

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 105

Introduced by McDonnell, 5.

Read first time January 06, 2023

Committee:

- 1 A BILL FOR AN ACT relating to retirement; to amend section 23-2323.01,
2 Reissue Revised Statutes of Nebraska, and sections 24-701,
3 24-710.01, 24-710.04, 79-926, 81-2034, and 84-1325, Revised Statutes
4 Cumulative Supplement, 2022; to change provisions relating to
5 applicable military service; to eliminate a term; to harmonize
6 provisions; to repeal the original sections; and to declare an
7 emergency.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-2323.01, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 23-2323.01 (1)(a) For military service beginning on or after
4 December 12, 1994, but before January 1, 2018, any employee who, while an
5 employee, entered into and served in the armed forces of the United
6 States and who within ninety days after honorable discharge or honorable
7 separation from active duty again became an employee shall be credited,
8 for the purposes of section 23-2315, with all the time actually served in
9 the armed forces as if such person had been an employee throughout such
10 service in the armed forces pursuant to the terms and conditions of
11 subdivision (b) of this subsection.

12 (b) Under such rules and regulations as the retirement board may
13 adopt and promulgate, an employee who is reemployed on or after December
14 12, 1994, pursuant to 38 U.S.C. 4301 et seq., may pay to the retirement
15 system an amount equal to the sum of all deductions which would have been
16 made from the employee's compensation during such period of military
17 service. Payment shall be made within the period required by law, not to
18 exceed five years. To the extent that payment is made, (i) the employee
19 shall be treated as not having incurred a break in service by reason of
20 the employee's period of military service, (ii) the period of military
21 service shall be credited for the purposes of determining the
22 nonforfeitability of the employee's accrued benefits and the accrual of
23 benefits under the plan, and (iii) the employer shall allocate the amount
24 of employer contributions to the employee's employer account in the same
25 manner and to the same extent the allocation occurs for other employees
26 during the period of service. For purposes of employee and employer
27 contributions under this section, the employee's compensation during the
28 period of military service shall be the rate the employee would have
29 received but for the military service or, if not reasonably determinable,
30 the average rate the employee received during the twelve-month period
31 immediately preceding military service.

1 (c) The employer shall pick up the employee contributions made
2 through irrevocable payroll deduction authorizations pursuant to this
3 subsection, and the contributions so picked up shall be treated as
4 employer contributions in the same manner as contributions picked up
5 under section 23-2307.

6 (2)(a) For military service beginning on or after January 1, 2018,
7 any employee who is reemployed pursuant to 38 U.S.C. 4301 et seq., shall
8 be treated as not having incurred a break in service by reason of the
9 employee's period of military service. Such military service shall be
10 credited for purposes of determining the nonforfeitability of the
11 employee's accrued benefits and the accrual of benefits under the plan.

12 (b) The county employing the employee shall be liable for funding
13 any obligation of the plan to provide benefits based upon such period of
14 military service. To satisfy the liability, the county employing the
15 employee shall pay to the retirement system an amount equal to:

16 (i) The sum of the employee and employer contributions that would
17 have been paid during such period of military service; and

18 (ii) Any actuarial costs necessary to fund the obligation of the
19 plan to provide benefits based upon such period of military service. For
20 the purposes of determining the amount of such liability and obligation
21 of the plan, earnings and forfeitures, gains and losses, regular
22 interest, interest credits, or dividends that would have accrued on the
23 employee and employer contributions that are paid by the employer
24 pursuant to this section shall not be included.

25 (c) The amount required pursuant to subdivision (b) of this
26 subsection shall be paid to the retirement system as soon as reasonably
27 practicable following the date of reemployment but must be paid within
28 eighteen months of the date the board notifies the employer of the amount
29 due. If the employer fails to pay the required amount within such
30 eighteen-month period, then the employer is also responsible for any
31 actuarial costs and interest on actuarial costs that accrue from eighteen

1 months after the date the employer is notified by the board until the
2 date the amount is paid.

3 (d) The retirement board may adopt and promulgate rules and
4 regulations to carry out this subsection, including, but not limited to,
5 rules and regulations on:

6 (i) How and when the employee and employer must notify the
7 retirement system of a period of military service;

8 (ii) The acceptable methods of payment;

9 (iii) Determining the service and compensation upon which the
10 contributions must be made;

11 (iv) Accelerating the payment from the employer due to unforeseen
12 circumstances that occur before payment is made pursuant to this section,
13 including, but not limited to, the employee's termination or retirement
14 or the employer's reorganization, consolidation, merger, or closing; and

15 (v) The documentation required to substantiate that the employee was
16 reemployed pursuant to 38 U.S.C. 4301 et seq.

17 (3) This section ~~only~~ applies to military service that falls within
18 the definition of uniformed services ~~service~~ under 38 U.S.C. 4301 et
19 seq., and includes (a) preparation periods prior to military service, (b)
20 periods during military service, (c) periods of rest and recovery
21 authorized by 38 U.S.C. 4301 et seq., after military service, (d) periods
22 of federal military service, and (e) periods of active service of the
23 state ~~Military service does not include service provided~~ pursuant to
24 sections 55-101 to 55-181.

25 Sec. 2. Section 24-701, Revised Statutes Cumulative Supplement,
26 2022, is amended to read:

27 24-701 For purposes of the Judges Retirement Act, unless the context
28 otherwise requires:

29 (1)(a) Actuarial equivalence means the equality in value of the
30 aggregate amounts expected to be received under different forms of
31 payment.

1 (b) For a judge hired prior to July 1, 2017, the determinations are
2 to be based on the 1994 Group Annuity Mortality Table reflecting sex-
3 distinct factors blended using seventy-five percent of the male table and
4 twenty-five percent of the female table. An interest rate of eight
5 percent per annum shall be reflected in making these determinations.

6 (c) For a judge hired on or after July 1, 2017, or rehired on or
7 after July 1, 2017, after termination of employment and being paid a
8 retirement benefit, the determinations shall be based on a unisex
9 mortality table and an interest rate specified by the board. Both the
10 mortality table and the interest rate shall be recommended by the actuary
11 and approved by the board following an actuarial experience study, a
12 benefit adequacy study, or a plan valuation. The mortality table,
13 interest rate, and actuarial factors in effect on the judge's retirement
14 date will be used to calculate actuarial equivalency of any retirement
15 benefit. Such interest rate may be, but is not required to be, equal to
16 the assumed rate of return;

17 (2) Beneficiary means a person so designated by a judge in the last
18 designation of beneficiary on file with the board or, if no designated
19 person survives or if no designation is on file, the estate of such
20 judge;

21 (3) Board means the Public Employees Retirement Board;

22 (4)(a) Compensation means the statutory salary of a judge or the
23 salary being received by such judge pursuant to law. Compensation does
24 not include compensation for unused sick leave or unused vacation leave
25 converted to cash payments, insurance premiums converted into cash
26 payments, reimbursement for expenses incurred, fringe benefits, per
27 diems, or bonuses for services not actually rendered, including, but not
28 limited to, early retirement inducements, cash awards, and severance pay,
29 except for retroactive salary payments paid pursuant to court order,
30 arbitration, or litigation and grievance settlements. Compensation
31 includes overtime pay, member retirement contributions, and amounts

1 contributed by the member to plans under sections 125 and 457 of the
2 Internal Revenue Code as defined in section 49-801.01 or any other
3 section of the code which defers or excludes such amounts from income.

4 (b) Compensation in excess of the limitations set forth in section
5 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01
6 shall be disregarded. For an employee who was a member of the retirement
7 system before the first plan year beginning after December 31, 1995, the
8 limitation on compensation shall not be less than the amount which was
9 allowed to be taken into account under the retirement system as in effect
10 on July 1, 1993;

11 (5) Creditable service means the total number of years served as a
12 judge, including prior service, military service, and current service,
13 computed to the nearest one-twelfth year. For current service prior to
14 the time that the member has contributed the required percentage of
15 salary until the maximum benefit as limited by section 24-710 has been
16 earned, creditable service does not include current service for which
17 member contributions are not made or are withdrawn and not repaid;

18 (6) Current benefit means the initial benefit increased by all
19 adjustments made pursuant to the Judges Retirement Act;

20 (7)(a) Current service means the period of service (i) any judge of
21 the Supreme Court or judge of the district court serves in such capacity
22 from and after January 3, 1957, (ii)(A) any judge of the Nebraska
23 Workmen's Compensation Court served in such capacity from and after
24 September 20, 1957, and prior to July 17, 1986, and (B) any judge of the
25 Nebraska Workers' Compensation Court serves in such capacity on and after
26 July 17, 1986, (iii) any county judge serves in such capacity from and
27 after January 5, 1961, (iv) any judge of a separate juvenile court serves
28 in such capacity, (v) any judge of the municipal court served in such
29 capacity subsequent to October 23, 1967, and prior to July 1, 1985, (vi)
30 any judge of the county court or associate county judge serves in such
31 capacity subsequent to January 4, 1973, (vii) any clerk magistrate, who

1 was an associate county judge and a member of the fund at the time of
2 appointment as a clerk magistrate, serves in such capacity from and after
3 July 1, 1986, and (viii) any judge of the Court of Appeals serves in such
4 capacity on or after September 6, 1991.

5 (b) Current service shall not be deemed to be interrupted by (i)
6 temporary or seasonal suspension of service that does not terminate the
7 employee's employment, (ii) leave of absence authorized by the employer
8 for a period not exceeding twelve months, (iii) leave of absence because
9 of disability, or (iv) military service, when properly authorized by the
10 board. Current service does not include any period of disability for
11 which disability retirement benefits are received under section 24-709;

12 (8) Final average compensation for a judge who becomes a member
13 prior to July 1, 2015, means the average monthly compensation for the
14 three twelve-month periods of service as a judge in which compensation
15 was the greatest or, in the event of a judge serving less than three
16 twelve-month periods, the average monthly compensation for such judge's
17 period of service. Final average compensation for a judge who becomes a
18 member on and after July 1, 2015, means the average monthly compensation
19 for the five twelve-month periods of service as a judge in which
20 compensation was the greatest or, in the event of a judge serving less
21 than five twelve-month periods, the average monthly compensation for such
22 judge's period of service;

23 (9) Fund means the Nebraska Retirement Fund for Judges;

24 (10) Future member means a judge who first served as a judge on or
25 after December 25, 1969, or means a judge who first served as a judge
26 prior to December 25, 1969, who elects to become a future member on or
27 before June 30, 1970, as provided in section 24-710.01;

28 (11) Hire date or date of hire means the first day of compensated
29 service subject to retirement contributions;

30 (12) Initial benefit means the retirement benefit calculated at the
31 time of retirement;

1 (13) Judge means and includes (a) all duly elected or appointed
2 Chief Justices or judges of the Supreme Court and judges of the district
3 courts of Nebraska who serve in such capacity on and after January 3,
4 1957, (b)(i) all duly appointed judges of the Nebraska Workmen's
5 Compensation Court who served in such capacity on and after September 20,
6 1957, and prior to July 17, 1986, and (ii) judges of the Nebraska
7 Workers' Compensation Court who serve in such capacity on and after July
8 17, 1986, (c) judges of separate juvenile courts, (d) judges of the
9 county courts of the respective counties who serve in such capacity on
10 and after January 5, 1961, (e) judges of the county court and clerk
11 magistrates who were associate county judges and members of the fund at
12 the time of their appointment as clerk magistrates, (f) judges of
13 municipal courts established by Chapter 26, article 1, who served in such
14 capacity on and after October 23, 1967, and prior to July 1, 1985, and
15 (g) judges of the Court of Appeals;

16 (14) Member means a judge eligible to participate in the retirement
17 system established under the Judges Retirement Act;

18 ~~(15) Military service means active service of (a) any judge of the
19 Supreme Court or judge of the district court in any of the armed forces
20 of the United States during a war or national emergency prior or
21 subsequent to September 18, 1955, if such service commenced while such
22 judge was holding the office of judge, (b) any judge of the Nebraska
23 Workmen's Compensation Court or the Nebraska Workers' Compensation Court
24 in any of the armed forces of the United States during a war or national
25 emergency prior or subsequent to September 20, 1957, if such service
26 commenced while such judge was holding the office of judge, (c) any judge
27 of the municipal court in any of the armed forces of the United States
28 during a war or national emergency prior or subsequent to October 23,
29 1967, and prior to July 1, 1985, if such service commenced while such
30 judge was holding the office of judge, (d) any judge of the county court
31 or associate county judge in any of the armed forces of the United States~~

1 ~~during a war or national emergency prior or subsequent to January 4,~~
2 ~~1973, if such service commenced while such judge was holding the office~~
3 ~~of judge, (e) any clerk magistrate, who was an associate county judge and~~
4 ~~a member of the fund at the time of appointment as a clerk magistrate, in~~
5 ~~any of the armed forces of the United States during a war or national~~
6 ~~emergency on or after July 1, 1986, if such service commenced while such~~
7 ~~clerk magistrate was holding the office of clerk magistrate, and (f) any~~
8 ~~judge of the Court of Appeals in any of the armed forces of the United~~
9 ~~States during a war or national emergency on or after September 6, 1991,~~
10 ~~if such service commenced while such judge was holding the office of~~
11 ~~judge. The board shall have the power to determine when a national~~
12 ~~emergency exists or has existed for the purpose of applying this~~
13 ~~definition and provision;~~

14 (15) ~~(16)~~ Normal form annuity means a series of equal monthly
15 payments payable at the end of each calendar month during the life of a
16 retired judge as provided in sections 24-707 and 24-710, except as
17 provided in section 42-1107. The first payment shall include all amounts
18 accrued since the effective date of the award of the annuity. The last
19 payment shall be at the end of the calendar month in which such judge
20 dies. If at the time of death the amount of annuity payments such judge
21 has received is less than contributions to the fund made by such judge,
22 plus regular interest, the difference shall be paid to the beneficiary or
23 estate;

24 (16) ~~(17)~~ Normal retirement date means the first day of the month
25 following attainment of age sixty-five;

26 (17) ~~(18)~~ Original member means a judge who first served as a judge
27 prior to December 25, 1969, who does not elect to become a future member
28 pursuant to section 24-710.01, and who was retired on or before December
29 31, 1992;

30 (18) ~~(19)~~ Plan year means the twelve-month period beginning on July
31 1 and ending on June 30 of the following year;

1 ~~(19)~~ ~~(20)~~ Prior service means all the periods of time any person has
2 served as a (a) judge of the Supreme Court or judge of the district court
3 prior to January 3, 1957, (b) judge of the county court prior to January
4 5, 1961, (c) judge of the Nebraska Workmen's Compensation Court prior to
5 September 20, 1957, (d) judge of the separate juvenile court, or (e)
6 judge of the municipal court prior to October 23, 1967;

7 ~~(20)~~ ~~(21)~~ Regular interest means interest fixed at a rate equal to
8 the daily treasury yield curve for one-year treasury securities, as
9 published by the Secretary of the Treasury of the United States, that
10 applies on July 1 of each year, which may be credited monthly, quarterly,
11 semiannually, or annually as the board may direct;

12 ~~(21)~~ ~~(22)~~ Required beginning date means, for purposes of the
13 deferral of distributions, April 1 of the year following the calendar
14 year in which a member has:

15 (a)(i) Terminated employment with the State of Nebraska; and

16 (ii)(A) Attained at least seventy and one-half years of age for a
17 member who attained seventy and one-half years of age on or before
18 December 31, 2019; or

19 (B) Attained at least seventy-two years of age for a member who
20 attained seventy and one-half years of age on or after January 1, 2020;
21 or

22 (b)(i) Terminated employment with the State of Nebraska; and

23 (ii) Otherwise reached the date specified by section 401(a)(9) of
24 the Internal Revenue Code and the regulations issued thereunder;

25 ~~(22)~~ ~~(23)~~ Retirement application means the form approved and
26 provided by the retirement system for acceptance of a member's request
27 for either regular or disability retirement;

28 ~~(23)~~ ~~(24)~~ Retirement date means (a) the first day of the month
29 following the date upon which a member's request for retirement is
30 received on a retirement application if the member is eligible for
31 retirement and has terminated employment or (b) the first day of the

1 month following termination of employment if the member is eligible for
2 retirement and has filed an application but has not yet terminated
3 employment;

4 (24) ~~(25)~~ Retirement system or system means the Nebraska Judges
5 Retirement System as provided in the Judges Retirement Act;

6 (25) ~~(26)~~ Surviving spouse means (a) the spouse married to the
7 member on the date of the member's death or (b) the spouse or former
8 spouse of the member if survivorship rights are provided under a
9 qualified domestic relations order filed with the board pursuant to the
10 Spousal Pension Rights Act. The spouse or former spouse shall supersede
11 the spouse married to the member on the date of the member's death as
12 provided under a qualified domestic relations order. If the benefits
13 payable to the spouse or former spouse under the qualified domestic
14 relations order are less than the value of benefits entitled to the
15 surviving spouse, the spouse married to the member on the date of the
16 member's death shall be the surviving spouse for the balance of the
17 benefits; and

18 (26) ~~(27)~~ Termination of employment occurs on the date on which the
19 State Court Administrator's office determines that the judge's employer-
20 employee relationship with the State of Nebraska is dissolved. The State
21 Court Administrator's office shall notify the board of the date on which
22 such a termination has occurred. Termination of employment does not
23 include ceasing employment as a judge if the judge returns to regular
24 employment as a judge or is employed on a regular basis by another agency
25 of the State of Nebraska and there are less than one hundred twenty days
26 between the date when the judge's employer-employee relationship ceased
27 and the date when the employer-employee relationship recommences. It is
28 the responsibility of the employer that is involved in the termination of
29 employment to notify the board of such change in employment and provide
30 the board with such information as the board deems necessary. If the
31 board determines that termination of employment has not occurred and a

1 retirement benefit has been paid to a member of the retirement system
2 pursuant to section 24-710, the board shall require the member who has
3 received such benefit to repay the benefit to the retirement system.

4 Sec. 3. Section 24-710.01, Revised Statutes Cumulative Supplement,
5 2022, is amended to read:

6 24-710.01 Any original member, as defined in ~~subdivision (18)~~ of
7 section 24-701, who has not previously retired, may elect to make
8 contributions and receive benefits pursuant to subsection (2) of section
9 24-703 and subsection (2) of section 24-710, instead of those provided by
10 subsection (1) of section 24-703 and subsection (1) of section 24-710.
11 Such election shall be by written notice delivered to the board not later
12 than November 1, 1981. Such member shall thereafter be considered a
13 future member.

14 Sec. 4. Section 24-710.04, Revised Statutes Cumulative Supplement,
15 2022, is amended to read:

16 24-710.04 (1) Any judge who returns to service as a judge for the
17 State of Nebraska pursuant to 38 U.S.C. 4301 et seq., shall be treated as
18 not having incurred a break in service by reason of the judge's period of
19 military service. Such military service shall be credited for purposes of
20 determining the nonforfeitability of the member's accrued benefits and
21 the accrual of benefits under the plan.

22 (2) The state shall be liable for funding any obligation of the plan
23 to provide benefits based upon such period of military service. To
24 satisfy the liability, the State Court Administrator shall pay to the
25 retirement system an amount equal to:

26 (a) The sum of the judge's contributions that would have been paid
27 during such period of military service; and

28 (b) Any actuarial costs necessary to fund the obligation of the plan
29 to provide benefits based upon such period of military service. For the
30 purposes of determining the amount of such liability and obligation of
31 the plan, earnings and forfeitures, gains and losses, regular interest,

1 or interest credits that would have accrued on the judge's contributions
2 that are paid by the State Court Administrator pursuant to this section
3 shall not be included.

4 (3) The amount required in subsection (2) of this section shall be
5 paid to the retirement system as soon as reasonably practicable following
6 the date the judge returns to service as a judge for the State of
7 Nebraska, but must be paid within eighteen months of the date the board
8 notifies the State Court Administrator of the amount due. If the State
9 Court Administrator fails to pay the required amount within such
10 eighteen-month period, then the State Court Administrator is also
11 responsible for any actuarial costs and interest on actuarial costs that
12 accrue from eighteen months after the date the State Court Administrator
13 is notified by the board until the date the amount is paid.

14 (4) The board may adopt and promulgate rules and regulations to
15 carry out this section, including, but not limited to, rules and
16 regulations on:

17 (a) How and when the judge and State Court Administrator must notify
18 the retirement system of a period of military service;

19 (b) The acceptable methods of payment;

20 (c) Determining the service and compensation upon which the
21 contributions must be made;

22 (d) Accelerating the payment from the State Court Administrator due
23 to unforeseen circumstances that occur before payment is made pursuant to
24 this section, including, but not limited to, the judge's termination or
25 retirement or the court's reorganization, consolidation, or merger; and

26 (e) The documentation required to substantiate that the judge
27 returned to service as a judge for the State of Nebraska pursuant to 38
28 U.S.C. 4301 et seq.

29 (5) This section ~~only~~ applies to military service that falls within
30 the definition of uniformed services ~~service~~ under 38 U.S.C. 4301 et
31 seq., and includes (a) preparation periods prior to military service, (b)

1 periods during military service, (c) periods of rest and recovery
2 authorized by 38 U.S.C. 4301 et seq., after military service, (d) periods
3 of federal military service, and (e) periods of active service of the
4 state ~~Military service does not include service provided~~ pursuant to
5 sections 55-101 to 55-181.

6 Sec. 5. Section 79-926, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 79-926 (1) Under such rules and regulations as the retirement board
9 may adopt and promulgate, each person who was a school employee at any
10 time prior to the establishment of the retirement system and who becomes
11 a member of the retirement system shall, within two years after becoming
12 a member, file a detailed statement of all service as a school employee
13 rendered by him or her prior to the date of establishment of the
14 retirement system. In order to qualify for prior service credit toward a
15 service annuity, a school employee, unless temporarily out of service for
16 further professional education, for service in the armed forces, or for
17 temporary disability, must have completed four years of service on a
18 part-time or full-time basis during the five calendar years immediately
19 preceding July 1, 1945, or have completed eighteen years out of the last
20 twenty-five years prior to July 1, 1945, full time or part time, and two
21 years out of the five years immediately preceding July 1, 1945, full time
22 or part time, or such school employee must complete, unless temporarily
23 out of service for further professional education, for service in the
24 armed forces, or for temporary disability, four years of service within
25 the five calendar years immediately following July 1, 1945. In order to
26 qualify for prior service credit toward a service annuity, a school
27 employee who becomes a member of the retirement system on or before
28 September 30, 1951, or from July 1, 1945, to the date of becoming a
29 member shall have been continuously employed in a public school in
30 Nebraska operating under any other regularly established retirement or
31 pension system.

1 (2)(a) Any school employee who is reemployed pursuant to 38 U.S.C.
2 4301 et seq., shall be treated as not having incurred a break in service
3 by reason of his or her period of military service. Such military service
4 shall be credited for purposes of determining the nonforfeitability of
5 the member's accrued benefits and the accrual of benefits under the plan.

6 (b) The employer shall be liable for funding any obligation of the
7 plan to provide benefits based upon such period of military service. To
8 satisfy the liability, the employer shall pay to the retirement system an
9 amount equal to:

10 (i) The sum of the member and employer contributions that would have
11 been paid during such period of military service; and

12 (ii) Any actuarial costs necessary to fund the obligation of the
13 plan to provide benefits based upon such period of military service. For
14 the purposes of determining the amount of such liability and obligation
15 of the plan, earnings and forfeitures, gains and losses, regular
16 interest, or interest credits that would have accrued on the member and
17 employer contributions that are paid by the employer pursuant to this
18 section shall not be included.

19 (c) The amount required in subdivision (b) of this subsection shall
20 be paid to the retirement system as soon as reasonably practicable
21 following the date of reemployment, but must be paid within eighteen
22 months of the date the board notifies the employer of the amount due. If
23 the employer fails to pay the required amount within such eighteen-month
24 period, then the employer is also responsible for any actuarial costs and
25 interest on actuarial costs that accrue from eighteen months after the
26 date the employer is notified by the board until the date the amount is
27 paid.

28 (d) The retirement board may adopt and promulgate rules and
29 regulations to carry out this subsection, including, but not limited to,
30 rules and regulations on:

31 (i) How and when the member and employer must notify the retirement

1 system of a period of military service;

2 (ii) The acceptable methods of payment;

3 (iii) Determining the service and compensation upon which the
4 contributions must be made;

5 (iv) Accelerating the payment from the employer due to unforeseen
6 circumstances that occur before payment is made pursuant to this section,
7 including, but not limited to, the member's termination or retirement or
8 the employer's reorganization, consolidation, merger, or closing; and

9 (v) The documentation required to substantiate that the member was
10 reemployed pursuant to 38 U.S.C. 4301 et seq.

11 (3) This section ~~only~~ applies to military service that falls within
12 the definition of uniformed services ~~service~~ under 38 U.S.C. 4301 et
13 seq., and includes (a) preparation periods prior to military service, (b)
14 periods during military service, (c) periods of rest and recovery
15 authorized by 38 U.S.C. 4301 et seq., after military service, (d) periods
16 of federal military service, and (e) periods of active service of the
17 state ~~Military service does not include service provided~~ pursuant to
18 sections 55-101 to 55-181.

19 Sec. 6. Section 81-2034, Revised Statutes Cumulative Supplement,
20 2022, is amended to read:

21 81-2034 (1)(a) Any officer of the Nebraska State Patrol who is
22 reemployed pursuant to 38 U.S.C. 4301 et seq., shall be treated as not
23 having incurred a break in service by reason of the officer's period of
24 military service. Such military service shall be credited for purposes of
25 determining the nonforfeitability of the officer's accrued benefits and
26 the accrual of benefits under the plan.

27 (b) The state shall be liable for funding any obligation of the plan
28 to provide benefits based upon such period of military service. To
29 satisfy the liability, the Nebraska State Patrol shall pay to the
30 retirement system an amount equal to:

31 (i) The sum of the officer and employer contributions that would

1 have been paid during such period of military service; and

2 (ii) Any actuarial costs necessary to fund the obligation of the
3 plan to provide benefits based upon such period of military service. For
4 the purposes of determining the amount of such liability and obligation
5 of the plan, earnings and forfeitures, gains and losses, regular
6 interest, or interest credits that would have accrued on the officer and
7 employer contributions that are paid by the Nebraska State Patrol
8 pursuant to this section shall not be included.

9 (c) The amount required in subdivision (b) of this subsection shall
10 be paid to the retirement system as soon as reasonably practicable
11 following the date of reemployment, but must be paid within eighteen
12 months of the date the board notifies the Nebraska State Patrol of the
13 amount due. If the Nebraska State Patrol fails to pay the required amount
14 within such eighteen-month period, then the Nebraska State Patrol is also
15 responsible for any actuarial costs and interest on actuarial costs that
16 accrue from eighteen months after the date the Nebraska State Patrol is
17 notified by the board until the date the amount is paid.

18 (d) The board may adopt and promulgate rules and regulations to
19 carry out this subsection, including, but not limited to, rules and
20 regulations on:

21 (i) How and when the officer and Nebraska State Patrol must notify
22 the retirement system of a period of military service;

23 (ii) The acceptable methods of payment;

24 (iii) Determining the service and compensation upon which the
25 contributions must be made;

26 (iv) Accelerating the payment from the employer due to unforeseen
27 circumstances that occur before payment is made pursuant to this section,
28 including, but not limited to, the officer's termination or retirement or
29 the employer's reorganization, consolidation, merger, or closing; and

30 (v) The documentation required to substantiate that the officer was
31 reemployed pursuant to 38 U.S.C. 4301 et seq.

1 (2) This section ~~only~~ applies to military service that falls within
2 the definition of uniformed services ~~service~~ under 38 U.S.C. 4301 et
3 seq., and includes (a) preparation periods prior to military service, (b)
4 periods during military service, (c) periods of rest and recovery
5 authorized by 38 U.S.C. 4301 et seq., after military service, (d) periods
6 of federal military service, and (e) periods of active service of the
7 state ~~Military service does not include service provided pursuant to~~
8 sections 55-101 to 55-181.

9 Sec. 7. Section 84-1325, Revised Statutes Cumulative Supplement,
10 2022, is amended to read:

11 84-1325 (1)(a) For military service beginning on or after December
12 12, 1994, but before January 1, 2018, any employee who, while an
13 employee, entered into and served in the armed forces of the United
14 States and who within ninety days after honorable discharge or honorable
15 separation from active duty again became an employee shall be credited,
16 for the purposes of the provisions of section 84-1317, with all the time
17 actually served in the armed forces as if such person had been an
18 employee throughout such service in the armed forces pursuant to the
19 terms and conditions of subdivision (b) of this subsection.

20 (b) Under such rules and regulations as the retirement board may
21 adopt and promulgate, any employee who is reemployed pursuant to 38
22 U.S.C. 4301 et seq., may pay to the retirement system an amount equal to
23 the sum of all deductions which would have been made from the employee's
24 compensation during such period of military service. Payment shall be
25 made within the period required by law, not to exceed five years. To the
26 extent that payment is made, (i) the employee shall be treated as not
27 having incurred a break in service by reason of the employee's period of
28 military service, (ii) the period of military service shall be credited
29 for the purposes of determining the nonforfeitability of the employee's
30 accrued benefits and the accrual of benefits under the plan, and (iii)
31 the employer shall allocate the amount of employer contributions to the

1 employee's employer account in the same manner and to the same extent the
2 allocation occurs for other employees during the period of service. For
3 purposes of employee and employer contributions under this subsection,
4 the employee's compensation during the period of military service shall
5 be the rate the employee would have received but for the military service
6 or, if not reasonably determinable, the average rate the employee
7 received during the twelve-month period immediately preceding military
8 service.

9 (c) The employer shall pick up the employee contributions made
10 through irrevocable payroll deduction authorizations pursuant to this
11 subsection, and the contributions so picked up shall be treated as
12 employer contributions in the same manner as contributions picked up
13 under subsection (1) of section 84-1308.

14 (2)(a) For military service beginning on or after January 1, 2018,
15 any employee who is reemployed pursuant to 38 U.S.C. 4301 et seq., shall
16 be treated as not having incurred a break in service by reason of the
17 employee's period of military service. Such military service shall be
18 credited for purposes of determining the nonforfeitability of the
19 employee's accrued benefits and the accrual of benefits under the plan.

20 (b) The agency employing the employee shall be liable for funding
21 any obligation of the plan to provide benefits based upon such period of
22 military service. To satisfy the liability, the agency employing the
23 employee shall pay to the retirement system an amount equal to:

24 (i) The sum of the employee and employer contributions that would
25 have been paid during such period of military service; and

26 (ii) Any actuarial costs necessary to fund the obligation of the
27 plan to provide benefits based upon such period of military service. For
28 the purposes of determining the amount of such liability and obligation
29 of the plan, earnings and forfeitures, gains and losses, regular
30 interest, interest credits, or dividends that would have accrued on the
31 employee and employer contributions that are paid by the employer

1 pursuant to this section shall not be included.

2 (c) The amount required pursuant to subdivision (b) of this
3 subsection shall be paid to the retirement system as soon as reasonably
4 practicable following the date of reemployment, but must be paid within
5 eighteen months of the date the board notifies the employer of the amount
6 due. If the employer fails to pay the required amount within such
7 eighteen-month period, then the employer is also responsible for any
8 actuarial costs and interest on actuarial costs that accrue from eighteen
9 months after the date the employer is notified by the board until the
10 date the amount is paid.

11 (d) The retirement board may adopt and promulgate rules and
12 regulations to carry out this subsection, including, but not limited to,
13 rules and regulations on:

14 (i) How and when the employee and employer must notify the
15 retirement system of a period of military service;

16 (ii) The acceptable methods of payment;

17 (iii) Determining the service and compensation upon which the
18 contributions must be made;

19 (iv) Accelerating the payment from the employer due to unforeseen
20 circumstances that occur before payment is made pursuant to this section,
21 including, but not limited to, the employee's termination or retirement
22 or the employer's reorganization, consolidation, merger, or closing; and

23 (v) The documentation required to substantiate that the individual
24 was reemployed pursuant to 38 U.S.C. 4301 et seq.

25 (3) This section ~~only~~ applies to military service that falls within
26 the definition of uniformed services ~~service~~ under 38 U.S.C. 4301 et
27 seq., and includes (a) preparation periods prior to military service, (b)
28 periods during military service, (c) periods of rest and recovery
29 authorized by 38 U.S.C. 4301 et seq., after military service, (d) periods
30 of federal military service, and (e) periods of active service of the
31 state ~~Military service does not include service provided pursuant to~~

1 sections 55-101 to 55-181.

2 Sec. 8. Original section 23-2323.01, Reissue Revised Statutes of
3 Nebraska, and sections 24-701, 24-710.01, 24-710.04, 79-926, 81-2034, and
4 84-1325, Revised Statutes Cumulative Supplement, 2022, are repealed.

5 Sec. 9. Since an emergency exists, this act takes effect when
6 passed and approved according to law.