

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~~[Plan](#)), § 24-710.04 in the Judges Retirement Act (Judges ~~plan~~[Plan](#)), § 79-926 in the School Employees Retirement Act (School ~~plan~~[Plan](#)), § 81-2034 in the State Patrol Retirement Act (State Patrol ~~plan~~[Plan](#)), ~~and~~ ~~§ 84-1325 in the State Employees Retirement Act (State ~~plan~~[Plan](#)), and § 55-161 et seq. regarding Military leave of absence, and the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. §§ 4301 et seq.~~ This rule implements the provisions of ~~the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. §§ 4301 et seq.,~~ ~~and~~ [Neb. Rev. Stat. § 55-161](#) for the retirement plans administered by the Public Employees Retirement Board under Neb. Rev. Stat. § 84-1503(1)(a).

002 Definitions

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

002.02 ~~Board~~ [PERB](#) means the Public Employees Retirement Board created by Neb. Rev. Stat. § 84-1501.

[002.03 Day\(s\), for the purposes of this Chapter, means calendar day\(s\) unless specifically designated otherwise.](#)

002.~~03~~[04](#) Employer, [for the purposes of this Chapter,](#) means:

[002.04\(a\) The State of Nebraska for members of the Judges Plan;](#)

[002.04\(b\) The state agency where the member was employed prior to, and was reemployed pursuant to USERRA after, qualified military service for the employees of state agencies who are members of the State Plan;](#)

[002.04\(c\) The Nebraska State Patrol for employees of the Nebraska State Patrol who are members of the State Patrol Plan;](#)

[002.04\(d\) The school district or education service unit, or their successor\(s\) in interest through consolidation or unification, the Department of Education, or the Department of Corrections, where the member was employed prior to, and was reemployed pursuant to USERRA after, qualified military service for the employees of those entities who are members of the School Plan; and](#)

002.04(e) The county where the member was employed prior to, and was reemployed pursuant to USERRA after, qualified military service for members of the County Plan.

~~(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.~~

002.05~~4~~ Qualified military service means performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by Section 12503 of Title 10 or Section 115 of Title 32 of the United States Code.~~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.~~

002.06 Uniformed services means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.

~~002.05-07~~ USERRA means the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. §§ 4301 et seq.

003 Notification Requirement and Application for Qualified ~~Election of~~ Military Service Leave/Credit for all ~~All~~ Plans

003.01 Current service while employed by an employer of a retirement plan administered by the ~~Board~~ PERB 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~~ NPERS after a showing that all requirements outlined by USERRA, Nebraska law, and this Rule and Regulation have been satisfied.

003.02 At the time ~~a~~ military leave-service commences, ~~the employer and/or the member~~ the member shall notify the employer and ~~shall notify the Agency~~ NPERS, of the ~~leave~~

military service and the expected length of the ~~leave-military service~~ on forms prescribed by ~~the Agency~~NPERS. ~~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 Upon reemployment pursuant to USERRA after military service, and while still reemployed with the same employer, the member may file a request to obtain qualified military service~~military service~~ credit ~~may be made by the member~~ on forms prescribed by ~~the Agency~~NPERS within ~~one (1) year~~three times (3x) the period of qualified military service, not to exceed five (5) years, following the date of reemployment with ~~an~~the employer where the member was employed prior to the military service.

003.03(a) ~~An application form prescribed by the Agency~~The request must be filed express the member's intent to obtain military service credit, outline the member's proposed method to fund the member's contributions to the plan, identify the period of military service for which the member is seeking credit, and be signed and dated by the member. ~~and~~ Supporting verification of documentation showing the beginning and ending dates of a member's military ~~leave~~service, ~~as well as the applicable compensation amount~~ and honorable discharge must be attached to the request. Examples of supporting documentation include a copy of the member's DD Form 214, the member's military orders, or other documentation authenticated by the member's military commander showing the dates of entry into, and discharge from, military service, the statutory authority under which the member was called to military service, and a copy of the member's certificate of honorable discharge.

003.03(b) ~~The request and supporting documentation must be submitted to the employer for review, verification as qualified military service and reemployment pursuant to USERRA, and acknowledgment of the employer's requirement to fund the obligation of the plan.~~

003.03(c) Pursuant to employer verification of qualified military service and calculation of the member's compensation, the employer will forward the request to NPERS.

003.03(d) After NPERS reviews the request and verifies that all necessary information and supporting documentation has been provided, NPERS will send an application to the member, with a copy of the contribution calculations attached, to formalize how the contributions will be paid to the plan. The member will complete and sign the member portion of application, and forward the application to the employer. The employer will complete and sign the employer portion of the application, and forward the application to NPERS for review, approval, and processing. Both the member and employer must complete and sign the application.

003.03(e) The application must be received, reviewed, approved, and processed by ~~the Agency~~NPERS before NPERS will accept any payments ~~by~~ from the member and/or employer ~~will be received.~~

003.03(f) In the event that processing delays beyond the member's control occur, additional time may be granted by the NPERS Director upon good cause shown.

003.04 Pursuant to USERRA, a member is reemployed if the member is able to meet five (5) criteria:

003.04(a) The member was absent from employment due to military service;

003.04(b) The employer was given advance notice of the military service;

003.04(c) The member had five (5) years or less of cumulative military service with the employer;

003.04(d) The member was not separated from military service with a disqualifying discharge or under other than honorable conditions; and

003.04(e) The member returned to work in a timely manner.

003.04(e)(i) For military service of less than 31 days or for a fitness examination, the member must report back to work not later than the beginning of the first full regularly-scheduled work period on the first full calendar day following the completion of the period of military service plus safe travel time from the duty location to the member's home and eight (8) hours rest;

003.04(e)(ii) For military service for more than 30 days but less than 181 days, the member must submit an application for reemployment (written or verbal) with the employer not later than fourteen (14) days after completing service;

003.04(e)(iii) For military service for more than 180 days, the employee must submit an application for reemployment (written or verbal) not later than 90 days after completing service.

~~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 Payment for Qualified Military Service Credit for the County Employees Retirement Act and the State 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.~~

004.02-01 A county employee member who is timely reemployed by a covered county an employer on or after December 12, 1994, pursuant to 38 U.S.C. §§ 4301 et seq., and whose timely application made pursuant to this Chapter is approved by the employer

~~and NPERS may~~, may pay to the retirement system an amount ~~equal to~~ not to exceed the sum of all deductions that would have been made from the ~~employee's member's~~ compensation for member retirement contributions during ~~such the~~ period of qualified military service. Payment shall be made via a method outlined in section 006, and within the time period required in ~~sub~~ subsection 004.0403.

~~004.03-02~~ To the extent that payment is made by the member ~~in~~ pursuant to this chapter ~~subsection 004.02~~:

004.02(a) ~~†~~ The ~~county employee member~~ shall be treated as not having incurred a break in service by reason of his or her period of qualified military service;

004.02(b) ~~†~~ The period of qualified 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, but under no circumstances shall a member receive duplicate service credit, or be granted full service credit if only partial contributions are made; and,

004.02(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 qualified military service.

004.02(d) For the cash balance plans the employer shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service, to include, but not limited to, paying the actuarial assumed rate of return on any member and employer contributions, finance charges during and installment payment option, and any other necessary costs or fees to fund the obligation of the plan.

~~004.04-03~~ ~~Once a request to receive military service credit is made in subsection 003.03, a~~ A member has up to three times (3x) the period of qualified military service, ~~not to exceed five (5) years~~, to ~~make up~~ pay his or her any missed ~~employee member~~ contributions. The amount of ~~makeup~~ contributions is subject to the limits that would have applied during the qualified military service period. The ~~employee member~~ may designate the specific period(s) of qualified military service year or years their contributions cover. For each period of qualified military service designated by the member, contributions will be credited starting with the beginning date of the qualified military service, and will be credited consecutively for each pay period until all contributions for the period of qualified military service have been paid by the member, or the member elects to stop making up contributions, whichever occurs first. The member will only receive service credit proportionate to the contributions the member pays to the retirement system.

~~004.05-04~~ ~~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.~~ Prior to the member paying contributions, the employer will request that NPERS calculate the amount of member contributions, employer contributions, and actuarial assumed rate of return on all contributions that would have been paid during the period of qualified military service. The member will pay any desired contributions to the employer or NPERS, after notice to the employer, depending upon the member's

~~chosen payment method as indicated 006 of this chapter. 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.~~

004.06-05 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~~qualified 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~~005 Payment for Qualified Military Service Credit for the Judges Retirement Act, State Patrol Retirement Act, and School Employees Retirement Act~~School Employees Retirement Act~~

005.01 A member who is timely reemployed by an employer on or after December 12, 1994, pursuant to 38 U.S.C. §§ 4301 et seq., and whose timely application made pursuant to this Chapter is approved by the employer and NPERS, may pay to the retirement system an amount not to exceed the sum of all deductions that would have been made from the member's compensation for member retirement contributions during the period of qualified military service. Payment shall be made via a method outlined in section 006, and within the time period required in subsection 005.03.

005.02 To the extent that payment is made by the member pursuant to this chapter:

005.02(a) The member shall be treated as not having incurred a break in service by reason of his or her period of military service;

005.02(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, but under no circumstances shall a member receive duplicate service credit;

005.02(c) The employer shall allocate the amount of employer contributions in the same manner and to the same extent the allocation occurs for other employees during the period of military service; and

005.02(d) The employer shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service, to include, but not limited to, paying the actuarial assumed rate of return on any member and employer contributions, finance charges during and installment payment option, and any other necessary costs or fees to fund the obligation of the plan.

005.03 A member has up to three times (3x) the period of qualified military service, not to exceed five (5) years, to pay any missed member contributions. The amount of contributions is subject to the limits that would have applied during the qualified military service period. The member may designate the specific period or periods of qualified military service the contributions cover. For each period of qualified military service designated by the member, contributions will be credited starting with the beginning date of the qualified military service, and will be credited consecutively for each pay period until all contributions for the period of qualified military service have been paid by the member, or the member elects to stop making up contributions, whichever occurs first. The member will only receive service credit proportionate to the contributions the member pays to the retirement system.

005.04 Prior to the member paying contributions, the employer will request that NPERS calculate the amount of member contributions, employer contributions, and actuarial assumed rate of return on all contributions that would have been paid during the period of qualified military service. The member will pay any desired contributions to the employer or NPERS, after notice to the employer, depending upon the member's chosen payment method as indicated 006 of this chapter.

005.05 For purposes of member and 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.

005.06 For members of the Judges and State Patrol plan, if partial compensation is reported during a period of military service, the creditable service earned is at the same proportion as the partial compensation is to the total compensation that would have been reported and paid had it not been for the period of military service. Any partial contributions paid during a period of military service reduce dollar for dollar the amount of contributions a member may pay after military service to purchase service credit.

~~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.~~

006 Payment Methods for All Plans

006.01 Lump Sum Payments

006.01(a) Lump sum payments are one-time direct payments by the member for the purchase of qualified military service.

006.01(b) In all cases, except for eligible rollover distributions, the payment shall be on a post-tax basis and subject to the Internal Revenue Code section 415 defined contribution annual limits, unless the contributions qualify as a repayment of original pre-tax, mandatory contributions.

006.01(c) Before a lump sum post-tax payment can be accepted as a member's contribution for military service credit, the member and employer must substantiate their current compensation in such a manner as may be required by NPERS. If a member's lump sum post-tax payment exceeds the applicable code section 415 limit, the excess shall be refunded to the member and the service credit adjusted accordingly.

006.01(d) If a member elects to purchase service by lump sum post-tax payments and such purchase exceeds the annual code section 415 limits, the member may be permitted to make payments in the immediately succeeding year to complete the member's payment of contributions as long as the time limit prescribed in USERRA has not elapsed. Members who are unable to pay a lump sum payment due to the limitations of code section 415 may be required by NPERS to use the payroll deduction to complete the payments within USERRA's time limits.

006.01(e) Payments will only be accepted via cashier's check, bank draft or money order. Personal checks will not be accepted as payment except for de minimus amounts in order to meet a payment cost.

006.02 Installment Method

006.02(a) Before direct post-tax installment payments can be accepted for military service contributions each year during the installment period, the member and employer must substantiate his or her current compensation in such a manner as may be required by NPERS. If a member's direct post-tax installment

payments exceed the applicable code section 415 limit, the excess shall be refunded to the member and the service credit adjusted accordingly.

006.02(b) Direct post-tax installment payments made by the member to NPERS must be by cashier's check, bank draft or money order. Personal checks will not be accepted except for de minimus amounts in order to meet a purchase cost.

006.02(c) A member may elect to pay their contributions through payroll deduction pursuant to an irrevocable payroll deduction agreement with the member's employer and NPERS that authorizes the employer to deduct the payment from the employee's compensation. One copy of the agreement must be on file with the employer and one copy with NPERS before payments may begin. In the event a member elects to pay their contributions by payroll deduction, the employer shall pick up the member's contributions, match the member's contribution month by month, allocate the amount necessary to fund the obligation of the plan as indicated by NPERS, and be responsible for making timely remittances of the funds to the retirement system with an explanation of the source and intended destination of each portion of the funds. The contributions picked up by the employer shall be treated as employer contributions in the same manner as contributions picked up under Neb. Rev. Stat. §§ 23-2307, 23-2323.01, 24-703, 79-926, 79-958, 81-2017, 81-2034, 84-1308, and 84-1325, as applicable.

006.02(d) Notwithstanding anything to the contrary in this Chapter, NPERS will accept payments made via payroll deduction after the member's last working day, through and including the member's final paycheck, if the member's employment contract calls for part of the member's compensation to be paid in arrears after the member's last working day.

006.02(e) In the event a member's irrevocable payroll deduction agreement becomes inoperative due to the member's death, disability, or other termination of employment before full payment for the member's service has been completed, no further contributions for shall be accepted and the member's retirement benefit under the applicable retirement system shall be computed with the service credit equal to the amount of service credit acquired in proportion to the amount of installment payments paid by the member under the irrevocable payroll deduction agreement.

006.02(f) There will be no interest or late fees charged to the member for the purchase of military service credit. A finance charge will be assessed against the employer to fund the obligation of the plan if an incremental payment option is used. If assessed, the finance interest rate used for the direct after tax installment payments and tax deferred payroll deductions shall be the actuarial interest assumption based on the expected long-term rate of return for each plan, recommended by the PERB's actuary and adopted by the PERB.

006.03 Rollovers

006.03(a) Consistent with the Internal Revenue Code, NPERS will accept pre-tax rollovers in payment for lump sum purchases of military service credit,

provided the money is an eligible rollover distribution received from one of the following:

006.03(a)(i) A code section 401(a) or 401(k) tax qualified plan.

006.03(a)(ii) A code section 403(a) or (b) tax sheltered annuity account.

006.03(a)(iii) A code section 408(a) individual retirement account (IRA) or a code section 408(b) individual retirement annuity.

006.03(a)(iv) A code section 457(b) deferred compensation plan.

006.03(b) A rollover or transfers from a qualifying tax-deferred account will not be accepted by NPERS without the member certifying that the originating rollover/transfer account has maintained its proper tax qualification conditions under the applicable sections of the Internal Revenue Code.

006.03(c) A direct rollover payment for the member's military service contributions may be made by check from the transferring institution to the Nebraska Public Employees Retirement Systems, or a check delivered to the member but negotiable only by the Nebraska Public Employees Retirement System.

006.03(d) The amount of the rollover payment accepted by NPERS will be based on the cost of the military service contributions that the member would have made for the period of qualified military service but for the member's absence due to military service. Funds in excess of the actual amount the member would have contributed to the plan during the military service will not be accepted.

006.03(e) NPERS will not accept funds from Roth or other similar after-tax/post-tax accounts. If NPERS determines that after-tax/post-tax rollover funds were received NPERS will take the necessary steps to correct the action.

006.03(f) All other federal tax laws governing eligible rollover distributions shall apply.

ENABLING LEGISLATION:

NEB. REV. STAT. §§ 23-2323.01(2), 24-710.04, 55-161, 79-926(3), 81-2034(2), 84-1325(2), and 84-1503(2)(g). ~~NEB. REV. STAT. §§ 23-2323.01(2), 24-710.04, 79-926(3), 81-2034(2), 84-1325(2), and 84-1503(2)(g).~~