NEBRASKA ADMINISTRATIVE CODE

TITLE 303, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 16

RETIREMENT SYSTEMS, PUBLIC EMPLOYEES
PUBLIC EMPLOYEES RETIREMENT BOARD

RULES AND REGULATIONS FOR
MILITARY SERVICE CREDIT AND REEMPLOYMENT

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NEBRASKA ADMINISTRATIVE CODE

TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD

CHAPTER 16 – MILITARY SERVICE CREDIT AND REEMPLOYMENT

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NEBRASKA ADMINISTRATIVE CODE

TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD

CHAPTER 16 – MILITARY SERVICE CREDIT AND REEMPLOYMENT

001 Scope of the Rule

This rule governs the procedures for granting service credit and contributions upon reemployment following military service, as contained in Neb. Rev. Stat. § 23-2323.01 in the County Employees Retirement Act (County plan), § 24-710.04 in the Judges Retirement Act (Judges plan), § 79-926 in the School Employees Retirement Act (School plan), § 81-2034 in the State Patrol Retirement Act (State Patrol plan), and § 84-1325 in the State Employees Retirement Act (State plan). This rule implements the provisions of the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. §§ 4301 et seq., for the retirement plans administered by the Public Employees Retirement Board under Neb. Rev. Stat. § 84-1503(1)(a).

002 Definitions

002.01 Agency means the Nebraska Public Employees Retirement Systems referenced in Neb. Rev. Stat. § 84-1503(1)(a).

002.02 Board means the Public Employees Retirement Board created by Neb. Rev. Stat. § 84-1501.

02.03 Employer means: (a) the State of Nebraska for the Judges Plan, the State Patrol Plan, and the State Plan; (b) an employer covered by the School Employees Retirement Act for the School Plan; and, (c) a county employer covered by the County Employees Retirement Act for the County Plan.

002.04 Qualified military service is uniformed service as a member of the Army, Navy, Air Force, Marines, Coast Guard, Reserves, Army and Air National Guard, the commissioned corps of the Public Health Service, service with the National Disaster Medical System, and any other persons designated by the President in time of war or national emergency. Qualified military service under USERRA requires an honorable discharge.

002.05 USERRA means the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. §§ 4301 et seq.

003 Notification Requirement and Election of Military Service Credit for all Plans

003.01 Current service while employed by an employer of a retirement plan administered by the Board in Neb. Rev. Stat. § 84-1503(1)(a) shall not be deemed to be interrupted by qualified military service, when properly authorized by the Board.

003.02 At the time a military leave commences, the employer and/or the member shall notify the Agency of the leave and the expected length of the leave on forms prescribed by the Agency. The employer may require a member to indicate in advance and notify the Agency if the member intends to request military service credit at the time of his or her return to work.

003.03 A request to obtain military service credit may be made by the member on forms prescribed by the Agency within one (1) year following the date of reemployment with an employer. An application form prescribed by the Agency must be filed and verification of the beginning and ending dates of a member's military leave, as well as the applicable compensation amount and honorable discharge, must be received by the Agency before payments by the member and/or employer will be received.

003.04 Verification of the member's honorable discharge and beginning and ending dates of a the member's qualified military service will occur when the member provides the Agency with a copy of his or her DD Form 214 or other documentation showing the dates of entry into and discharge from active duty, and a copy of the member's certificate of honorable discharge.

004 Military Service Credit for the County Employees Retirement Act

004.01 Any county employee who, while an employee, entered into and served in the armed forces of the United States and who within ninety (90) days after honorable discharge or honorable separation from active duty again became a county employee shall be credited, for the purposes of Neb. Rev. Stat. § 23-2315, with all the time actually served in the armed forces as if such person had been a county employee throughout such service in the armed forces.

004.02 A county employee who is reemployed by a covered county employer on or after December 12, 1994, pursuant to 38 U.S.C. §§ 4301 et seq., may pay to the retirement system an amount equal to the sum of all deductions that would have been made from the employee's compensation during such period of qualified military service. Payment shall be made within the period required in subsection 004.04.

004.03 To the extent that payment is made by the member in subsection 004.02:

(a) the county employee shall be treated as not having incurred a break in service by reason of his or her period of military service;

(b) the period of military service shall be credited for the purposes of determining the nonforfeitability of the member's accrued benefits and the accrual of benefits under the plan; and,

(c) the county employer shall allocate the amount of employer contributions to the member's employer account in the same manner and to the same extent the allocation occurs for other employees during the period of service.

004.04 Once a request to receive military service credit is made in subsection 003.03, a member has up to three times (3x) the period of service - not to exceed five (5) years - to make up his or her missed employee contributions. The amount of makeup contributions

is subject to the limits that would have applied during the qualified military service period. The employee may designate the specific year or years their contributions cover.

004.05 When a member has commenced the purchase of military service credit, the former county employer will be invoiced by the Agency for the matching employer contribution amount. If the member chooses to use the payroll deduction method then the former county employer may match the member contribution month by month. There will be no interest or late fees charged to the member or the former county employer for the purchase of military service credit.

004.06 For purposes of member and county employer contributions, the member's compensation during the period of qualified military service shall be the rate the member would have received but for the military service or, if not reasonably determinable, then the average rate the member received during the twelve (12) month period immediately preceding his or her qualified military service.

004.07 The county employer shall pick up the member contributions made through irrevocable payroll deduction authorizations, and the contributions so picked up shall be treated as employer contributions in the same manner as contributions picked up under Neb. Rev. Stat. § 23-2307.

005 Military Service Credit for the Judges Retirement Act

005.01 Military service under the Judges Retirement Act means active service of:

(a) any judge of the Supreme Court or judge of the district court in any of the armed forces of the United States during a war or national emergency prior or subsequent to September 18, 1955, if such service commenced while such judge was holding the office of judge;

(b) any judge of the Nebraska Workmen's Compensation Court or the Nebraska Workers' Compensation Court in any of the armed forces of the United States during a war or national emergency prior or subsequent to September 20, 1957, if such service commenced while such judge was holding the office of judge;

(c) any judge of the municipal court in any of the armed forces of the United States during a war or national emergency prior or subsequent to October 23, 1967, and prior to July 1, 1985, if such service commenced while such judge was holding the office of judge;

(d) any judge of the county court or associate county judge in any of the armed forces of the United States during a war or national emergency prior or subsequent to January 4, 1973, if such service commenced while such judge was holding the office of judge;

(e) any clerk magistrate, who was an associate county judge and a member of the fund at the time of appointment as a clerk magistrate, in any of the armed forces of the United States during a war or national emergency on or after July 1, 1986, if such service commenced while such clerk magistrate was holding the office of clerk magistrate; and,

(f) any judge of the Court of Appeals in any of the armed forces of the United States during a war or national emergency on or after September 6, 1991, if such service commenced while such judge was holding the office of judge.

005.02 Military service on or after December 12, 1994; pursuant to 38 U.S.C. §§ 4301 et seq. Any judge who is reemployed by the State of Nebraska within ninety (90) days after honorable discharge or honorable separation from active duty shall be treated as not having incurred a break in service by reason of his or her period of qualified military service.

005.03 Such military service shall be credited for purposes of determining the nonforfeitability of the judge's accrued benefits and the accrual of benefits under the plan.

005.04 The state shall be liable for funding any obligation of the plan to provide benefits based upon such period of qualified military service.

005.05 Once an election to purchase military service is made in subsection 003.03, the Agency will request salary verification from the state employer. The salary verification will verify what the member would have earned had the member worked for the employer during the period of military service. Upon receipt of the salary verification by NPERS, the state employer will be invoiced for the amount required to fund the obligation benefit of the plan equal to the employee and employer retirement contributions on the salary attributable during the period(s) of military service plus interest equal to the actuarial assumed rate of return. Payment shall be made by the state employer to NPERS within thirty (30) days of the invoice's receipt.

005.06 The Board shall have the power to determine when a national emergency exists or has existed for the purpose of applying subsection 005.01.

006 Military Service Credit for the School Employees Retirement Act

006.01 Military Service prior to December 12, 1994. Any person who, after having served or signing a contract to serve as a school employee, entered into and served or enters into and serves in the armed forces of the United States during a declared emergency or was drafted under a federal mandatory draft law into the armed forces of the United States during a time of peace, and who, within three (3) calendar years after honorable discharge or honorable separation from active duty or within one (1) year from the date of completion of training provided in the federal Servicemen's Readjustment Act of 1944 or the federal Veterans' Readjustment Assistance Act of 1952, became or becomes a school employee shall be credited, in determining benefits due such member from the retirement system, for a maximum of five (5) years of the time actually served in the armed forces as if such person had been a school employee throughout such time. Costs associated with the service credit received under this subsection and Neb. Rev. Stat. § 79-926(1) shall be covered by the School Plan.

006.02 Military service on or after December 12, 1994; pursuant to 38 U.S.C. §§ 4301 et seq. Any school employee who is reemployed by a covered school employer within ninety (90) days after honorable discharge or honorable separation from active duty shall be treated as not having incurred a break in service by reason of his or her period of qualified military service. This ninety (90) day period shall be extended if the school

employee returns to employment at the beginning of the school year following the school employee's honorable discharge or honorable separation from active duty.

006.03 Such qualified military service shall be credited for purposes of determining the nonforfeitability of the member's accrued benefits and the accrual of benefits under the plan.

006.04 The former school employer shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service.

006.05 Once an election to purchase military service is made in subsection 003.03, the Agency will request salary verification from the pre-military service employer. The salary verification will verify what the member would have earned had the member worked for the employer during the period of military service. Upon receipt of the salary verification by NPERS, the pre-military school employer will be invoiced for the amount required to fund the obligation benefit of the plan equal to the employee and employer retirement contributions on the salary attributable during the period(s) of military service plus interest equal to the actuarial assumed rate of return. Payment shall be made by the pre-military service school employer to NPERS within thirty (30) days of the invoice's receipt.

007 Military Service Credit for the State Patrol Retirement Act

007.01 Military Service prior to December 12, 1994. Any member of the Nebraska State Patrol who, while a member of the Nebraska State Patrol, entered into and served or shall enter into and serve in the armed forces of the United States during a declared emergency, and who, within six (6) months after honorable discharge or honorable separation from active duty, returned or returns to the service of the state and again becomes a member of the Nebraska State Patrol shall be credited, in determining benefits due such member from the State Patrol Retirement Fund, for all the time actually served in the armed forces as if such person had been in the service of the Nebraska State Patrol throughout such declared emergency service in the armed forces.

007.02 Military service on or after December 12, 1994; pursuant to 38 U.S.C. §§ 4301 et seq. Any member of the Nebraska State Patrol who is reemployed by the State of Nebraska within ninety (90) days after honorable discharge or honorable separation from active duty shall be treated as not having incurred a break in service by reason of his or her period of military service.

007.03 Such military service shall be credited for purposes of determining the nonforfeitability of the member's accrued benefits and the accrual of benefits under the plan.

007.04 The state shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service.

007.05 Once an election to purchase military service is made in subsection 003.03, the Agency will request salary verification from the state employer. The salary verification will verify what the member would have earned had the member worked for the employer during the period of military service. Upon receipt of the salary verification by NPERS, the state employer will be invoiced for the amount required to fund the

obligation benefit of the plan equal to the employee and employer retirement contributions on the salary attributable during the period(s) of military service plus interest equal to the actuarial assumed rate of return. Payment shall be made by the state employer to NPERS within thirty (30) days of the invoice's receipt.

008 Military Service Credit for the State Employees Retirement Act

008.01 Any state employee who, while an employee, entered into and served in the armed forces of the United States and who within ninety (90) days after honorable discharge or honorable separation from active duty again became a state employee shall be credited, for the purposes of Neb. Rev. Stat. § 84-1317, with all the time actually served in the armed forces as if such person had been a state employee throughout such service in the armed forces.

008.02 A state employee who is reemployed by the State of Nebraska on or after December 12, 1994, pursuant to 38 U.S.C. §§ 4301 et seq., may pay to the retirement system an amount equal to the sum of all deductions that would have been made from the employee's compensation during such period of military service. Payment shall be made within the period required in subsection 008.04.

008.03 To the extent that payment is made by the member in subsection 008.02:

(a) the state employee shall be treated as not having incurred a break in service by reason of his or her period of military service;

(b) the period of military service shall be credited for the purposes of determining the nonforfeitability of the member's accrued benefits and the accrual of benefits under the plan; and,

(c) the state shall allocate the amount of employer contributions to the member's employer account in the same manner and to the same extent the allocation occurs for other employees during the period of service.

008.04 Once a request to receive military service is made in subsection 003.03, a member has up to three times (3x) the period of service - not to exceed five (5) years - to make up their missed employee contributions. The amount of makeup contributions is subject to the limits that would have applied during the military service period. The employee may designate the specific year or years their contributions cover.

008.05 When a member has commenced a request of military service credit, the state will be invoiced by the Agency for the matching employer contribution amount. If the member chooses to use the payroll deduction method then the state may match the member contribution month by month. There will be no interest or late fees charged to the member or the state for the purchase of military service credit.

008.06 For purposes of member and employer contributions, the member's compensation during the period of military service shall be the rate the member would have received but for the military service or, if not reasonably determinable, then the average rate the member received during the twelve (12) month period immediately preceding his or her military service.

008.07 The state shall pick up the member contributions made through irrevocable payroll deduction authorizations, and the contributions so picked up shall be treated as employer contributions in the same manner as contributions picked up under Neb. Rev. Stat. § 84-1308.

ENABLING LEGISLATION:

NEB. REV. STAT. §§ 23-2323.01(2), 24-710.04, 79-926(3), 81-2034(2), 84-1325(2), and 84-1503(2)(g).