee's performance. An employee may not receive cash as part of a service or retirement award program. An agency may provide a gift certificate.

4d. Training and Educational Opportunities

NOTE: Training employees, as needed, to assure high quality performance is a Federal Merit System principal required of any agency subject to the Merit System. **(5CFR 900 Subpart F also see 54-44-11 State Personnel Training and Development Operating Fund)** The following is the OMB policy regarding training.

OMB's policy is to provide job-related training to its employees in order to enhance the knowledge, skills, and abilities of employees and ensure maximum productivity. Employees are encouraged to seek training and pursue educational opportunities as part of their development plan outlined in their performance evaluation to enhance their current skills, increase proficiency, improve performance and job satisfaction, and increase the opportunity for advancement within the division or State service. Costs of training or educational courses may be paid for or reimbursed as provided in the OMB policy manual as follows:

Job-Related Training

Division directors may, within approved budgetary constraints, plan, schedule, and pay for any job related training programs appropriate to the work assigned to a regular employee of their division. Training opportunities may include college coursework leading to a degree, special training, or a single course of study intended to assist an employee to perform a task or to enhance job performance. Division directors will determine which programs are considered to be job-related. This determination will be made based on the content of the training program and its value to improving the ability of an employee to perform the job, achieve work plans, or assist the division in achieving stated goals. All costs related to attendance at approved job-related training programs will be paid by the division in which the employee is assigned or by OMB when appropriate. Travel, lodging, and per diem associated with such training will be paid in accordance with current OMB fiscal and administrative policies.

Training under this section will normally be provided during duty hours. When training or associated travel extends beyond normal duty hours, the overtime provisions of the Fair Labor Standards Act (FLSA) for non-exempt employees must be applied.

Tuition Reimbursement

Division directors may, within budgetary constraints, provide reimbursement of tuition and fees to regular employees who attend training or education courses that do not qualify as job-related training in Section 2 of this chapter.

In all cases for which an employee requests tuition reimbursement, the request must be approved by the division director prior to attendance at the course. Approval will be granted only on a course-by course basis and not on a total program basis, i.e., approval for a single college course, not for a total degree or certification program. Attendance at courses must be during off-duty hours except under unusual

circumstances approved by the division director and when a flexible work schedule is not feasible. The employee cannot receive reimbursement for the same course more than once without the approval from the employee's division director.

An employee must provide written documentation pertaining to the successful completion of the course before tuition reimbursement can be made. Requests for tuition reimbursement will be documented by using SFN 51372, "Request for Tuition Reimbursement." Proof of completion of a college course with a final grade of "C" or higher for undergraduate courses and "B" or higher for graduate courses must be presented with the request for reimbursement. All required attachments must be filed with the completed form.

The rate of reimbursement for courses in Section 3 of this policy may be up to 80 percent of course tuition and fees. Book costs, lodging, per diem, and travel associated with the course are not reimbursable.

Division directors may establish additional parameters for the approval of tuition reimbursement when it becomes necessary to provide an equitable distribution of limited funds such as limiting the reimbursement to less than 80 percent tuition in order to accommodate more employees. If it is anticipated that requests will exceed budget availability, the division director may reduce the amount awarded each employee or may provide funds based on division priority or needs. Parameters may be flexible from one budget period to another but should be applied consistently and fairly within a budget period.

In instances where an approved agreement for tuition reimbursement is in effect at the time of approval of this policy, the existing agreement will remain in effect until the completion of the course to which the agreement applies.

An employee who resigns or is terminated while attending a course previously approved for reimbursement will not receive reimbursement.

5d. Office of Management and Budget Expenditure and Revenue Policies-Policy 209 - Professional Membership Dues

Payment by the state of dues to professional organizations is not a fringe benefit for state employees. Wherever possible, a membership should be carried in the name of the state agency and not of an individual. The idea behind this approach is to promote transferability of the benefits of the membership. To justify the expenditure of funds, association memberships should be related to an employee's job duties or should be beneficial to the state.

7b. Family and Medical Leave

OMB's Family and Medical Leave policy follows State and Federal Statutes. FMLA is uncompensated leave. If an employee opts to take paid leave such as Annual or Sick leave in conjunction with FMLA, the Annual or Sick leave is paid. Any other leave for FMLA is uncompensated. Eligible employees may receive up to 12 weeks of uncompensated time. The following is the OMB FMLA policy.

Family and Medical Leave

OMB is subject to the State and Federal Family and Medical Leave Acts (FMLA). Under these acts, eligible employees must be provided up to twelve weeks of unpaid leave during a twelve-month period for certain qualifying reasons. This policy is not an exhaustive description of state and federal law on Family and Medical Leave. Employees should consult HRMS to review state and federal laws for specific requirements, rights, and obligations.

Employees will complete the Employee Request for Family Medical Leave form (see page 8-7) and return it to their supervisor with final approval given by the division director. Upon approval, the division director will provide the employee with a copy of the form entitled Employer Response to Employee Request for Family or Medical Leave (see page 8-8) which will detail specific entitlements and responsibilities of the employee and explain any consequences of failure to meet those obligations. Namely, the employee will be notified that:

- a. The leave will be counted against the employee's annual family medical leave entitlement;
- b. Any requirements for the employees to furnish medical certification of a serious health condition and the consequences of failing to do so;
- c. Any requirements to maintain insurance premiums or other payroll deductions;
- d. The employee's right to restoration to the same or an equivalent job upon return from leave;
- e. Potential liability for the employer's contribution of health/basic life premiums if the employee does not return to work;
- f. The employee's right to use paid leave;
- g. Requirements for a fitness-for-duty certificate for the employee to be restored to employment (Federal Law).

The entitlement period, which is the twelve-month period during which the maximum allowable weeks of leave may be taken, will be determined by the "rolling" twelve-month period measured backward from the date an employee uses any leave under this section. Any FMLA leave used during this twelve-month period will be deducted from the total allowable under this section.

Eligibility Requirements under State and Federal Law

1. Employees are eligible for FMLA if they have been employed with the State of North Dakota for at least twelve months and have worked at least 1,250 hours during the previous 12 months.
2. Leave will be provided for any of the following reasons:
 - a. For the birth or care of the employee's newborn, with entitlement ending 12 months after the birth of the child.
 - b. For the placement or care of a newly adopted or foster child, with entitlement ending 12 months after the adoption or foster care.
 - c. To care for the employee's spouse, son, daughter, or parent, but not parent-in-law, who has a serious health condition.
 - d. For a serious health condition that makes the employee unable to work or perform any one of the essential functions of the employee's job.

A son or daughter is defined as a biological, adopted or foster child, stepchild, a legal ward, or a child of a person standing in loco parentis. The son or daughter must be under 18 years of age or older and incapable of self-care because of a mental or physical disability.

Incapable of self-care is defined to mean that the individual requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living to include bathing, dressing, cooking, eating, shopping, paying bills, using telephones and taking public transportation.

3. An employee requesting leave must complete OMB's Employee Request for Family Medical Leave form and submit it to their supervisor, who will forward it to the division director for approval. The division director will decide whether a condition qualifies as a serious health condition as defined on the Certification of Health Care Provider form, WH-380.
 - a. The employee must provide OMB with at least 30 days advanced notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care or planned medical treatment for a serious health condition of the employee or of a family member.
 - b. An employee will be required to supply a medical certification from a health care provider to verify that the family and medical leave request is necessary for the serious health condition and that the employee will be unable to perform one or more essential functions of their job as a result of that condition. In cases of pregnancy or placement of a child, the certification may be waived by OMB. If the leave is foreseeable and at least 30 days notice has been provided, the employee should provide the medical certification before the leave begins. The certification is required on U.S. Department of Labor's form entitled Certification of Health Care Provider or a similar form. In all other circumstances, an employee must provide the requested medical certification within 15 days following the request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.
 - c. An employee may be required to submit to additional examinations by a physician selected and paid for by OMB.
 - d. If an employee's leave is foreseeable, failure to provide timely certification could result in OMB's delaying the taking of leave until the certification is provided. If the need for leave is not foreseeable, an employee must provide the certification within 15 days or as soon as reasonable under the particular facts and circumstances. However, if the employee fails to provide certification within a reasonable time under the particular circumstances, OMB may delay the implementation of leave. If an employee never provides the requested certification, the leave is not FMLA leave and may result in disciplinary action up to and including dismissal if absence results in leave which is unauthorized.
 - e. OMB can request recertification of a serious health condition if the leave is for pregnancy, a chronic or permanent/long-term condition, under the continuing supervision of a health care provider. Recertification may be requested no more often than every 30 days and only in connection with an absence by the employee unless:
 - (1) Circumstances described by the previous certification have changed significantly (e.g. the severity of the condition, the duration or frequency of absences, complications); or
 - (2) OMB receives information casting doubt upon the employee's stated reason for absence.

- f. If the minimum duration of the employee's incapacity specified on a certification furnished by the health care provider is more than 30 days, OMB will not request recertification until the minimum duration has passed unless:
 - (1) The employee requests a leave extension;
 - (2) Circumstances described by the previous certification have changed significantly (e.g. duration of the illness, the nature of the illness, complications); or
 - (3) OMB receives information that casts doubt upon the continuing validity of the certification.
 - g. An employee must provide the requested recertification, within 15 days of OMB's request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.
 - h. If FMLA leave is taken intermittently or on a reduced leave schedule basis, OMB will not request recertification in less than the minimum period specified, on the certification as necessary for such leave unless conditions one, two, or three above are met.
 - i. Any recertification requested by OMB shall be at the employee's expense, unless OMB provides otherwise. No second or third opinion on recertification may be required.
4. An employee on family medical leave may be required to report periodically on whether or not he or she plans to return to work. Employees who take leave for their own serious health conditions may be required to obtain certification from their health care providers that they are able to resume working. Certification of an employee's fitness to return to work will only be requested with regard to the particular illness that caused the need for FMLA leave.
- a. If an employee needs an extension of leave, or if the amount of leave originally requested is no longer necessary, the employee must provide "reasonable notice" (i.e. within two business days) of the changed circumstances, if the circumstances are foreseeable.
 - b. An employee requesting leave will be provided notice if OMB will require "fitness for duty" certification. This notice will be given at the time of leave or immediately after leave commences. Fitness-for-duty certification is not required when family medical leave is intermittent. If an employee fails to submit the required fitness-for-duty certification, OMB may delay the employee's restoration to his or her position.
5. A husband and wife who are both employed by the State of North Dakota are eligible for FMLA and are permitted to take only a combined total of up to twelve weeks of leave allowed during any twelve-month period for the reasons stated under Eligibility Requirements above.
6. OMB requires an employee to use accrued paid and donated leave before authorized unpaid FMLA leave of absence. For an employee's own serious health condition, the employee must first use any accrued sick leave and then any accrued annual leave and donated leave before unpaid authorized family and medical. For any reason other than an employee's own serious health condition, employees must first use any family leave (see note below) and then use any accrued annual leave and donated leave. Employees who have exhausted the applicable types of paid leave will be provided unpaid leave to fulfill the authorized period of family medical leave.

Note: The family leave referred to is the forty hours of paid leave granted to eligible employees under N.D.C.C. 54-52.4-03.

7. Employees who are using the required paid leave will continue to receive or accrue benefits as normally provided employees on paid leave. Employees who are provided with unpaid leave during any authorized family and medical leave period will continue to have health plan premiums paid by OMB during the leave period. Employees in an unpaid leave status will not accrue annual or sick leave during the period of unpaid leave. If an employee fails to return from an FMLA leave, OMB may recoup the cost of health plan premiums for any period of the FMLA leave which was taken as unpaid leave, unless the reason the employee does not return is due to:
 - a. The continuation, recurrence, or onset of a serious health condition of the employee or the employee's family member which would otherwise entitle the employee to leave under FMLA; or
 - b. Other circumstances beyond the employee's control such as staying home to care for a newborn with a serious health condition, the spouse is transferred to a location more than 75 miles from the employee's worksite, an employee is laid off, etc.
8. Upon return from leave, an employee who is not designated as a "key employee" will be restored to their original or an equivalent position with equivalent pay, benefits, and any other employment rights that existed at commencement of the leave or that may have accrued during the leave period. However, an employee designated as a "key employee" may not be provided restoration rights upon return from leave. Individuals designated as "key employees" under FMLA will be notified of such designation at or before the time FMLA leave commences. If the restoration of a key employee causes "substantial and grievous economic injury" to the employing agency, reinstatement upon returning from leave may not occur.

Upon return from family and medical leave, an employee will be restored to his/her original position or an equivalent position with equivalent pay, benefits and other terms and conditions of employment. A determination as to whether a position is an "equivalent position" will be made by the division director.

If OMB experiences a reduction-in-force during the employee's absence, the employee would have lost his/her position, the employee retains any rights under OMB's RIF policy but may not be eligible for reinstatement.

If an employee wishes to return to work prior to the expiration of a family medical leave of absence, a notification must be given to the employee's supervisor within two working days prior to the employee's planned return. However, the supervisor, with the concurrence of the employee, may allow the employee to return to work immediately.

Authorized leave under this section may be taken in intermittent or reduced work schedules but in no less than one-half hour increments. Intermittent leave is defined as leave taken in separate blocks of time due to a single qualifying reason. Intermittent leave may require the employee to go from fulltime to part-time status. It also may result in the employee being temporarily transferred to an alternative position of equal pay and benefits to better serve the employee and agency. Once leave is no longer needed the employee would return to the same or equivalent job.

An employee may be required to furnish periodic verbal or written reports to the approving authority reporting the status of his or her condition and the employee's intent to return to work.

The failure of an employee to return to work upon the expiration of a family or medical leave of absence may subject the employee to termination of employment unless an extension is granted. An employee who requests an extension of family medical leave due to the continuation, recurrence or onset of his/her own serious health condition or of the serious health condition of the employee's spouse, child, or parent, must submit a request for an extension, in writing, to the supervisor. This written request should be made as soon as the employee realizes that she/he will not be able to return at the expiration of the leave period.

If a dispute arises as to the eligibility for leave under this section, the designation of paid leave as qualifying under this section, or the appropriateness of notice requirement of less than 30 days, an employee may submit additional information to the approving authority for further consideration.