

CHAPTER 4-07-12 ANNUAL AND NEW HIRE LEAVE

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4-07-12-01. Scope of chapter.

This chapter applies to all state and local government agencies, departments, institutions, and boards and commissions, except as indicated, which employ individuals in positions classified by human resource management services.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004; July 1, 2026.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-06-14, 54-44.3-12(1)

4-07-12-02. Definitions.

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapters 54-06 and 54-44.3 and section 54-52-01, except:

1. "Annual leave" means an approved absence from work with pay allowed under an authorized accrual schedule.
2. "Interagency transfer" means a personnel action that results in the reassignment of an employee from one position to a different position in another state agency and that does not result in a break in service.
3. "New hire leave" means a separate leave balance to use for an approved absence from work with pay within the first year of employment.
4. "Regular employee" means a person who has completed the probationary period and who is in a position classified by human resource management services.
5. "Reinstatement" means a personnel action that involves the re-employment of a previous employee in a classified position as defined by chapter 4-07-05.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004; July 1, 2026.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-06-14, 54-44.3-12(1)

4-07-12-03. Annual leave accrual.

Employees eligible for annual leave begin to accrue leave from the date of hire.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2026.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-06-14, 54-44.3-12(1)

4-07-12-04. Annual leave accrual schedule.

1. State agencies are advised the following annual leave accrual schedule is required, except as referenced in subsection 2, for use by each state agency subject to this chapter:

<u>Years of Service</u>	<u>Hours Earned Per Month</u>
Zero through three	Eight
Four through seven	Ten
Eight through twelve	Twelve
Thirteen through eighteen	Fourteen
Over eighteen	Sixteen

2. Effective after April 30, 2026, a state agency may grant, at hire, annual leave within the parameters of eight to sixteen hours per month, which may exceed the amount based on tenure of employment, if all the following requirements are met:
 - a. The position being hired for was previously identified as a hard-to-fill occupation pursuant to the requirements set forth in North Dakota Century Code section 54-06-31.
 - b. Prior to granting an enhanced annual leave accrual schedule, the state agency has a written policy in place identifying eligible positions or occupations and provisions for providing and receiving enhanced annual leave accrual. The written policy must address the specific positions that qualify for enhanced annual leave accrual and why the positions have been identified as hard to fill.
 - c. The state agency has filed the written policy with human resource management services.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2008; July 1, 2026.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-06-14, 54-44.3-12(1)

4-07-12-05. Accrual for fractional months.

An employee accrues annual leave for employment for a fraction of a month. The number of annual leave hours earned by an employee for employment for a fraction of a month must be in proportion to the total number of straight time hours the employee actually worked compared to working hours in the month.

History: Effective September 1, 1992; amended effective July 1, 2026.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-06-14, 54-44.3-12(1)

4-07-12-06. Annual leave taken in fifteen-minute increments.

Repealed effective January 1, 1993.

4-07-12-07. Approval required.

Generally, a request to use annual leave must be approved before the employee is authorized to take the leave. A leave request may be denied if the employee's absence would unduly disrupt the operations or services of the agency.

History: Effective September 1, 1992.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-12-08. Annual leave limit.

No more than two hundred forty hours of accrued annual leave may be carried forward beyond April thirtieth of each year. If a political subdivision that employs individuals in positions classified by human resource management services uses a cutoff date other than April thirtieth, then the political subdivision may continue to do so as long as the same cutoff date is used for all of the agency's employees who occupy positions that are classified by human resource management services, and the two-hundred-forty-hour limit is observed.

History: Effective September 1, 1992; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-12-09. Change of cutoff date.

Repealed effective July 1, 2004.

4-07-12-10. Pay during employment.

An employee may not be paid for unused annual leave while the employee remains in the service of the agency, except for the following reasons:

1. The employee takes a long-term leave of absence;
2. The employee goes on educational leave;
3. The employee moves to temporary employment; or
4. Human resource management services approves a written request from an agency for an exception to this section for a business-related reason.

When an employee is transferring from one agency to another, the employee must be paid for the difference in hours between what the employee has accumulated and the number of hours the gaining agency will accept. When an employee is leaving the service of the agency, the employee must be paid for all accrued hours of annual leave.

History: Effective September 1, 1992; amended effective July 1, 1995; November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-12-11. Credit for temporary service.

A temporary employee who becomes regular must be given credit for the employee's length of service as a temporary employee for the purpose of determining the annual leave accrual rate provided there was no break in service beyond one year. An agency may not grant annual leave hours to a temporary employee.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-12-12. Annual leave and re-employment.

An employee who leaves employment and who is rehired within three years must be credited with the employee's previous years of continuous service for the purpose of determining the employee's annual leave accrual rate.

History: Effective September 1, 1992; amended effective July 1, 2008; July 1, 2026.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-06-14, 54-44.3-12(1)

4-07-12-13. Assumption of accrued annual leave or an enhanced annual leave accrual.

1. A state agency appointing authority employing an individual from another state agency shall accept all or only a part of the employee's accrued annual leave hours the employee requests to transfer. If the individual granted an interagency transfer from another state agency previously was granted an enhanced annual leave accrual rate, the hiring agency may continue the enhanced rate only if the individual is hired into a designated hard-to-fill position, as defined in section 4-07-12-04. If the individual is not hired into a designated hard-to-fill position, the individual's annual leave accrual rate must revert to the standard rate based on total years of qualifying service, as defined in section 4-07-12-04. State agencies shall accept all or a part of accrued annual leave hours a human service zone employee requests to transfer, if the employee occupies a position classified by human resource management services.
2. A human service zone board shall accept all or a part of accrued annual leave hours an employee requests to transfer from another human service zone board or a state agency, if the employee occupies a position classified by human resource management services.

History: Effective November 1, 1996; amended effective July 1, 2004; July 1, 2008; October 1, 2023; July 1, 2026.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-06-14, 54-44.3-12(1)

4-07-12-14. New hire leave.

1. New hire leave is applicable to state agencies only.
2. A state agency that employs an employee eligible for new hire leave shall grant, upon hire, the individual forty hours of new hire leave. Employees that start employment with a state agency after April 30, 2026, are eligible for new hire leave.
3. Employees who were previously employed with a state agency and are eligible for reinstatement or who are granted an interagency transfer are not eligible for new hire leave.
4. New hire leave must be used within the first year of employment.
5. Any new hire leave remaining after completion of the first year of employment is eliminated.
6. New hire leave is not earned paid time off and is not paid out upon separation of employment.
7. New hire leave is not accrued leave.

History: Effective July 1, 2026.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-06-14