

NOTICE OF PUBLIC HEARING

The Nebraska Department of Veterans' Affairs (NDVA) will hold a public hearing for rulemaking on Tuesday May 16, 2023 beginning at 8:30 a.m. Central Time in the NDVA Office on the 4th Floor of the Nebraska State Office Building at 301 Centennial Mall South, Lincoln, Nebraska.

Draft copies of the proposed regulations to be adopted, amended, or repealed are available for examination at the NDVA office, Monday through Friday between 8:00 a.m. and 5:00 p.m. and on the Nebraska Secretary of State's website at www.sos.ne.gov. The description of the fiscal impact on state agencies, political subdivisions, and persons regulated by the proposals is available at each of these locations. The proposed changes will have no fiscal impact on state agencies, political subdivisions, or persons regulated by the proposals.

All interested persons may attend and testify orally or by written submission at the hearing. Interested persons may also submit written comments to NDVA prior to the hearing, at ndva@nebraska.gov which will be entered into the hearing record if received at NDVA offices by 5:00 p.m. May 15, 2023.

Hearings will be held on the following:

1. Amendment to Title 400, Rules and Regulations of the Nebraska Department of Veterans' Affairs. Changes to Chapter 1 add, delete, modify definitions. Chapter 2 adopts the Attorney General's Model Rules for practice and procedure. Chapter 3 adopts existing Title 443, Chapter 1, Nebraska Veterans' Aid Fund, into Title 400, as revised to include statutory changes including adding transportation as an allowable reimbursable expenditure, and to clarify the appeal procedure to the Veterans' Advisory Commission. Chapter 4 to adopt existing Title 443, Chapter 4, guidance for waiver of tuition into Title 400, as revised to reflect statutory changes allowing the application to be submitted directly to NDVA and allowing simultaneous waivers. Chapter 5 provides guidance for the State Veteran Cemeteries, adopting federal provisions relating to memorialization and interment. Changes to Chapter 6, State Veterans' Homes regulations, amend and update references from DHHS to NDVA throughout, update terminology, update the lookback period for transfers or assignments of property, and reflect how NDVA and the State Veterans' Homes Board operate including appeals from Board decisions.
2. Repeal of Title 443. Relevant portions of this Title, Chapters 1 and 4, are proposed to be amended into Title 400, as explained above. The remaining portions of this Title are obsolete or only apply to the internal workings of NDVA and are proposed to be repealed.

If auxiliary aids or reasonable accommodations are needed to participate in the hearing, or if hearing impaired, please contact NDVA at 402-471-2458 no later than May 9, 2023.

DRAFT/FINAL FISCAL IMPACT STATEMENT

Agency: Nebraska Department of Veterans' Affairs	
Title: 443	Prepared by: NICOLE S ZIMMERMANN
Chapter: ALL	Date prepared: 12/29/2022
Subject: DEPARTMENT OF VETERANS' AFFAIRS	Telephone: 531-220-1433

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	(X)
Increased Costs	()	()	()
Decreased Costs	()	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

Provide an Estimated Cost & a Description of Impact:

State Agency: No fiscal impact.

Political
Subdivision: No fiscal impact.

Regulated
Public: No fiscal impact.

If indeterminable, explain why:

Title 443 – DEPARTMENT OF VETERANS' AFFAIRS

Repealed

Chapter 1—NEBRASKA VETERANS' AID FUND

~~001~~The Nebraska Veterans' Aid Fund is intended as a temporary emergency fund to assist eligible veterans and their dependents in time of need when an unforeseen emergency occurs disrupting their orderly method of living and funds available from constituted sources such as private resources (income, savings, loans, etc.), regular relief funds or agencies, pension, compensation, insurance, unemployment compensation and sick benefits, etc., are not sufficient for their immediate needs. The emergency deemed to exist as a condition to payment of aid from the Fund shall mean a condition including the following factors:

~~001.01~~ Circumstances exist requiring immediate expenditure of funds for food, shelter, fuel, wearing apparel, medical or surgical aid, care or relief or funeral expenses which are not available through constituted sources.

~~001.02~~ Applicant's resources are insufficient to meet the need without jeopardizing his future security.

~~002~~Aid will not be granted to veterans whose emergency is caused by violation of law or misconduct, and as a general rule, will not be furnished to families of such veterans.

~~003~~Aid may normally be granted for a period of not to exceed sixty (60) days depending on the circumstances in each individual case.

~~004~~Voluntary unemployment or refusal to work does not constitute an emergency, causing need unless the applicant would suddenly be confronted with illness or other situations which might occur at any time, even if still pursuing employment of the sort customarily followed by him or for which he is suited.

~~005~~Grants of aid by the Department are to be made for the payment of future expenses and prospective applicants should not incur liabilities in the expectation of securing a grant from this fund.

~~006~~Veterans should make use of free or low-cost services available in the nearest Veterans Administration Hospital or for themselves and dependents in other medical and hospital facilities offered by city, county, state and federal governments if they are financially unable to pay for such care in a private facility. Aid from the Fund is available on such medical and hospital expenses in a private facility if applicant is unable to pay, and his physical condition was such that it would have endangered his life to move him to a Veterans Hospital or other facility. When applying for such aid, the applicant must present fully itemized bills and physician's statement of physical condition and treatment.

~~007~~The Fund is not intended to pay all of an applicant's medical and hospital expenses, but it can be used to assist and participate with other sources to help

alleviate such need.

~~008~~ The Fund does not pay on ordinary maternity expenses unless there are other complications causing unexpected additional expenses, and applicant is unable to pay all of the cost.

~~009~~ The Fund is available to assist in paying for dental care and such items as dentures and glasses, but before payment for this type of claim can be made, it is necessary that the applicant secure a statement from his doctor indicating that the service is necessary to maintain the normal health of the person and also present an itemized estimate of the cost of the services. No such claim will be paid if not previously authorized by the Director.

~~010~~ Membership in a veterans' organization is not necessary to apply for and receive aid from this Fund.

~~011~~ Application shall be made on the application form prescribed and provided by the Director. The applicant shall answer all questions and furnish the information requested and sign the application form in the proper place before a notary public, officer of the post, or other competent authority. Only when a veteran is absent, physically unable, incompetent or deceased should application be filed by another member of the family, and the reason therefore should be shown in the proper space. The post officer then sign and make their recommendation and submit the facts as a result of their investigation of the case.

~~012~~ On approved applications, checks are drawn jointly in the name of the service officer and the applicant (plus a third party if there is a creditor or other person eligible to receive same). The applicant is notified by mail in all cases where an allowance has been made and that the check has been mailed local service officer.

~~013~~ On disallowed claims, the Director will reconsider the application upon request made by the applicant or post officer if filed within ten (10) days after date of mailing the notice of the decision and providing additional information or evidence pertinent to the case is submitted which might warrant a different decision.

~~014~~ ————— Recourse can be had by any individual or post of a recognized veterans' organization from any decision made by the Director or Veteran's Affairs or his Deputy on a claim for aid from the Nebraska Veterans' Aid Fund, by appeal to the Veterans' Advisory Commission. The majority decision of the appeal board shall be final on such appealed claim.

~~015~~ ————— The claimant or any officer of the service organization where in the claim originated may, within ten (10) days after date of mailing of the notice of the decision of the Director, file with the Chairman of the Advisory Commission a written notice of appeal, together with a petition setting forth facts and grounds for said appeal.

~~016~~ The Chairman of the Advisory Commission shall fix a time and place

~~for the hearing upon said appeal. This item shall not be later than three (3) months following the date of filing and aforesaid notice of appeal and petition for appeal. The applicant may appear in person at said hearing or be represented by legal counsel.~~

~~017 The hearing shall be held before the Advisory Commission. A majority of the appointed members of said Commission shall constitute a quorum, and their decision shall be final.~~

~~018 The appellant shall be granted the opportunity to present either oral or written testimony in support of his claim, whether or not same testimony has previously been submitted by the Director.~~

~~019 The Director shall have the right to rebut or explain any testimony which might be submitted.~~

~~020 During the hearing of appeals, the Commission shall have the power to grant continuance so as to afford either the appellant or the Director the opportunity to present his side of the case more completely.~~

~~021 After affording the parties a fair and reasonable hearing, the Commission shall make its findings, and on the basis thereof, affirm, modify or reverse the decision of the Director.~~

~~022 The findings and decision of the Commission will be reported to the Director.~~

~~023 The appellant will be notified promptly of the findings and decision of the Commission by the Director.~~

~~024 The Director will comply with the decision of the Commission within ten (10) days after receipt of its report.~~

Title 443—DEPARTMENT OF VETERANS' AFFAIRS

Chapter 2—STATE SERVICE OFFICE

~~001—This division shall comprise a State Service Office with principal quarters in the Regional Office Building of the Veterans Administration, Lincoln, Nebraska.~~

~~002—Each and all employees(s) of the State Service Division shall work together in a faithful, harmonious and indiscriminate manner, with their efforts devoted solely to properly representing veterans (and their dependents) whose claims are entrusted to the State Service Office, regardless of organizational designation set forth in the claimant's Power of Attorney (23-22).~~

~~003—Both state service officers and others of the staff charged with presentation of claims before the Veterans Administration Regional Rating Boards under 23-21 authorization shall be accredited representative of the State of Nebraska, and each and every one of the various veterans' organizations that has designated the State Service Office as its sole representative.~~

~~004—The two state service officers shall have concurrent authority and jurisdiction—shall occupy adjoining offices and confer together in determining office policies and work assignments, subject to overall confirmation by the Director. Their combined efforts shall be applied to seeing that the office functions most efficiently at all times.~~

~~005—No favoritism or preferment shall be shown as between participating veterans' organizations and absolute neutrality will be observed at all times by office personnel in the taking of Powers of Attorney. Claimants shall be advised as to the identity of all veterans' organizations they desire to name in their 23-22. At no time shall there be solicitation of membership in any veterans' organization by an employee of the office while on official duty.~~

~~006—Periodic "Activities" reports for the Service Office shall be on a combined State Service Office basis reflecting all of the activities of the office for the period covered.~~

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~~007~~ No veterans' organization may take advantage of and utilize the facilities of the State Office unless it shall have first designated such Office as its sole representative at the Regional Office level.

~~008~~ No organization that carried on a program of service to veterans as an independent agency operating outside of the State Service Office (as herein provided) shall have any portion of its operating costs borne from Legislative appropriation made for maintaining the Department of Veterans' Affairs. This shall not be construed as in any way preventing or interfering with the activities of any veterans' organization which has chosen or may choose to operate and render service independent of the State Service Office, with the costs of such operation paid from funds other than appropriated state money.

~~Title 443 — DEPARTMENT OF VETERANS' AFFAIRS~~

~~Chapter 3 — REIMBURSEMENT OF EXPENSES OF EMPLOYEES OF THE DEPARTMENT~~

~~001 — National Conventions of recognized veterans' organizations.~~

~~001.01 — Service officers representing the organization may attend without loss of pay. Time consumed in attendance and necessary time for transportation will not be charged against annual leave.~~

~~001.02 — No portion of the expense will be paid by the Department of Veterans' Affairs.~~

~~002 — National, Area and/or Branch Rehabilitation Conferences sponsored by recognized veterans' organizations.~~

~~002.01 — The expense of travel and maintenance will be paid by the Department of Veterans' Affairs for service officers or assistant service officers if these expenses are not compensated for by other sources.~~

~~002.02 — If the service officer or assistant service officer receives compensation for expenses from other than the Department of Veterans' Affairs, these conferences may be attended without loss of pay. Time consumed in attendance and necessary time for transportation will not be charged against annual leave.~~

~~003 — State Department of Annual Convention of recognized veterans' organizations.~~

~~003.01 — Same as 002.~~

~~003.02 — Same as 002.~~

~~004 — Annual conferences of veterans' organizations, such as the Mid-Winter Conference of the American Legion and the Fall Conference of the Veterans of Foreign Wars.~~

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~~004.01~~—The expense of travel and maintenance will be paid by the Department of Veterans' Affairs for service officers, assistant service officers and other officers and employees of the Department previously authorized by the Director to attend.

~~005~~—District conventions of recognized veterans' organizations.

~~005.01~~—Same as 004.

~~006~~—Meetings sponsored by veterans' organizations to which all veterans are invited and which are conducted for the purpose of advising veterans of their benefits.

~~006.01~~—Same as 004.

~~007~~—Annual conferences of the Department of Veterans' Affairs.

~~007.01~~—All personnel in the Department designated by the Director to attend will be entitled to reimbursement for their expenses of travel and lodging in accordance with the policies prescribed by the State Tax Commissioner.

~~008~~—No travel of any employee of the Department will be allowed without first obtaining the written permission of the Director.

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~~Chapter 4—GOVERNING OPERATION OF 80-411, RRS OF NEBRASKA
(WAIVER OF TUITION)~~

~~001—The word “applicant” also refers to the child of a veteran who died of other causes while totally disabled as a result of a service-incurred disability.~~

~~002—Tuition shall be base fees only and shall not include laboratory fees, athletic tickets, student union fees, etc.~~

~~003 All applications must be accompanied by a certified copy of proof of honorable service of the veteran upon whose record the application is based.~~

~~004—Proof of residence must also be submitted with the application. This should be for one year prior to application of child of a Nebraska veteran or for five years continuous residence of child of a non-Nebraska veteran.~~

~~005—“Any county service officer” shall mean that the county service officer located in the county of legal residence of the applicant shall complete Part III and enter his signature in the space provided.~~

~~006 The Director will obtain certification from the Veterans Administration as to the entitlement of applicant. The Director will then forward the application to the school chosen by the applicant after first certifying his eligibility.~~

~~007—Applications must be submitted in time for proper checking and certification prior to the beginning of any school term, and the Department of Veterans' Affairs cannot be held responsible for any delay not attributable to its processing of the application.~~

~~008—The applicant, or any qualified representative of the applicant, may, within (10) days after being notified of the decision of the Director, file with the Chairman of the Advisory Commission, written notice of appeal, together with a petition setting forth facts and grounds for said appeal.~~

~~009—The Chairman of the Advisory Commission shall fix a time and place for the hearing upon said appeal. This time shall not be later than three (3) months following the date of filing the aforesaid notice of appeal and~~

~~petition for appeal. The appellant may appear in person at said hearing or be represented by legal counsel.~~

~~010 The hearing shall be held before the Advisory Commission. A majority of the appointed members of said Commission shall constitute a quorum, and their decision shall be final. After affording the parties a fair and reasonable hearing, the Commission shall make its findings, and on the basis thereof, affirm, modify or reverse the decision of the Director.~~

~~011 The findings and decisions of the Commission will be reported to the Director.~~

~~012 The appellant will be notified promptly of the findings and decision of the Commission by the Director.~~

~~013 The Director will comply with the decision of the Commission within ten (10) days after receipt thereof.~~

Chapter 5—EDUCATION AND TRAINING DIVISION

~~ON THE JOB AND APPRENTICESHIP TRAINING~~

001 DEFINITION OF TERMS:

- “Advisory Commission”—— is the Veterans’ Advisory Commission created in accordance with Section 80-401.06.
- “Cancelled”—— is the withdrawal of approval of an establishment to train veterans.
- “Director”—— is the Director of Veterans’ Affairs appointed in accordance with Section 80-401.02.
- “Division”—— is the Education and Training Division of the Department of Veterans’ Affairs authorized by Section 80-401.04.
- “State Approval Agency”—— is the Department of Veterans’ Affairs, Education and Training Division in accordance with Section 80-401.04
- “Employer”—— is the administrative officer of an approved establishment furnishing apprentice and on-the-job training courses to veterans.
- “Representative Wage Schedule”—— is the schedule of pay received by employees in the community performing approximately the same duties.
- “Training Program”—— is the course of training for an employment objective coded in the Dictionary of Occupational Titles.

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~~By direction of the Governor, Administration and Supervision of on-the-job and apprenticeship training for veterans carried on pursuant to the provisions of Public Law 90-77 has been vested in the Department of Veterans' Affairs. The Veterans' Advisory Commission, as provided by Section 80-401.06 will act in advisory capacity to establish policies concerning on-the-job and apprenticeship training, and will act as an appeal board for action to be taken by this division.~~

~~002—An approval may be granted by the approval agency for training on-the-job (other than a program of apprenticeship) only when it finds that the job which is the objective of training is one which progression and appointment to the next higher classification are based upon skills learned through organized training on the job and not on such factors as length of service and normal turnover, and that the provisions of subsections 003 and 004 of this rule are met.~~

~~003—The training establishment offering training which desires to be approved must submit to approval agency a written application for approval which contains a certification that:~~

~~003.01—The wages to be paid the eligible veteran (a) upon entrance into training, are not less than wages paid non-veterans in the same training position and are at least fifty (50) per centum of the wages paid for the job for which he is to be trained, and (b) such wages will be increased in regular periodic increments until, not later than the last full month of the training period, they will be at least eighty-five (85) per centum of the wages paid for the job for which such eligible veteran is being trained, and (c) such wage scale is in conformity with state and federal laws and applicable bargaining agreements.~~

~~003.02—There is reasonable certainty that the job for which the eligible veteran is to be trained will be available to him at the end of the training period.~~

~~004—As a condition for approving a program of training on the job (other than a program of apprenticeship), the approval agency must find upon investigation that the following criteria are met:~~

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~~004.01—The training content of the course is adequate to qualify the eligible veteran for appointment to the job for which he is to be trained.~~

~~004.02—The job customarily requires full-time training for a period of not less than six (6) months and not more than two (2) years.~~

~~004.03—The length of the training period is not longer than that customarily required by the training establishments in the community to provide an eligible veteran with the required skills, arrange for the acquiring of job knowledge, technical information and other facts which the eligible veteran will need to learn in order to become competent on the job for which he is being trained.~~

~~004.04—Provision is made for related instruction for the individual eligible veteran who may need it.~~

~~004.05—There is in the training establishment adequate space, equipment, instructional material and instructor personnel to provide satisfactory training on the job.~~

~~004.06—Adequate records (payroll, absence and progress) are kept to show the progress made by each eligible veteran toward his job objective. These records will be made available for inspection.~~

~~004.07—Appropriate credit will be given the veteran for previous job experience, whether in military service or elsewhere, his beginning wage adjusted to the level to which such credit advances him and his training period shortened accordingly. No course of training will be given to a veteran who is already qualified by training and experience for the job objective.~~

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~~004.08~~—Approval will not be granted for training in occupations which require a relative short period of experience for a trainee to obtain and hold employment at the market wage in the occupation. This includes occupations such as service station attendant or manager, soda fountain attendant or manager, food service worker, salesman, window washer, building custodian, bartender, grocery store clerks, or other unskilled or common labor position as well as clerical positions for which on-the-job training is not the normal method of procuring qualified personnel.

~~004.09~~—The veteran training under an approved training program will be under control of the training establishment and will be subject to such rules governing the conduct and work of the employees as the establishment may see fit to apply.

~~004.10~~—The approval agency may approve a course of apprenticeship training when the training establishment and its apprentice courses are found, upon investigation, to have met the standards of apprenticeship published by the Secretary of Labor.

~~004.11~~—For each eligible veteran there will be a detailed course of training to be known as the individual training program listing the main objective headings which together constitute the chosen occupation, job operation, still or processes of that occupation into which that subject may be divided. The veteran will be furnished a copy of this training agreement and training program by the training establishment.

~~004.12~~—The approved course must meet such other criteria as may be established by the approval agency.

~~005~~—As provided by law, this division works with employers to establish adequate training programs and representative wage schedules. Any action taken by this division may be appealed by an employer to the Director of the Department of Veterans' Affairs. If the employer is not satisfied with the decision of the Director, he or a qualified representative may appeal to the Veterans' Advisory Commission.

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~~006~~—The employer, or any qualified representative of the business establishment may, within ten (10) days after being notified of the decision of the Director, file with the Chairman of the Advisory Commission, written notice of appeal, together with a petition setting forth facts and grounds for said appeal.

~~007~~—The Chairman of the Advisory Commission shall fix a time and place for the hearing upon said appeal. This time shall not be later than three (3) months following the date of filing the aforesaid notice of appeal and petition for appeal. The appellant may appear in person at said hearing or be represented by legal counsel.

~~008~~—The hearing shall be held before the Advisory Commission. A majority of the appointed members of said Commission shall constitute a quorum, and their decision shall be final. After affording the parties a fair and reasonable hearing, the Commission shall make its findings, and on the basis thereof, affirm, modify or reverse the decision of the Director.

~~009~~—The findings and decision of the Commission will be reported to the Director.

~~010~~—The appellant will be notified promptly of the findings and decision of the Commission by the Director.

~~011~~—The Director will comply with the decision of the Commission within ten (10) days after receipt thereof.

FLIGHT TRAINING

~~By direction of the Governor, approval of flight schools, administration and supervision of flight training for veterans carried on pursuant to the provisions of Public Law 90-77 has been vested in the Department of Veterans' Affairs. The Veterans' Advisory Commission, as provided by Section 80-401.06, will act in advisory capacity to establish policies concerning flight training and will act as an appeal board for action to be taken by this division.~~

~~012~~—An approval may be granted by the approval agency for a flight school only after said school has been approved by the Federal Aviation Agency (FAA) as a commercial flight school.

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~~013—Flight schools must meet all FAA regulations.~~

~~014—All courses (ratings) must first be approved by the FAA before the course can be approved by the State Approval Agency.~~

~~015—A Flight school may only be approved after it has been in operation for two (2) years or more immediately prior to the date of application.~~

~~016—An eligible veteran may take an approved course of flight training generally accepted as necessary to attain a recognized vocational objective in the field of aviation.~~

~~017—An eligible veteran must first possess a valid private pilot's license or he must have satisfactorily completed the number of hours of flight training instruction required for a private pilot's license. Evidence of this requirement must be kept on file by the school.~~

~~018—An eligible veteran must meet the medical requirements necessary for a commercial pilot's license. A copy of this medical certificate must be kept on file by the school.~~

~~019—The applicant, or any qualified representative of the applicant, may, within ten (10) days after being notified of the decision of the Director, file with the Chairman of the Advisory Commission, written notice of appeal, together with a petition setting forth facts and grounds for said appeal.~~

~~020—The Chairman of the Advisory Commission shall fix a time and place for the hearing upon said appeal. This time shall not be later than three (3) months following the date of filing the aforesaid notice of appeal and petition for appeal. The appellant may appear in person at said hearing or be represented by legal counsel.~~

~~021—The hearing shall be held before the Advisory Commission. A majority of the appointed members of said Commission shall constitute a quorum, and their decision shall be final. After affording the parties a fair and reasonable hearing, the Commission shall make its findings, and on the basis thereof, affirm, modify or reverse the decision of the Director.~~

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~~022~~—The findings and decisions of the Commission will be reported to the Director.

~~023~~—The appellant will be notified promptly of the findings and decision of the Commission by the Director.

~~024~~—The Director will comply with the decision of the Commission within (10) days after receipt thereof.

FARM COOPERATIVE TRAINING

~~025~~—Public Law 90-77 included a provision to establish farm cooperative training. The State Department of Veterans' Affairs has been designated the State Approval Agency to approve facilities offering farm cooperative training.

~~026~~—Veterans who served on active duty for more than one hundred eighty (180) continuous days, any part of which occurred after January 31, 1955, but before January 1, 1977, and who (a) were released under conditions other than dishonorable, or (b) were discharged for a service-connected disability. Each eligible person (who initially entered service before January 1, 1977) will be entitled to educational assistance for a period of one and one-half (1-1/2) months (or the equivalent in part-time training) for each month or fraction thereof of service on active duty after January 31, 1955, up to forty-five (45) months. If the person served eighteen (18) continuous months or more after January 31, 1955, and starting before January 1, 1977, and has been released under conditions satisfying the active duty obligation, he or she will be entitled to forty-five (45) months. For farm cooperative training, eligibility ceases ten (10) years from date of last separation from service after January 31, 1955, or August 30, 1977, whichever is later.

~~027~~—Effective June 21, 1976, VA Regulation 14264 was revised to specify substantial full-time agricultural employment as necessary for a veteran or eligible person to receive educational allowance while pursuing farm cooperative training. Persons enrolled as part-time farmers prior to this change may complete the course provided they remain enrolled and make satisfactory progress. This also requires that these persons remain enrolled in the same course offered by the same school. If a veteran enrolls in

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another farm cooperative course because the State Approval Agency has withdrawn approval for the first course, the school has stopped offering it, or any other reason, the veteran must be engaged in substantially full-time agricultural employment in order to receive benefits for the new course.

~~028~~—Suitable agricultural employment must include employment on a farm (self-employed or hired) or other agricultural establishment where the basic activity is cultivation of the ground, such as the raising and harvesting of crops, including fruits, vegetables, pastures or the breeding, feeding and managing of livestock, including poultry and other specialized farming. Employment in training establishments which are engaged primarily in the processing, distribution or sale of agricultural products, or combinations thereof, such as dairy processing plants, grain elevators, packing plants, hatcheries, stockyards and florist shops, will not be considered suitable agricultural employment. (Substantially full-time agricultural employment must be the principal expected source of earning the student's livelihood. However, part-time agricultural employment will be permitted if it is less than the total effort required in pursuit of the agricultural employment.)

~~029~~—The school itself must verify on a continuing basis that students are engaged in suitable agricultural employment which is relevant to the agricultural course offered and is in an area consistent with their training program.

~~030~~—In addition, to be eligible for an advance farm cooperative program, the veteran or eligible person must have completed thirty-six (36) months prior farm cooperative training.

~~031~~—The Veterans Administration educational assistance allowance is based on training time and number of dependents.

~~032~~—Public Law 92-540, October 24, 1972, liberalized the farm cooperative program to provide that the institutional portion may consist of courses pre-scheduled to fall within not less than forty-four (44) weeks of the year at a minimum of five (5) clock hours per week, or for fulltime training, four hundred and forty (440) clock hours a year may be pre-scheduled to provide not less than eighty (80) clock hours in any three (3) month period. Part-time benefits are provided for students whose farming operations will not permit them to attend at least ten (10) hours a week.

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~~033~~—In computing the clock-hour requirements, the time involved in field trips and individual and group instruction may be included when they are sponsored and conducted by the educational institution through a duly authorized instructor of the institution in which the veteran or eligible person is enrolled. Classes should not be pre-scheduled to fall on state or federal holidays. Tours and demonstrations may be counted only in the week that they are taken and must be approved by the State Department of Veterans' Affairs ten (10) days in advance. No more than twelve (12) hours of tours/demonstrations per month may be allowed in lieu of classroom attendance.

~~034~~—The amount of tuition charged for operating the program is set by the individual school. This includes the amount of compensation for staff salaries, books, supplies, equipment, etc. The school must develop a refund policy for the unused portion of tuition in the event a student withdraws or is discontinued from the course. The following table is furnished to be used as a guideline in determining tuition charges:

15 to 17 students	—\$40 per student per month
18 to 20 students	—\$35 per student per month
21 to 23 students	—\$30 per student per month
24 to 30 students	—\$25 per student per month
31 to 35 students	—\$20 per student per month

~~035~~—The maximum enrollment may not exceed thirty-five (35) students in any class.

~~036~~—Veterans should complete VA Form 22-1990 for an initial application for VA educational benefits. VA Form 22-1995 should be completed when changing program or place of training. Veterans enrolling in an advance-farm cooperative training program must complete VA Form 22-1995. VA Form 22-1999 must be completed by the class director. This enrollment certification should specify the course, amount of credit allowed for previous training or education, dates of training and certification that the veteran or eligible person is engaged in substantial full-time agricultural employment which is relevant to the course. The beginning date certified should be the actual first date of attendance.

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~~037~~ VA Form 22-6553, Quarterly Certification of Attendance, should be promptly completed upon receipt and returned to the VA Regional Office to insure continued payments. Students must report absences (excused or unexcused) from regularly scheduled days of attendance. Absences reported by the student should be verified by official school attendance records. Students should not sign certification cards until the absence data has been completed.

~~038~~ VA Regulation 14205—Absence will be charged for a full day when the veteran or eligible person did not attend any scheduled class on that day.

~~039~~ Tardiness will be charged when the veteran or eligible person was late for the start of the class. A partial day of absence will be charged for any period of absence during or at the end of the class. Partial days of absence will be converted to full days in accordance with the following formula and the accumulated total reported:

~~039.01~~ Compute the average hours of daily attendance (divide the hours of required attendance per week by the days of required attendance per week).

~~039.02~~ Total the absences of less than a full day which occurred during the month.

~~039.03~~ Divide the total hours of absence for the month by the average hours of daily attendance to determine the full days of absence to be reported. A fractional day in the result will be dropped if it is one-half ($1/2$) day or less and increased to the next whole day if more than one-half ($1/2$) day.

~~040~~ An occasional tardiness (not more than two (2) per week) of one-half ($1/2$) hour or less will not be counted if it is excused by the school. Tardiness which is not excused and tardiness of more than one-half ($1/2$) hour, whether excused or not, will be counted as one or more hours of absence. Absences during any portion of the day will be counted, whether more or less than an hour. All early departures will be counted, even though excused. Except for an occasional tardiness of one-half ($1/2$) hour or less which is excused by the school, any absence of less than an hour will be counted as a full hour of absence.

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~~041—Absences to be reported by the veteran and eligible person and verified by the school will be those days of non-attendance which occur during a period of the pre-scheduled classroom instruction.~~

~~042—Withdrawals or discontinuance from training will be reported effective the last class attended.~~

~~043—Maximum allowable absences for a twelve (12) month course requiring attendance for less than five (5) days a week will be the pro-rata part of thirty (30) days which the number of days per week of scheduled attendance bears to five (5).~~

~~044—Excessive absences will result in a reduction of VA educational assistance allowance. Absences are computed based on the veteran or eligible person's anniversary date of enrollment. Unused allowable absences may not be carried over from one twelve (12) month period to another.~~

~~045—Instructor Qualifications:~~

~~045.01—A degree in agriculture.~~

~~045.02—Two (2) years of college or more, plus five (5) years of agricultural experience.~~

~~045.03—A degree in industrial arts, with fifty (50) credit hours in agricultural subjects.~~

~~Any exceptions to the above should be referred to the State Approval Agency.~~

~~046—Applications for approval must be made by the school board through the school administrator. Applications should be submitted in four (4) copies to the Department of Veterans' Affairs, State Office Building, Lincoln, Nebraska 68509.~~

~~047—The school board will appoint a school faculty member as class director. Instructors will be certified by the class director as qualified to teach in their field. Certification of instructors will be included in the application for approval.~~

Chapter 5

~~048~~—The course curriculum outlining topics of instruction will be submitted in four (4) copies with the application for approval. Changes in the curriculum or class schedule must be submitted to the State Approval Agency at least thirty (30) days prior to the effective date of the proposed change.

~~049~~—Adequate attendance and progress records will be maintained by the class director and instructors. Such records must be available for review at any time by representatives of the Veterans Administration and the Department of Veterans' Affairs.

~~050~~—Veterans will be required to make satisfactory progress in order to remain in the class. Veterans should be dismissed from training for unsatisfactory conduct. A copy of the school's standards of progress must be included with the application for approval.

~~051~~—A written record of the previous education and training must be maintained for each veteran which clearly indicates that appropriate credit has been given by the school and the veteran's enrollment period shortened proportionately.

~~052~~—A copy of the course outline, schedule of tuition, regulations pertaining to absences, tardiness, grading policies, rules of operation and conduct will be furnished each veteran upon enrollment.

~~053~~—Upon completion of training, the veteran or eligible person will be awarded a certificate by the school indicating successful completion of training.

Title 443—DEPARTMENT OF VETERANS' AFFAIRS

Chapter 6—VIETNAM VETERANS EDUCATION LOAN ACT

~~001—All applications must be filed through the county service officer in the county or residence of the veteran.~~

~~002—The county service officer shall investigate every application and give the facts as he sees them to the Department of Veterans' Affairs.~~

~~003—A copy of the veterans DD214 must accompany the application for a loan.~~