

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1043

Introduced by Kolterman, 24.

Read first time January 18, 2022

Committee: Nebraska Retirement Systems

1 A BILL FOR AN ACT relating to retirement; to amend section 79-920,
2 Reissue Revised Statutes of Nebraska, section 84-1301, Revised
3 Statutes Cumulative Supplement, 2020, and section 79-902, Revised
4 Statutes Supplement, 2021; to change provisions of the School
5 Employees Retirement Act and the State Employees Retirement Act; to
6 define and redefine terms; to change provisions relating to
7 termination of employment for certain school employees as
8 prescribed; to harmonize provisions; to repeal the original
9 sections; and to declare an emergency.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-902, Revised Statutes Supplement, 2021, is
2 amended to read:

3 79-902 For purposes of the School Employees Retirement Act, unless
4 the context otherwise requires:

5 (1) Accumulated contributions means the sum of all amounts deducted
6 from the compensation of a member and credited to his or her individual
7 account in the School Retirement Fund together with regular interest
8 thereon, compounded monthly, quarterly, semiannually, or annually;

9 (2)(a) Actuarial equivalent means the equality in value of the
10 aggregate amounts expected to be received under different forms of
11 payment.

12 (b) For a school employee hired before July 1, 2017, the
13 determinations shall be based on the 1994 Group Annuity Mortality Table
14 reflecting sex-distinct factors blended using twenty-five percent of the
15 male table and seventy-five percent of the female table. An interest rate
16 of eight percent per annum shall be reflected in making these
17 determinations except when a lump-sum settlement is made to an estate.

18 (c) For a school employee hired on or after July 1, 2017, or rehired
19 on or after July 1, 2017, after termination of employment and being paid
20 a retirement benefit or taking a refund of contributions, the
21 determinations shall be based on a unisex mortality table and an interest
22 rate specified by the board. Both the mortality table and the interest
23 rate shall be recommended by the actuary and approved by the retirement
24 board following an actuarial experience study, a benefit adequacy study,
25 or a plan valuation. The mortality table, interest rate, and actuarial
26 factors in effect on the school employee's retirement date will be used
27 to calculate actuarial equivalency of any retirement benefit. Such
28 interest rate may be, but is not required to be, equal to the assumed
29 rate.

30 (d) If the lump-sum settlement is made to an estate, the interest
31 rate will be determined by the AAA-rated segment of the Bloomberg

1 Barclays Long U.S. Corporate Bond Index as of the prior June 30, rounded
2 to the next lower quarter percent. If the AAA-rated segment of the
3 Bloomberg Barclays Long U.S. Corporate Bond Index is discontinued or
4 replaced, a substitute index shall be selected by the board which shall
5 be a reasonably representative index;

6 (3) Beneficiary means any person in receipt of a school retirement
7 allowance or other benefit provided by the act;

8 (4)(a) Compensation means gross wages or salaries payable to the
9 member for personal services performed during the plan year and includes
10 (i) overtime pay, (ii) member retirement contributions, (iii) retroactive
11 salary payments paid pursuant to court order, arbitration, or litigation
12 and grievance settlements, and (iv) amounts contributed by the member to
13 plans under sections 125, 403(b), and 457 of the Internal Revenue Code as
14 defined in section 49-801.01 or any other section of the code which
15 defers or excludes such amounts from income.

16 (b) Compensation does not include (i) fraudulently obtained amounts
17 as determined by the retirement board, (ii) amounts for accrued unused
18 sick leave or accrued unused vacation leave converted to cash payments,
19 (iii) insurance premiums converted into cash payments, (iv) reimbursement
20 for expenses incurred, (v) fringe benefits, (vi) per diems paid as
21 expenses, (vii) bonuses for services not actually rendered, (viii) early
22 retirement inducements, (ix) cash awards, (x) severance pay, or (xi)
23 employer contributions made for the purposes of separation payments made
24 at retirement.

25 (c) Compensation in excess of the limitations set forth in section
26 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01
27 shall be disregarded. For an employee who was a member of the retirement
28 system before the first plan year beginning after December 31, 1995, the
29 limitation on compensation shall not be less than the amount which was
30 allowed to be taken into account under the retirement system as in effect
31 on July 1, 1993;

1 (5) County school official means (a) until July 1, 2000, the county
2 superintendent or district superintendent and any person serving in his
3 or her office who is required by law to have a teacher's certificate and
4 (b) on or after July 1, 2000, the county superintendent, county school
5 administrator, or district superintendent and any person serving in his
6 or her office who is required by law to have a teacher's certificate;

7 (6)(a) Creditable service means prior service for which credit is
8 granted under sections 79-926 to 79-929, service credit purchased under
9 sections 79-933.03 to 79-933.06 and 79-933.08, and all service rendered
10 while a contributing member of the retirement system; and

11 (b) Creditable service includes working days, sick days, vacation
12 days, holidays, and any other leave days for which the employee is paid
13 regular wages as part of the employee's agreement with the employer.
14 Creditable service does not include lump-sum payments to the employee
15 upon termination or retirement in lieu of accrued benefits for such days,
16 eligibility and vesting credit, service years for which member
17 contributions are withdrawn and not repaid by the member, service
18 rendered for which the retirement board determines that the member was
19 paid less in compensation than the minimum wage as provided in the Wage
20 and Hour Act, service which the board determines was rendered with the
21 intent to defraud the retirement system, or service provided to an
22 employer in a retirement system established pursuant to the Class V
23 School Employees Retirement Act;

24 (7) Current benefit means the initial benefit increased by all
25 adjustments made pursuant to the School Employees Retirement Act;

26 (8) Disability means an inability to engage in any substantially
27 gainful activity by reason of any medically determinable physical or
28 mental impairment which was initially diagnosed or became disabling while
29 the member was an active participant in the plan and which can be
30 expected to result in death or be of a long-continued and indefinite
31 duration;

1 (9) Disability retirement allowance means the annuity paid to a
2 person upon retirement for disability under section 79-952;

3 (10) Disability retirement date means the first day of the month
4 following the date upon which a member's request for disability
5 retirement is received on a retirement application provided by the
6 retirement system if the member has terminated employment in the school
7 system and has complied with sections 79-951 to 79-954 as such sections
8 refer to disability retirement;

9 (11) Early retirement inducement means, but is not limited to:

10 (a) A benefit, bonus, or payment to a member in exchange for an
11 agreement by the member to terminate from employment;

12 (b) A benefit, bonus, or payment paid to a member in addition to the
13 member's retirement benefit;

14 (c) Lump-sum or installment cash payments, except payments for
15 accrued unused leave converted to cash payments;

16 (d) An additional salary or wage component of any kind that is being
17 paid as an incentive to leave employment and not for personal services
18 performed for which creditable service is granted;

19 (e) Partial or full employer payment of a member's health, dental,
20 life, or long-term disability insurance benefits or cash in lieu of such
21 insurance benefits that extend beyond the member's termination of
22 employment and contract of employment dates. This subdivision does not
23 apply to any period during which the member is contributing to the
24 retirement system and being awarded creditable service; and

25 (f) Any other form of separation payments made by an employer to a
26 member at termination, including, but not limited to, purchasing
27 retirement annuity contracts for the member pursuant to section 79-514,
28 depositing money for the member in an account established under section
29 403(b) of the Internal Revenue Code except for payments for accrued
30 unused leave, or purchasing service credit for the member pursuant to
31 section 79-933.08;

1 (12) Eligibility and vesting credit means credit for years, or a
2 fraction of a year, of participation in a Nebraska government plan for
3 purposes of determining eligibility for benefits under the School
4 Employees Retirement Act. Such credit shall not be included as years of
5 creditable service in the benefit calculation;

6 (13) Emeritus member means a person (a) who has entered retirement
7 under the provisions of the act, including those persons who have retired
8 since July 1, 1945, under any other regularly established retirement or
9 pension system as contemplated by section 79-916, (b) who has thereafter
10 been reemployed in any capacity by a public school, a Class V school
11 district, or a school under the control and management of the Board of
12 Trustees of the Nebraska State Colleges, the Board of Regents of the
13 University of Nebraska, or a community college board of governors or has
14 become a state school official or county school official subsequent to
15 such retirement, and (c) who has applied to the board for emeritus
16 membership in the retirement system. The school district or agency shall
17 certify to the retirement board on forms prescribed by the retirement
18 board that the annuitant was reemployed, rendered a service, and was paid
19 by the district or agency for such services;

20 (14) Employer means the State of Nebraska or any subdivision thereof
21 or agency of the state or subdivision authorized by law to hire school
22 employees or to pay their compensation;

23 (15)(a) Final average compensation means:

24 (i) Except as provided in subdivision (ii) of this subdivision:

25 (A) The sum of the member's total compensation during the three
26 twelve-month periods of service as a school employee in which such
27 compensation was the greatest divided by thirty-six; or

28 (B) If a member has such compensation for less than thirty-six
29 months, the sum of the member's total compensation in all months divided
30 by the total number of months of his or her creditable service therefor;

31 and

1 (ii) For an employee who became a member on or after July 1, 2013:

2 (A) The sum of the member's total compensation during the five
3 twelve-month periods of service as a school employee in which such
4 compensation was the greatest divided by sixty; or

5 (B) If a member has such compensation for less than sixty months,
6 the sum of the member's total compensation in all months divided by the
7 total number of months of his or her creditable service therefor.

8 (b) Payments under the Retirement Incentive Plan pursuant to section
9 79-855 and Staff Development Assistance pursuant to section 79-856 shall
10 not be included in the determination of final average compensation;

11 (16) Fiscal year means any year beginning July 1 and ending June 30
12 next following;

13 (17) Hire date or date of hire means the first day of compensated
14 service subject to retirement contributions;

15 (18) Initial benefit means the retirement benefit calculated at the
16 time of retirement;

17 (19) Member means any person who has an account in the School
18 Retirement Fund;

19 (20) Participation means qualifying for and making required deposits
20 to the retirement system during the course of a plan year;

21 (21) Plan year means the twelve-month period beginning on July 1 and
22 ending on June 30 of the following year;

23 (22) Prior service means service rendered as a school employee in
24 the public schools of the State of Nebraska prior to July 1, 1945;

25 (23) Public school means any and all schools offering instruction in
26 elementary or high school grades, as defined in section 79-101, which
27 schools are supported by public funds and are wholly under the control
28 and management of the State of Nebraska or any subdivision thereof,
29 including (a) schools or other entities established, maintained, and
30 controlled by the school boards of local school districts, except Class V
31 school districts, (b) any educational service unit, and (c) any other

1 educational institution wholly supported by public funds, except schools
2 under the control and management of the Board of Trustees of the Nebraska
3 State Colleges, the Board of Regents of the University of Nebraska, or
4 the community college boards of governors for any community college
5 areas;

6 (24) Regular employee means an employee hired by a public school or
7 under contract in a regular full-time or part-time position who works a
8 full-time or part-time schedule on an ongoing basis for twenty or more
9 hours per week. An employee hired as described in this subdivision to
10 provide service for less than twenty hours per week but who provides
11 service for an average of twenty hours or more per week in each calendar
12 month of any three calendar months of a plan year shall, beginning with
13 the next full payroll period, commence contributions and shall be deemed
14 a regular employee for all future employment with the same employer;

15 (25) Regular interest means interest fixed at a rate equal to the
16 daily treasury yield curve for one-year treasury securities, as published
17 by the Secretary of the Treasury of the United States, that applies on
18 July 1 of each year, which may be credited monthly, quarterly,
19 semiannually, or annually as the board may direct;

20 (26) Relinquished creditable service means, with respect to a member
21 who has withdrawn his or her accumulated contributions under section
22 79-955, the total amount of creditable service which such member has
23 given up as a result of his or her election not to remain a member of the
24 retirement system;

25 (27) Required beginning date means, for purposes of the deferral of
26 distributions, April 1 of the year following the calendar year in which a
27 member has:

28 (a)(i) Terminated employment with all employers participating in the
29 plan; and

30 (ii)(A) Attained at least seventy and one-half years of age for a
31 member who attained seventy and one-half years of age on or before

1 December 31, 2019; or

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

5 (b)(i) Terminated employment with all employers participating in the
6 plan; and

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

9 (28) Required deposit means the deduction from a member's
10 compensation as provided for in section 79-958 which shall be deposited
11 in the School Retirement Fund;

12 (29) Retirement means qualifying for and accepting a school or
13 disability retirement allowance granted under the School Employees
14 Retirement Act;

15 (30) Retirement application means the form approved and provided by
16 the retirement system for acceptance of a member's request for either
17 regular or disability retirement;

18 (31) Retirement board or board means the Public Employees Retirement
19 Board;

20 (32) Retirement date means (a) if the member has terminated
21 employment, the first day of the month following the date upon which a
22 member's request for retirement is received on a retirement application
23 provided by the retirement system or (b) if the member has filed a
24 retirement application but has not yet terminated employment, the first
25 day of the month following the date on which the member terminates
26 employment. An application may be filed no more than one hundred twenty
27 days prior to the effective date of the member's initial benefit;

28 (33) Retirement system means the School Employees Retirement System
29 of the State of Nebraska;

30 (34) Savings annuity means payments for life, made in equal monthly
31 payments, derived from the accumulated contributions of a member;

1 (35) School employee means a contributing member who earns service
2 credit pursuant to section 79-927. For purposes of this section,
3 contributing member means the following persons who receive compensation
4 from a public school: (a) Regular employees; (b) regular employees having
5 retired pursuant to the School Employees Retirement Act who subsequently
6 provide compensated service on a regular basis in any capacity; and (c)
7 regular employees hired by a public school on an ongoing basis to assume
8 the duties of other regular employees who are temporarily absent.
9 Substitute employees, temporary employees, and employees who have not
10 attained the age of eighteen years shall not be considered school
11 employees;

12 (36) School year means one fiscal year which includes not less than
13 one thousand instructional hours or, in the case of service in the State
14 of Nebraska prior to July 1, 1945, not less than seventy-five percent of
15 the then legal school year;

16 (37) School retirement allowance means the total of the savings
17 annuity and the service annuity or formula annuity paid a person who has
18 retired under sections 79-931 to 79-935. The monthly payments shall be
19 payable at the end of each calendar month during the life of a retired
20 member. The first payment shall include all amounts accrued since the
21 effective date of the award of annuity. The last payment shall be at the
22 end of the calendar month in which such member dies or in accordance with
23 the payment option chosen by the member;

24 (38) Service means employment as a school employee and shall not be
25 deemed interrupted by (a) termination at the end of the school year of
26 the contract of employment of an employee in a public school if the
27 employee enters into a contract of employment in any public school,
28 except a school in a Class V school district, for the following school
29 year, (b) temporary or seasonal suspension of service that does not
30 terminate the employee's employment, (c) leave of absence authorized by
31 the employer for a period not exceeding twelve months, (d) leave of

1 absence because of disability, or (e) military service when properly
2 authorized by the retirement board. Service does not include any period
3 of disability for which disability retirement benefits are received under
4 sections 79-951 to 79-953;

5 (39) Service annuity means payments for life, made in equal monthly
6 installments, derived from appropriations made by the State of Nebraska
7 to the retirement system;

8 (40) State deposit means the deposit by the state in the retirement
9 system on behalf of any member;

10 (41) State school official means the Commissioner of Education and
11 his or her professional staff who are required by law or by the State
12 Department of Education to hold a certificate as such term is defined in
13 section 79-807;

14 (42) Substitute employee means a person hired by a public school as
15 a temporary employee to assume the duties of regular employees due to a
16 temporary absence of any regular employees. Substitute employee does not
17 mean a person hired as a regular employee on an ongoing basis to assume
18 the duties of other regular employees who are temporarily absent;

19 (43) Surviving spouse means (a) the spouse married to the member on
20 the date of the member's death or (b) the spouse or former spouse of the
21 member if survivorship rights are provided under a qualified domestic
22 relations order filed with the board pursuant to the Spousal Pension
23 Rights Act. The spouse or former spouse shall supersede the spouse
24 married to the member on the date of the member's death as provided under
25 a qualified domestic relations order. If the benefits payable to the
26 spouse or former spouse under a qualified domestic relations order are
27 less than the value of benefits entitled to the surviving spouse, the
28 spouse married to the member on the date of the member's death shall be
29 the surviving spouse for the balance of the benefits;

30 (44) Temporary employee means an employee hired by a public school
31 who is not a regular employee and who is hired to provide service for a

1 limited period of time to accomplish a specific purpose or task. When
2 such specific purpose or task is complete, the employment of such
3 temporary employee shall terminate and in no case shall the temporary
4 employment period exceed one year in duration;

5 (45)(a) Termination of employment occurs on the date on which the
6 member experiences a bona fide separation from service of employment with
7 the member's employer, the date of which separation is determined by the
8 end of the member's contractual agreement or, if there is no contract or
9 only partial fulfillment of a contract, by the employer.

10 (b) A member shall not be deemed to have terminated employment if
11 the member subsequently provides service to any employer participating in
12 the retirement system provided for in the School Employees Retirement Act
13 within one hundred eighty days after ceasing employment unless such
14 service is:

15 (i) Bona fide unpaid voluntary service or substitute service,
16 provided on an intermittent basis. For purposes of this subdivision, (A)
17 intermittent basis means service provided on a day-to-day basis that is
18 not greater than eight days of service during a calendar month and (B)
19 day of service means any length of substitute service or unpaid voluntary
20 service provided during a single calendar day; or

21 (ii) As provided in ~~subsection (2) of~~ section 79-920.

22 (c) A member shall not be deemed to have terminated employment if
23 the board determines based on facts and circumstances (i) that a claimed
24 termination was not a bona fide separation from service with the employer
25 or (ii) that a member was compensated for a full contractual period when
26 the member terminated prior to the end date of the contract.

27 (d) Nothing in this subdivision precludes an employer from adopting
28 a policy which limits or denies employees who have terminated employment
29 from providing voluntary or substitute service within one hundred eighty
30 days after termination; and

31 (46) Voluntary service or volunteer means providing bona fide unpaid

1 service to any employer.

2 Sec. 2. Section 79-920, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 79-920 (1) For purposes of this section:

5 (a) Association means the State Code Agency Teachers Association, or
6 its equivalent successor, recognized by the State of Nebraska as the
7 exclusive and sole collective-bargaining agent for all teachers other
8 than temporary teachers employed by an agency of the State of Nebraska;

9 (b) Eligible school plan state employee means (i) an individual
10 employed by the State Department of Education after July 1, 1989, as a
11 state school official or (ii) an individual who is employed by any state
12 agency in a position covered by the association and who is required to
13 hold a certificate as defined in section 79-807 for the position in which
14 such individual is employed;

15 (c) School plan means the School Employees Retirement System of the
16 State of Nebraska;

17 (d) State agency school plan employer means the State Department of
18 Education or another agency of the State of Nebraska with employees
19 covered by the association; and

20 (e) State plan means the State Employees Retirement System of the
21 State of Nebraska.

22 (2)(a) Except as provided in subsection (3) of this section, an
23 individual shall become or remain a member of the school plan if:

24 (i) Such individual is or was previously a school employee or was
25 employed in an out-of-state school district or a Class V school district;
26 and

27 (ii) Such individual becomes an eligible school plan state employee
28 with a state agency school plan employer.

29 (b) An individual who is required to participate in the school plan
30 pursuant to subdivision (2)(a) of this section shall not be deemed to
31 have terminated employment for school plan purposes if such individual

1 subsequently provides service to any employer participating in the school
2 plan, including any public school, or any state agency school plan
3 employer, within one hundred eighty days after ceasing employment except
4 for intermittent voluntary or substitute service at a public school as
5 described in subdivision (45)(b)(i) of section 79-902.

6 (c) An individual who is required to participate in the school plan
7 pursuant to subdivision (2)(a) of this section shall not render any
8 service to another agency of the State of Nebraska within one hundred
9 twenty days after ceasing employment.

10 (3)(a) An individual shall participate in the state plan if:

11 (i) The individual has never previously participated in the school
12 plan while employed as an eligible school plan state employee with a
13 state agency school plan employer;

14 (ii) The individual terminated employment with a public school
15 participating in the school plan and retired or took a distribution
16 pursuant to the School Employees Retirement Act; and

17 (iii) The individual's employment as an eligible school plan state
18 employee with a state agency school plan employer began or will begin
19 within one hundred eighty days after termination of employment with the
20 public school.

21 (b) An individual who is required to participate in the state plan
22 pursuant to subdivision (3)(a) of this section shall not be deemed to
23 have terminated employment for state plan purposes if such individual
24 subsequently provides service to any employer participating in the state
25 plan, including any state agency school plan employer or an agency of the
26 State of Nebraska, within one hundred twenty days after ceasing
27 employment. No such individual may provide substitute or voluntary
28 service as defined in subdivision (45)(b)(i) of section 79-902 to any
29 employer participating in the school plan for at least one hundred twenty
30 days after ceasing employment.

31 (4) An individual who previously elected to participate in the

1 school plan prior to July 1, 2022, while employed as a school employee
2 with a public school or as an eligible school plan state employee with a
3 state agency school plan employer and who terminated employment and
4 retired or took a distribution pursuant to the School Employees
5 Retirement Act, shall not render any service to:

6 (a) A public school participating in the school plan or a state
7 agency school plan employer within one hundred eighty days after
8 terminating employment except as described in subdivision (45)(b)(i) of
9 section 79-902; or

10 (b) Another agency of the State of Nebraska within one hundred
11 twenty days after terminating employment.

12 ~~(1) An individual who was, prior to July 19, 1980, a state school~~
13 ~~official and did not become a member of the State Employees Retirement~~
14 ~~System of the State of Nebraska pursuant to the State Employees~~
15 ~~Retirement Act may, within sixty days after September 1, 1986, elect to~~
16 ~~become a member of such system. An individual so electing shall pay the~~
17 ~~contributions required by such system when the service and minimum age~~
18 ~~requirements have been met.~~

19 ~~(2)(a) An individual (i) who is or was previously a school employee~~
20 ~~or who was employed in an out-of-state or a Class V school district, (ii)~~
21 ~~who becomes employed by the State Department of Education after July 1,~~
22 ~~1989, and (iii) who is a state school official may file with the~~
23 ~~retirement board within thirty days after employment an election to~~
24 ~~become or remain a member of the School Employees Retirement System of~~
25 ~~the State of Nebraska. Employees electing not to participate in the~~
26 ~~School Employees Retirement System shall participate in the State~~
27 ~~Employees Retirement System of the State of Nebraska.~~

28 ~~(b) An individual shall be required to participate in the State~~
29 ~~Employees Retirement System if (i) the individual terminated employment~~
30 ~~from a public school participating in the School Employees Retirement~~
31 ~~System and retired pursuant to the School Employees Retirement Act and~~

1 ~~(ii) the employment by the State Department of Education began or will~~
2 ~~begin within one hundred eighty days after terminating employment from~~
3 ~~the school.~~

4 ~~(3) An employee electing not to be covered by the School Employees~~
5 ~~Retirement System of the State of Nebraska under this section shall not~~
6 ~~be subject to section 79-957 but shall be allowed to retain his or her~~
7 ~~accumulated contribution in the system and continue to become vested in~~
8 ~~the state's accumulated contribution as well as the State Employees~~
9 ~~Retirement System of the State of Nebraska according to the following:~~

10 ~~(a) The years of participation in the School Employees Retirement~~
11 ~~System of the State of Nebraska before an election is made plus the years~~
12 ~~of participation in the State Employees Retirement System of the State of~~
13 ~~Nebraska after the election is made shall both be credited toward~~
14 ~~compliance with the service requirements provided under section 79-931;~~
15 ~~and~~

16 ~~(b) The years of participation in the School Employees Retirement~~
17 ~~System of the State of Nebraska before the election is made plus the~~
18 ~~years of participation in the State Employees Retirement System of the~~
19 ~~State of Nebraska after the election is made shall both be credited~~
20 ~~toward compliance with section 84-1321.~~

21 Sec. 3. Section 84-1301, Revised Statutes Cumulative Supplement,
22 2020, is amended to read:

23 84-1301 For purposes of the State Employees Retirement Act, unless
24 the context otherwise requires:

25 (1)(a) Actuarial equivalent means the equality in value of the
26 aggregate amounts expected to be received under different forms of an
27 annuity payment.

28 (b) For an employee hired prior to January 1, 2018, the mortality
29 assumption used for purposes of converting the member cash balance
30 account shall be the 1994 Group Annuity Mortality Table using a unisex
31 rate that is fifty percent male and fifty percent female. For purposes of

1 converting the member cash balance account attributable to contributions
2 made prior to January 1, 1984, that were transferred pursuant to the act,
3 the 1994 Group Annuity Mortality Table for males shall be used.

4 (c) For an employee hired on or after January 1, 2018, or rehired on
5 or after January 1, 2018, after termination of employment and being paid
6 a retirement benefit or taking a refund of contributions, the mortality
7 assumption used for purposes of converting the member cash balance
8 account shall be a unisex mortality table that is recommended by the
9 actuary and approved by the board following an actuarial experience
10 study, a benefit adequacy study, or a plan valuation. The mortality table
11 and actuarial factors in effect on the member's retirement date will be
12 used to calculate the actuarial equivalency of any retirement benefit;

13 (2) Annuity means equal monthly payments provided by the retirement
14 system to a member or beneficiary under forms determined by the board
15 beginning the first day of the month after an annuity election is
16 received in the office of the Nebraska Public Employees Retirement
17 Systems or the first day of the month after the employee's termination of
18 employment, whichever is later. The last payment shall be at the end of
19 the calendar month in which the member dies or in accordance with the
20 payment option chosen by the member;

21 (3) Annuity start date means the date upon which a member's annuity
22 is first effective and shall be the first day of the month following the
23 member's termination or following the date the application is received by
24 the board, whichever is later;

25 (4) Cash balance benefit means a member's retirement benefit that is
26 equal to an amount based on annual employee contribution credits plus
27 interest credits and, if vested, employer contribution credits plus
28 interest credits and dividend amounts credited in accordance with
29 subdivision (4)(c) of section 84-1319;

30 (5)(a) Compensation means gross wages or salaries payable to the
31 member for personal services performed during the plan year. Compensation

1 does not include insurance premiums converted into cash payments,
2 reimbursement for expenses incurred, fringe benefits, per diems, or
3 bonuses for services not actually rendered, including, but not limited
4 to, early retirement inducements, cash awards, and severance pay, except
5 for retroactive salary payments paid pursuant to court order,
6 arbitration, or litigation and grievance settlements. Compensation
7 includes overtime pay, member retirement contributions, and amounts
8 contributed by the member to plans under sections 125, 403(b), and 457 of
9 the Internal Revenue Code or any other section of the code which defers
10 or excludes such amounts from income.

11 (b) Compensation in excess of the limitations set forth in section
12 401(a)(17) of the Internal Revenue Code shall be disregarded. For an
13 employee who was a member of the retirement system before the first plan
14 year beginning after December 31, 1995, the limitation on compensation
15 shall not be less than the amount which was allowed to be taken into
16 account under the retirement system as in effect on July 1, 1993;

17 (6) Date of disability means the date on which a member is
18 determined to be disabled by the board;

19 (7) Defined contribution benefit means a member's retirement benefit
20 from a money purchase plan in which member benefits equal annual
21 contributions and earnings pursuant to section 84-1310 and, if vested,
22 employer contributions and earnings pursuant to section 84-1311;

23 (8) Disability means an inability to engage in any substantially
24 gainful activity by reason of any medically determinable physical or
25 mental impairment which was initially diagnosed or became disabling while
26 the member was an active participant in the plan and which can be
27 expected to result in death or to be of long-continued and indefinite
28 duration;

29 (9) Employee means ~~any employee of the State Board of Agriculture~~
30 ~~who is a member of the state retirement system on July 1, 1982,~~ and any
31 person or officer employed by the State of Nebraska whose compensation is

1 paid out of state funds or funds controlled or administered by a state
2 department through any of its executive or administrative officers when
3 acting exclusively in their respective official, executive, or
4 administrative capacities and any employee of the State Board of
5 Agriculture who is a member of the state retirement system on July 1,
6 1982. Employee does not include (a) judges as defined in section 24-701,
7 (b) members of the Nebraska State Patrol, except for those members of the
8 Nebraska State Patrol who elected pursuant to section 60-1304 to remain
9 members of the State Employees Retirement System of the State of
10 Nebraska, (c) employees of the University of Nebraska, (d) employees of
11 the state colleges, (e) employees of community colleges, (f) employees of
12 the Department of Labor employed prior to July 1, 1984, and paid from
13 funds provided pursuant to Title III of the federal Social Security Act
14 or funds from other federal sources, except that if the contributory
15 retirement plan or contract let pursuant to section 48-609, as such
16 section existed prior to January 1, 2018, is terminated, such employees
17 shall become employees for purposes of the State Employees Retirement Act
18 on the first day of the first pay period following the termination of
19 such contributory retirement plan or contract, (g) employees of the State
20 Board of Agriculture who are not members of the state retirement system
21 on July 1, 1982, (h) the Nebraska National Guard air and army
22 technicians, (i) ~~persons who are required to participate in eligible for~~
23 ~~membership under the School Employees Retirement System of the State of~~
24 ~~Nebraska who have not elected to become members of the retirement system~~
25 ~~pursuant to section 79-920 or been made members of the system pursuant to~~
26 ~~such section,~~ except that those persons so required eligible and actively
27 ~~who as of September 2, 1973,~~ are contributing to the State Employees
28 Retirement System of the State of Nebraska as of July 1, 2022, shall
29 continue as members of the State Employees Retirement System of the State
30 of Nebraska ~~such system,~~ or (j) employees of the Coordinating Commission
31 for Postsecondary Education who are eligible for and have elected to

1 become members of a qualified retirement program approved by the
2 commission which is commensurate with retirement programs at the
3 University of Nebraska. Any individual appointed by the Governor may
4 elect not to become a member of the State Employees Retirement System of
5 the State of Nebraska;

6 (10) Employee contribution credit means an amount equal to the
7 member contribution amount required by section 84-1308;

8 (11) Employer contribution credit means an amount equal to the
9 employer contribution amount required by section 84-1309;

10 (12) Final account value means the value of a member's account on
11 the date the account is either distributed to the member or used to
12 purchase an annuity from the plan, which date shall occur as soon as
13 administratively practicable after receipt of a valid application for
14 benefits, but no sooner than forty-five days after the member's
15 termination;

16 (13) Five-year break in service means five consecutive one-year
17 breaks in service;

18 (14) Full-time employee means an employee who is employed to work
19 one-half or more of the regularly scheduled hours during each pay period;

20 (15) Fund means the State Employees Retirement Fund created by
21 section 84-1309;

22 (16) Guaranteed investment contract means an investment contract or
23 account offering a return of principal invested plus interest at a
24 specified rate. For investments made after July 19, 1996, guaranteed
25 investment contract does not include direct obligations of the United
26 States or its instrumentalities, bonds, participation certificates or
27 other obligations of the Federal National Mortgage Association, the
28 Federal Home Loan Mortgage Corporation, or the Government National
29 Mortgage Association, or collateralized mortgage obligations and other
30 derivative securities. This subdivision shall not be construed to require
31 the liquidation of investment contracts or accounts entered into prior to

1 July 19, 1996;

2 (17) Hire date or date of hire means the first day of compensated
3 service subject to retirement contributions;

4 (18) Interest credit rate means the greater of (a) five percent or
5 (b) the applicable federal mid-term rate, as published by the Internal
6 Revenue Service as of the first day of the calendar quarter for which
7 interest credits are credited, plus one and one-half percent, such rate
8 to be compounded annually;

9 (19) Interest credits means the amounts credited to the employee
10 cash balance account and the employer cash balance account at the end of
11 each day. Such interest credit for each account shall be determined by
12 applying the daily portion of the interest credit rate to the account
13 balance at the end of the previous day. Such interest credits shall
14 continue to be credited to the employee cash balance account and the
15 employer cash balance account after a member ceases to be an employee,
16 except that no such credit shall be made with respect to the employee
17 cash balance account and the employer cash balance account for any day
18 beginning on or after the member's date of final account value. If
19 benefits payable to the member's surviving spouse or beneficiary are
20 delayed after the member's death, interest credits shall continue to be
21 credited to the employee cash balance account and the employer cash
22 balance account until such surviving spouse or beneficiary commences
23 receipt of a distribution from the plan;

24 (20) Member cash balance account means an account equal to the sum
25 of the employee cash balance account and, if vested, the employer cash
26 balance account and dividend amounts credited in accordance with
27 subdivision (4)(c) of section 84-1319;

28 (21) One-year break in service means a plan year during which the
29 member has not completed more than five hundred hours of service;

30 (22) Participation means qualifying for and making the required
31 deposits to the retirement system during the course of a plan year;

1 (23) Part-time employee means an employee who is employed to work
2 less than one-half of the regularly scheduled hours during each pay
3 period;

4 (24) Plan year means the twelve-month period beginning on January 1
5 and ending on December 31;

6 (25) Prior service means service before January 1, 1964;

7 (26) Regular interest means the rate of interest earned each
8 calendar year commencing January 1, 1975, as determined by the retirement
9 board in conformity with actual and expected earnings on the investments
10 through December 31, 1984;

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

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

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

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

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

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

24 (28) Required contribution means the deduction to be made from the
25 compensation of employees as provided in section 84-1308;

26 (29) Retirement means qualifying for and accepting the retirement
27 benefit granted under the State Employees Retirement Act after
28 terminating employment;

29 (30) Retirement application means the form approved and provided by
30 the retirement system for acceptance of a member's request for either
31 regular or disability retirement;

1 (31) Retirement board or board means the Public Employees Retirement
2 Board;

3 (32) Retirement date means (a) the first day of the month following
4 the date upon which a member's request for retirement is received on a
5 retirement application if the member is eligible for retirement and has
6 terminated employment or (b) the first day of the month following
7 termination of employment if the member is eligible for retirement and
8 has filed an application but has not yet terminated employment;

9 (33) Retirement system means the State Employees Retirement System
10 of the State of Nebraska;

11 (34) Service means the actual total length of employment as an
12 employee and shall not be deemed to be interrupted by (a) temporary or
13 seasonal suspension of service that does not terminate the employee's
14 employment, (b) leave of absence authorized by the employer for a period
15 not exceeding twelve months, (c) leave of absence because of disability,
16 or (d) military service, when properly authorized by the retirement
17 board. Service does not include any period of disability for which
18 disability retirement benefits are received under section 84-1317;

19 (35) State department means any department, bureau, commission, or
20 other division of state government not otherwise specifically defined or
21 exempted in the act, the employees and officers of which are not already
22 covered by a retirement plan;

23 (36) Surviving spouse means (a) the spouse married to the member on
24 the date of the member's death or (b) the spouse or former spouse of the
25 member if survivorship rights are provided under a qualified domestic
26 relations order filed with the board pursuant to the Spousal Pension
27 Rights Act. The spouse or former spouse shall supersede the spouse
28 married to the member on the date of the member's death as provided under
29 a qualified domestic relations order. If the benefits payable to the
30 spouse or former spouse under a qualified domestic relations order are
31 less than the value of benefits entitled to the surviving spouse, the

1 spouse married to the member on the date of the member's death shall be
2 the surviving spouse for the balance of the benefits;

3 (37) Termination of employment occurs on the date on which the
4 agency which employs the member determines that the member's employer-
5 employee relationship with the State of Nebraska is dissolved. The agency
6 which employs the member shall notify the board of the date on which such
7 a termination has occurred. Termination of employment does not occur if
8 an employee whose employer-employee relationship with the State of
9 Nebraska is dissolved enters into an employer-employee relationship with
10 the same or another agency of the State of Nebraska and there are less
11 than one hundred twenty days between the date when the employee's
12 employer-employee relationship ceased with the state and the date when
13 the employer-employee relationship commenced with the same or another
14 agency. It is the responsibility of the employer that is involved in the
15 termination of employment to notify the board of such change in
16 employment and provide the board with such information as the board deems
17 necessary. If the board determines that termination of employment has not
18 occurred and a retirement benefit has been paid to a member of the
19 retirement system pursuant to section 84-1321, the board shall require
20 the member who has received such benefit to repay the benefit to the
21 retirement system; and

22 (38) Vesting credit means credit for years, or a fraction of a year,
23 of participation in another Nebraska governmental plan for purposes of
24 determining vesting of the employer account.

25 Sec. 4. Original section 79-920, Reissue Revised Statutes of
26 Nebraska, section 84-1301, Revised Statutes Cumulative Supplement, 2020,
27 and section 79-902, Revised Statutes Supplement, 2021, are repealed.

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