

RETURNING RESERVISTS & NDPERS RETIREMENT PLANS:

Special provisions under the Uniformed Services Employment and Re-employment Rights Act (USERRA) may apply if your covered employment under NDPERS was interrupted because you were drafted or you enlisted for active service in the Armed Forces of the United States.

Upon return from active duty, the member may be entitled to have their credit while on active duty recognized by NDPERS for vesting in retirement benefits, the PEP vesting schedule and benefit eligibility purposes (i.e. meeting the Rule of 85/Rule of 80). A reservist should make application to NDPERS by submitting a written request for the above along with a photocopy of their DD214 form.

In addition, a returning reservist has the option to purchase the service credit not accrued during the leave for the purpose of determining benefit calculation. Retirement credit may be granted for this purpose upon proper documentation and receipt of past contributions.

If application is made, then the employer is required to pay the employer portion of the retirement contributions in a lump sum on behalf of a reservist. The employer is also required to pay any portion of the employee contribution in the same manner that it would have been paid had the reservist not been activated. If the employer does not pay any or all of the employee contribution on behalf of its employees, then the reservist is required to pay the employee contribution in order to receive the service credit.

The salary to be used in determining the cost to receive the credit must be based on the salary that would have accrued had the reservist not been called into active duty, rather than the salary the reservist is earning at the time of inquiry. If the salary can not be determined, then the employee's average rate of compensation during the 12-month period immediately preceding their call to

active duty should be used. The following applies to the payment of purchased credit:

- 1) The timeframe that the reservist has to pay any required employee contributions to the plan is 3 times the period of active duty or 5 years, whichever is less. If the reservist does not apply and/or purchase during this timeframe, then USERRA no longer applies. The reservist would have to pay an actuarial cost to receive the service credit.
- 2) If a reservist chooses to make installment payments to the plan to purchase the service, the plan can not charge interest on the unpaid balance.
- 3) If the reservist chooses to purchase the service and begins payment, NDPERS will send a billing to the present employer for the required employer contributions. These contributions must be paid by the employer in a lump sum. As part of this billing, if any of the employee contributions are employer paid, they will be included.

Upon receipt of the Purchase Agreement for USERRA Covered Military Active Duty **SFN 17758**, NDPERS will compute the cost for the reservist to receive the credit and will send written notification to the reservist and/or the employer.