

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 198

Introduced by McDonnell, 5.

Read first time January 09, 2023

Committee: Nebraska Retirement Systems

1 A BILL FOR AN ACT relating to retirement; to amend section 79-955,
2 Reissue Revised Statutes of Nebraska, and sections 79-901, 79-902,
3 79-920, 79-978, and 79-992, Revised Statutes Cumulative Supplement,
4 2022; to define and redefine terms; to provide for a return to work
5 and authorize contributions as prescribed; to harmonize provisions;
6 to repeal the original sections; and to declare an emergency.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-901, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 79-901 Sections 79-901 to 79-977.03 and section 3 of this act shall
4 be known and may be cited as the School Employees Retirement Act.

5 Sec. 2. Section 79-902, Revised Statutes Cumulative Supplement,
6 2022, is amended to read:

7 79-902 For purposes of the School Employees Retirement Act, unless
8 the context otherwise requires:

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

13 (2)(a) Actuarial equivalent means the equality in value of the
14 aggregate amounts expected to be received under different forms of
15 payment.

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

22 (c) For a school employee hired on or after July 1, 2017, or rehired
23 on or after July 1, 2017, after termination of employment and being paid
24 a retirement benefit or taking a refund of contributions, the
25 determinations shall be based on a unisex mortality table and an interest
26 rate specified by the board. Both the mortality table and the interest
27 rate shall be recommended by the actuary and approved by the retirement
28 board following an actuarial experience study, a benefit adequacy study,
29 or a plan valuation. The mortality table, interest rate, and actuarial
30 factors in effect on the school employee's retirement date will be used
31 to calculate actuarial equivalency of any retirement benefit. Such

1 interest rate may be, but is not required to be, equal to the assumed
2 rate.

3 (d) If the lump-sum settlement is made to an estate, the interest
4 rate will be determined by the AAA-rated segment of the Bloomberg
5 Barclays Long U.S. Corporate Bond Index as of the prior June 30, rounded
6 to the next lower quarter percent. If the AAA-rated segment of the
7 Bloomberg Barclays Long U.S. Corporate Bond Index is discontinued or
8 replaced, a substitute index shall be selected by the board which shall
9 be a reasonably representative index;

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

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

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

29 (c) Compensation in excess of the limitations set forth in section
30 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01
31 shall be disregarded. For an employee who was a member of the retirement

1 system before the first plan year beginning after December 31, 1995, the
2 limitation on compensation shall not be less than the amount which was
3 allowed to be taken into account under the retirement system as in effect
4 on July 1, 1993;

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

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

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

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

30 (8) Disability means an inability to engage in any substantially
31 gainful activity by reason of any medically determinable physical or

1 mental impairment which was initially diagnosed or became disabling while
2 the member was an active participant in the plan and which can be
3 expected to result in death or be of a long-continued and indefinite
4 duration;

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

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

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

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

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

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

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

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

29 (f) Any other form of separation payments made by an employer to a
30 member at termination, including, but not limited to, purchasing
31 retirement annuity contracts for the member pursuant to section 79-514,

1 depositing money for the member in an account established under section
2 403(b) of the Internal Revenue Code except for payments for accrued
3 unused leave, or purchasing service credit for the member pursuant to
4 section 79-933.08;

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

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

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

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

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

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

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

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

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

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

12 (b) Payments under the Retirement Incentive Plan pursuant to section
13 79-855 and Staff Development Assistance pursuant to section 79-856 shall
14 not be included in the determination of final average compensation;

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

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

19 (18) Initial benefit means the retirement benefit calculated at the
20 time of retirement;

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

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

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

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

29 (23) Public school means any and all schools offering instruction in
30 elementary or high school grades, as defined in section 79-101, which
31 schools are supported by public funds and are wholly under the control

1 and management of the State of Nebraska or any subdivision thereof,
2 including (a) schools or other entities established, maintained, and
3 controlled by the school boards of local school districts, except Class V
4 school districts, (b) any educational service unit, and (c) any other
5 educational institution wholly supported by public funds, except schools
6 under the control and management of the Board of Trustees of the Nebraska
7 State Colleges, the Board of Regents of the University of Nebraska, or
8 the community college boards of governors for any community college
9 areas;

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

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

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

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

1 (a)(i) Terminated employment with all employers participating in the
2 plan; and

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

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

9 (b)(i) Terminated employment with all employers participating in the
10 plan; and

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

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

16 (29) Retirement means qualifying for and accepting a school or
17 disability retirement allowance granted under the School Employees
18 Retirement Act;

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

22 (31) Retirement board or board means the Public Employees Retirement
23 Board;

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

1 (33) Retirement system means the School Employees Retirement System
2 of the State of Nebraska;

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

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

16 (36) 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 (37) School year means one fiscal year which includes not less than
25 one thousand instructional hours or, in the case of service in the State
26 of Nebraska prior to July 1, 1945, not less than seventy-five percent of
27 the then legal school year;

28 (38) Service means employment as a school employee and shall not be
29 deemed interrupted by (a) termination at the end of the school year of
30 the contract of employment of an employee in a public school if the
31 employee enters into a contract of employment in any public school,

1 except a school in a Class V school district, for the following school
2 year, (b) temporary or seasonal suspension of service that does not
3 terminate the employee's employment, (c) leave of absence authorized by
4 the employer for a period not exceeding twelve months, (d) leave of
5 absence because of disability, or (e) military service when properly
6 authorized by the retirement board. Service does not include any period
7 of disability for which disability retirement benefits are received under
8 sections 79-951 to 79-953;

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

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

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

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

23 (43) 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 (44) Temporary employee means an employee hired by a public school
4 who is not a regular employee and who is hired to provide service for a
5 limited period of time to accomplish a specific purpose or task. When
6 such specific purpose or task is complete, the employment of such
7 temporary employee shall terminate and in no case shall the temporary
8 employment period exceed one year in duration;

9 (45)(a) Termination of employment or termination occurs on the date
10 ~~on which~~ the member experiences a bona fide separation from service of
11 ~~employment~~ with the member's employer. The ~~the~~ date of the ~~which~~
12 separation is ~~determined by~~ the end of the member's contractual agreement
13 or, if there is no contract or only partial fulfillment of a contract, as
14 determined by the employer.

15 (b) A member shall not be deemed to have incurred a termination of
16 employment if the board determines based on the facts and circumstances
17 that:

18 (i) A claimed termination was not a bona fide separation from
19 service with the member's employer;

20 (ii) A member was compensated for a full contractual period when the
21 member stopped working prior to the end date of the contract; or

22 (iii) A member prearranged a return to work that violates the
23 provisions of the School Employees Retirement Act.

24 (c) A member who experiences a separation from service must comply
25 with the return-to-work provisions of section 3 of this act if the member
26 is subsequently employed by an employer participating in the retirement
27 system.

28 ~~(b) A member shall not be deemed to have terminated employment if~~
29 ~~the member subsequently provides service to any employer participating in~~
30 ~~the retirement system provided for in the School Employees Retirement Act~~
31 ~~within one hundred eighty days after ceasing employment unless such~~

1 service is:

2 ~~(i) Bona fide unpaid voluntary service or substitute service,~~
3 ~~provided on an intermittent basis. For purposes of this subdivision, (A)~~
4 ~~intermittent basis means service provided on a day-to-day basis that is~~
5 ~~not greater than eight days of service during a calendar month and (B)~~
6 ~~day of service means any length of substitute service or unpaid voluntary~~
7 ~~service provided during a single calendar day; or~~

8 ~~(ii) As provided in section 79-920.~~

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

14 (d) Nothing in this subdivision precludes an employer from adopting
15 a policy which limits or denies employees who have experienced a
16 separation from service with the employer ~~terminated employment from~~
17 working as a volunteer providing voluntary or substitute employee service
18 within one hundred eighty days after the employee experiences such
19 separation from service termination; and

20 (46) Voluntary service or volunteer means providing bona fide unpaid
21 service to any employer.

22 Sec. 3. (1)(a) A member who experiences a separation from service
23 with the member's employer but has not submitted a retirement application
24 or a request for distribution pursuant to section 79-955, or received a
25 retirement benefit, disability retirement benefit, or distribution
26 pursuant to section 79-955, from the retirement system, may return to
27 work as a temporary employee, substitute employee, or volunteer for any
28 employer participating in the retirement system. Such an employee:

29 (i) Shall be deemed to have incurred a termination for purposes of
30 sections 79-921, 79-932, 79-933.02 to 79-933.06, and 79-933.08;

31 (ii) Shall not be deemed to have incurred a termination for purposes

1 of sections 79-933, 79-951, and 79-955, and shall not be eligible to
2 receive a retirement benefit, disability retirement benefit, or
3 distribution pursuant to section 79-955, from the retirement system,
4 until the member incurs a termination of employment as described in
5 subdivision (45) of section 79-902; and

6 (iii) Except as provided in subdivision (1)(b) of this section,
7 shall not be eligible to contribute to the retirement system pursuant to
8 section 79-958 or accrue service credit in the retirement system pursuant
9 to section 79-927.

10 (b)(i) A member as described in subdivision (1)(a) of this section
11 who becomes a regular employee for an employer participating in the
12 retirement system shall immediately begin making contributions pursuant
13 to section 79-958 on all compensation paid by such employer and accrue
14 service credit pursuant to section 79-927 for all such service performed
15 for such employer, including any work as a temporary employee or
16 substitute employee.

17 (ii) A member as described in subdivision (1)(a) of this section who
18 has not established eligibility as a regular employee at another employer
19 shall not make contributions pursuant to section 79-958 on all
20 compensation paid by such employer nor accrue service credit pursuant to
21 section 79-927 for work performed by the member as a temporary employee
22 or substitute employee for such employer.

23 (c) Work performed while the member is not contributing to the
24 retirement system pursuant to subdivision (1)(a) of this section shall
25 not accrue service credit in the retirement system pursuant to section
26 79-927 and cannot be purchased as service credit under sections 79-933.03
27 to 79-933.06 and 79-933.08.

28 (2)(a) A member who experiences a separation from service with the
29 member's employer and has submitted a retirement application or a request
30 for distribution pursuant to section 79-955, or received a retirement
31 benefit, disability retirement benefit, or distribution pursuant to

1 section 79-955, from the retirement system, shall not be deemed to have
2 incurred a termination of employment if the member subsequently returns
3 to work for any employer participating in the retirement system within
4 one hundred eighty days after separating from service, unless such work
5 is limited to:

6 (i) Intermittent work as a volunteer or substitute employee. For
7 purposes of this subsection:

8 (A) Intermittent work means work provided on a day-to-day basis that
9 is not greater than eight days of work during a calendar month; and

10 (B) Day of work means any length of work as a volunteer or
11 substitute employee provided during a single calendar day; or

12 (ii) Work as authorized by, and performed in accordance with,
13 section 79-920.

14 (b) The one-hundred-eighty-day period begins on the later of:

15 (i) The date the member experienced a bona fide separation from
16 service of all employment with all employers participating in the
17 retirement system; or

18 (ii) The date the Nebraska Public Employees Retirement Systems
19 receives the member's retirement application or request for distribution
20 pursuant to section 79-955.

21 (c)(i) A member may seek a determination from the director of the
22 Nebraska Public Employees Retirement Systems that it has been at least
23 one hundred eighty days since the member satisfied the requirements
24 described in this subsection. The director shall make such determination
25 if the member produces clear and convincing evidence that is received by
26 the director within forty-five days after the later of:

27 (A) The date the member experienced a bona fide separation of
28 service of all employment with all employers participating in the
29 retirement system; or

30 (B) The date the member's retirement application or request for
31 distribution pursuant to section 79-955 is received by the Nebraska

1 Public Employees Retirement Systems.

2 (ii) A member may appeal the director's determination to the board
3 within thirty days of receiving such determination.

4 (iii) The board's determination on the appeal shall be final and
5 shall not be appealable to any court.

6 Sec. 4. Section 79-920, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 79-920 (1) For purposes of this section:

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

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

19 (c) School plan means the School Employees Retirement System of the
20 State of Nebraska;

21 (d) State agency school plan employer means the State Department of
22 Education or another agency of the State of Nebraska with employees
23 covered by the association; and

24 (e) State plan means the State Employees Retirement System of the
25 State of Nebraska.

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

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

31 (ii) Such individual becomes an eligible school plan state employee

1 with a state agency school plan employer.

2 (b) An individual who is required to participate in the school plan
3 pursuant to subdivision (2)(a) of this section shall not be deemed to
4 have terminated employment for school plan purposes if such individual
5 subsequently provides service to any employer participating in the school
6 plan, including any school district or educational service unit, or any
7 state agency school plan employer, within one hundred eighty days after
8 ceasing employment except an individual may be permitted to provide
9 intermittent work as a volunteer or substitute employee for intermittent
10 voluntary or substitute service at a school district or an educational
11 service unit as described in subdivision (2)(a) of section 3 of this act
12 ~~(45)(b)(i) of section 79-902.~~

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

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

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

21 (ii) The individual terminated employment with a school district or
22 an educational service unit participating in the school plan and retired
23 or took a distribution pursuant to the School Employees Retirement Act;
24 and

25 (iii) The individual's employment as an eligible school plan state
26 employee with a state agency school plan employer began or will begin
27 within one hundred eighty days after termination of employment with the
28 school district or educational service unit.

29 (b) An individual who is required to participate in the state plan
30 pursuant to subdivision (3)(a) of this section shall not be deemed to
31 have terminated employment for state plan purposes if such individual

1 subsequently provides service to any employer participating in the state
2 plan, including any state agency school plan employer or an agency of the
3 State of Nebraska, within one hundred twenty days after ceasing
4 employment. No such individual shall be permitted to provide intermittent
5 work as a volunteer or substitute employee as described in subdivision
6 (2)(a) of section 3 of this act ~~may provide substitute or voluntary~~
7 ~~service as defined in subdivision (45)(b)(i) of section 79-902~~ to any
8 employer participating in the school plan for at least one hundred twenty
9 days after ceasing employment.

10 (4) An individual who previously elected to participate in the
11 school plan prior to July 1, 2022, while employed as a state school
12 official and who terminated employment and retired or took a distribution
13 pursuant to the School Employees Retirement Act, shall not render any
14 service to:

15 (a) A school district or an educational service unit participating
16 in the school plan or a state agency school plan employer within one
17 hundred eighty days after terminating employment except as described in
18 subdivision (45)(b)(i) of section 79-902; or

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

21 Sec. 5. Section 79-955, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 79-955 (1) Upon termination of employment for any cause other than
24 death or retirement, the retirement board shall, upon the member's
25 request demand, terminate his or her membership in the retirement system
26 and distribute ~~cause to be paid~~ to such member the member's accumulated
27 contributions ~~standing to the credit of his or her individual account~~ in
28 the School Retirement Fund.

29 (2) Any member who attains or has attained membership in another
30 Nebraska state or school retirement system authorized by the Legislature
31 and who elects not to be or remain a member of the School Employees

1 Retirement System of the State of Nebraska shall have his or her
2 accumulated contributions returned to him or her forthwith.

3 Sec. 6. Section 79-978, Revised Statutes Cumulative Supplement,
4 2022, is amended to read:

5 79-978 For purposes of the Class V School Employees Retirement Act,
6 unless the context otherwise requires:

7 (1) Accumulated contributions means the sum of amounts contributed
8 by a member of the system together with regular interest credited
9 thereon;

10 (2) Actuarial equivalent means the equality in value of the
11 retirement allowance for early retirement or the retirement allowance for
12 an optional form of annuity, or both, with the normal form of the annuity
13 to be paid, as determined by the application of the appropriate actuarial
14 table, except that use of such actuarial tables shall not effect a
15 reduction in benefits accrued prior to September 1, 1985, as determined
16 by the actuarial tables in use prior to such date;

17 (3) Actuarial tables means:

18 (a) For determining the actuarial equivalent of any annuities other
19 than joint and survivorship annuities:

20 (i) For members hired before July 1, 2018, a unisex mortality table
21 using twenty-five percent of the male mortality and seventy-five percent
22 of the female mortality from the 1994 Group Annuity Mortality Table with
23 a One Year Setback and using an interest rate of eight percent compounded
24 annually; and

25 (ii) For members hired on or after July 1, 2018, or rehired on or
26 after July 1, 2018, after termination of employment and being paid a
27 retirement benefit, the determinations shall be based on a unisex
28 mortality table and an interest rate specified by (A) the board until
29 September 1, 2024, or (B) the retirement board beginning on September 1,
30 2024. Both the mortality table and the interest rate shall be recommended
31 by the actuary retained pursuant to section 79-984 following an actuarial

1 experience study, a benefit adequacy study, or a plan valuation. The
2 mortality table, interest rate, and actuarial factors in effect on the
3 member's retirement date shall be used to calculate the actuarial
4 equivalency of any retirement benefit. Such interest rate may be, but is
5 not required to be, equal to the assumed rate; and

6 (b) For joint and survivorship annuities:

7 (i) For members hired before July 1, 2018, a unisex retiree
8 mortality table using sixty-five percent of the male mortality and
9 thirty-five percent of the female mortality from the 1994 Group Annuity
10 Mortality Table with a One Year Setback and using an interest rate of
11 eight percent compounded annually and a unisex joint annuitant mortality
12 table using thirty-five percent of the male mortality and sixty-five
13 percent of the female mortality from the 1994 Group Annuity Mortality
14 Table with a One Year Setback and using an interest rate of eight percent
15 compounded annually; and

16 (ii) For members hired on or after July 1, 2018, or rehired on or
17 after July 1, 2018, after termination of employment and being paid a
18 retirement benefit, the determinations shall be based on a unisex
19 mortality table and an interest rate specified by (A) the board until
20 September 1, 2024, or (B) the retirement board beginning on September 1,
21 2024. Both the mortality table and the interest rate shall be recommended
22 by the actuary retained pursuant to section 79-984 following an actuarial
23 experience study, a benefit adequacy study, or a plan valuation. The
24 mortality table, interest rate, and actuarial factors in effect on the
25 member's retirement date shall be used to calculate the actuarial
26 equivalency of any retirement benefit. Such interest rate may be, but is
27 not required to be, equal to the assumed rate;

28 (4) Administrator of the retirement system or administrator means
29 (a) until September 1, 2024, the person administering the retirement
30 system who is appointed by the board or (b) beginning on September 1,
31 2024, the director appointed by the retirement board pursuant to section

1 84-1503;

2 (5) Annuitant means any member receiving an allowance;

3 (6) Annuity means annual payments, for both prior service and
4 membership service, for life as provided in the Class V School Employees
5 Retirement Act;

6 (7) Audit year means the period beginning January 1 in any year and
7 ending on December 31 of that same year, which is the period of time used
8 in the preparation of (a) the annual actuarial analysis and valuation and
9 (b) a financial audit of the retirement system, including the investments
10 of the retirement system;

11 (8) Beneficiary means any person entitled to receive or receiving a
12 benefit by reason of the death of a member;

13 (9) Board means the board of trustees until July 1, 2021, and the
14 board of education beginning July 1, 2021, and until September 1, 2024;

15 (10) Board of education means the board or boards of education of a
16 school district or districts;

17 (11) Board of trustees means:

18 (a) Until September 1, 2024, the entity established pursuant to
19 section 79-980; and

20 (b) Beginning September 1, 2024, the board of education shall be
21 deemed to be the successor in interest for all liability associated with
22 the actions or inactions of the entity identified under subdivision (11)

23 (a) of this section and as specified in the Class V School Employees
24 Retirement Act;

25 (12)(a) Compensation means gross wages or salaries payable to the
26 member during a fiscal year and includes (i) overtime pay, (ii) member
27 contributions to the retirement system that are picked up under section
28 414(h) of the Internal Revenue Code, as defined in section 49-801.01,
29 (iii) retroactive salary payments paid pursuant to court order,
30 arbitration, or litigation and grievance settlements, and (iv) amounts
31 contributed by the member to plans under sections 125, 403(b), and 457 of

1 the Internal Revenue Code, as defined in section 49-801.01, or any other
2 section of the code which defers or excludes such amounts from income.

3 (b) Compensation does not include (i) fraudulently obtained amounts
4 as determined by the board, (ii) amounts for accrued unused sick leave or
5 accrued unused vacation leave converted to cash payments, (iii) insurance
6 premiums converted into cash payments, (iv) reimbursement for expenses
7 incurred, (v) fringe benefits, (vi) per diems paid as expenses, (vii)
8 bonuses for services not actually rendered, (viii) early retirement
9 inducements, (ix) cash awards, (x) severance pay, or (xi) employer
10 contributions made for the purposes of separation payments made at
11 retirement and early retirement inducements.

12 (c) Compensation in excess of the limitations set forth in section
13 401(a)(17) of the Internal Revenue Code, as defined in section 49-801.01,
14 shall be disregarded;

15 (13) Council means the Nebraska Investment Council created and
16 acting pursuant to section 72-1237;

17 (14) Creditable service means the sum of the membership service and
18 the prior service, measured in one-tenth-year increments;

19 (15) Early retirement date means, for members hired prior to July 1,
20 2016, who have attained age fifty-five, that month and year selected by a
21 member having at least ten years of creditable service which includes a
22 minimum of five years of membership service. Early retirement date means,
23 for members hired on or after July 1, 2016, that month and year selected
24 by a member having at least five years of creditable service and who has
25 attained age sixty;

26 (16) Early retirement inducement means, but is not limited to:

27 (a) A benefit, bonus, or payment to a member by an employer in
28 exchange for an agreement by the member to retire with a reduced
29 retirement benefit;

30 (b) A benefit, bonus, or payment paid to a member by an employer in
31 addition to the member's retirement benefit;

1 (c) Lump-sum or installment cash payments by an employer, except
2 payments for accrued unused leave converted to cash payments;

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

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

12 (f) Any other form of separation payments made by an employer to a
13 member at termination, including, but not limited to, purchasing
14 retirement contracts for the member pursuant to section 79-514, or
15 depositing money for the member in an account established under section
16 403(b) of the Internal Revenue Code except for payments for accrued
17 unused leave;

18 (17) Employee means the following enumerated persons receiving
19 compensation from the school district: (a) Teachers, other than
20 substitutes, employed on a written contract basis; (b) administrators
21 employed on a written contract, agreement, or document basis; and (c)
22 regular employees;

23 (18) Employer means a school district participating in a retirement
24 system established pursuant to the Class V School Employees Retirement
25 Act;

26 (19) Fiscal year means the period beginning September 1 in any year
27 and ending on August 31 of the next succeeding year;

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

30 (21) Interest means, for the purchase of service credit, the
31 purchase of prior service credit, restored refunds, and delayed payments,

1 the investment return assumption used in the most recent actuarial
2 valuation;

3 (22) Member means any employee included in the membership of the
4 retirement system or any former employee who has made contributions to
5 the system and has not received a refund;

6 (23) Membership service means service on or after September 1, 1951,
7 as an employee of the school district and a member of the system for
8 which compensation is paid by the school district. Credit for more than
9 one year of membership service shall not be allowed for service rendered
10 in any fiscal year. Beginning September 1, 2005, a member shall be
11 credited with a year of membership service for each fiscal year in which
12 the member performs one thousand or more hours of compensated service as
13 an employee of the school district. For an employee who becomes a member
14 prior to July 1, 2018, an hour of compensated service shall include any
15 hour for which the member is compensated by the school district during
16 periods when no service is performed due to vacation or approved leave.
17 For an employee who becomes a member on or after July 1, 2018, an hour of
18 compensated service shall include any hour for which the member is
19 compensated by the school district during periods when no service is
20 performed due to used accrued sick days, used accrued vacation days,
21 federal and state holidays, and jury duty leave for which the member is
22 paid full compensation by an employer. If a member performs less than one
23 thousand hours of compensated service during a fiscal year, one-tenth of
24 a year of membership service shall be credited for each one hundred hours
25 of compensated service by the member in such fiscal year. In determining
26 a member's total membership service, all periods of membership service,
27 including fractional years of membership service in one-tenth-year
28 increments, shall be aggregated;

29 (24) Military service means service in the uniformed services as
30 defined in 38 U.S.C. 4301 et seq., as such provision existed on March 27,
31 1997;

1 (25) Normal retirement date means the end of the month during which
2 the member attains age sixty-five and has completed at least five years
3 of membership service;

4 (26) Participation means qualifying for and making required deposits
5 to the retirement system during the course of a fiscal year;

6 (27) Primary beneficiary means the person or persons entitled to
7 receive or receiving a benefit by reason of the death of a member;

8 (28) Prior service means service rendered prior to September 1,
9 1951, for which credit is allowed under section 79-999, service rendered
10 by retired employees receiving benefits under preexisting systems, and
11 service for which credit is allowed under sections 79-990, 79-991,
12 79-994, 79-995, and 79-997;

13 (29)(a) Regular employee means a person hired on a full-time basis,
14 which basis shall contemplate a work week of not less than thirty hours,
15 and who is not (i) a teacher employed on a written contract basis or (ii)
16 an administrator employed on a written contract, agreement, or document
17 basis.

18 (b) Effective September 1, 2021, a person hired by an employer or
19 under contract to provide service for less than thirty hours per week but
20 who provides service for an average of thirty hours or more per week in
21 each calendar month of any three calendar months of a fiscal year shall,
22 beginning with the next full payroll period, commence contributions and
23 shall be deemed a regular employee;

24 (30) Regular interest means interest (a) on the total contributions
25 of the member prior to the close of the last preceding fiscal year, (b)
26 compounded annually, and (c)(i) beginning September 1, 2016, at a rate
27 equal to the daily treasury yield curve for one-year treasury securities,
28 as published by the Secretary of the Treasury of the United States, that
29 applies on September 1 of each year and (ii) prior to September 1, 2016,
30 at rates to be determined annually by the board, which shall have the
31 sole, absolute, and final discretionary authority to make such

1 determination, except that the rate for any given year in no event shall
2 exceed the actual percentage of net earnings of the system during the
3 last preceding fiscal year;

4 (31) Retirement allowance means the total annual retirement benefit
5 payable to a member for service or disability;

6 (32) Retirement application means beginning on and after September
7 1, 2024, the form approved and provided by the retirement system for
8 acceptance of a member's request for either regular or disability
9 retirement;

10 (33) Retirement board means the Public Employees Retirement Board
11 created and acting pursuant to section 84-1501;

12 (34) Retirement date means the date of retirement of a member for
13 service or disability as fixed by (a) the board for retirements occurring
14 prior to September 1, 2024, or (b) the retirement board for retirements
15 occurring on or after September 1, 2024;

16 (35) Retirement system or system means the School Employees'
17 Retirement System of (corporate name of the school district as described
18 in section 79-405) as provided for by the act;

19 (36) School district means an employer participating in a retirement
20 system established pursuant to the Class V School Employees Retirement
21 Act;

22 (37) Secondary beneficiary means the person or persons entitled to
23 receive or receiving a benefit by reason of the death of all primary
24 beneficiaries prior to the death of the member. If no primary beneficiary
25 survives the member, secondary beneficiaries shall be treated in the same
26 manner as primary beneficiaries;

27 (38) Solvency means the rate of all contributions required pursuant
28 to the Class V School Employees Retirement Act is equal to or greater
29 than the actuarially required contribution rate as annotated in the most
30 recent valuation report prepared by the actuary retained for the
31 retirement system as provided in section 79-984;

1 (39) State investment officer means the person appointed by the
2 council pursuant to section 72-1240 and acting pursuant to the Nebraska
3 State Funds Investment Act;

4 (40) Substitute employee means a person hired by an employer as a
5 temporary employee to assume the duties of an employee due to a temporary
6 absence of any employee. Substitute employee does not mean a person hired
7 as an employee on an ongoing basis to assume the duties of other
8 employees who are temporarily absent;

9 (41) Temporary employee means a person hired by an employer who is
10 not an employee and who is hired to provide service for a limited period
11 of time to accomplish a specific purpose or task. When such specific
12 purpose or task is complete, the employment of such temporary employee
13 shall terminate and in no case shall the temporary employment period
14 exceed one year in duration;

15 (42)(a) Termination of employment or termination occurs on the date
16 ~~on which~~ the member experiences a bona fide separation from service of
17 employment with the member's employer, the date of which separation is
18 ~~determined by the~~ last day of service under ~~end of~~ the member's
19 contractual agreement or, if there is no contract or only partial
20 fulfillment of a contract, as determined by an employer. A member who
21 experiences a separation from service shall comply with the return-to-
22 work provisions of section 79-992 if the member returns to work for an
23 employer. shall not be deemed to have terminated employment if the member
24 subsequently provides service to an employer within one hundred eighty
25 days after ceasing employment unless such service is:

26 (i) ~~Bona fide unpaid voluntary service;~~

27 (ii) ~~Substitute service provided on an intermittent basis. For~~
28 ~~purposes of this subdivision, (A) intermittent basis means service~~
29 ~~provided on a day to day basis that is not greater than eight days of~~
30 ~~service during a calendar month and (B) day of service means any length~~
31 ~~of substitute service provided during a single calendar day; or~~

1 ~~(iii) Temporary service following a bona fide separation of service~~
2 ~~of not less than thirty calendar days and which is provided to accomplish~~
3 ~~a specific purpose or task for a limited period not to exceed one year.~~

4 (b) A member shall not be deemed to have incurred a termination of
5 ~~terminated~~ employment if the board determines that, based on the facts
6 and circumstances, (i) a claimed termination of employment was not a bona
7 fide separation from service with the employer; ~~or~~ (ii) a member was
8 compensated for a full contractual period when the member stopped working
9 ~~terminated~~ prior to the end date of the member's employment as determined
10 by the member's contract or labor agreement; or (iii) a member
11 prearranged a return to work that violates the Class V School Employees
12 Retirement Act.

13 (c) Nothing in this subdivision (42) precludes an employer from
14 adopting a policy which limits or denies employees who have experienced a
15 separation from service ~~terminated employment~~ from working as a volunteer
16 ~~providing voluntary~~ or substitute employee service within one hundred
17 eighty days after the employee experiences a separation from service
18 ~~termination~~;

19 (43) Transfer of management means the transition and transfer of the
20 general management, administration, and operation of the retirement
21 system from the board of trustees, board of education, and school
22 district to the retirement board as described in the Class V School
23 Employees Retirement Act. Transfer of management does not include:

24 (a) Transfer of the school district's funding obligations described
25 in the Class V School Employees Retirement Act or assumption of financial
26 liability for such funding obligations by (i) the State of Nebraska, (ii)
27 the retirement board, (iii) the Nebraska Public Employees Retirement
28 Systems, (iv) any other state entity with duties related to
29 administration of the retirement system, or (v) the council for its
30 investment duties regarding the assets of the retirement system; or

31 (b) Merger or consolidation of any Class V school employees

1 retirement system established under the Class V School Employees
2 Retirement Act with the School Employees Retirement System of the State
3 of Nebraska or any other retirement system administered by the retirement
4 board;

5 (44) Trustee means a trustee provided for in section 79-980; and

6 (45) Voluntary service or volunteer means providing bona fide unpaid
7 service to an employer.

8 Sec. 7. Section 79-992, Revised Statutes Cumulative Supplement,
9 2022, is amended to read:

10 79-992 (1) A member who has five years or more of creditable
11 service, excluding years of prior service acquired pursuant to section
12 79-990, 79-991, 79-994, 79-995, or 79-997, and who terminates his or her
13 employment may elect to leave his or her contributions in the retirement
14 system, in which event he or she shall receive a retirement allowance at
15 normal retirement age based on the annuity earned to the date of such
16 termination of employment. Such member may elect to receive a retirement
17 allowance at early retirement age if such member retires at an early
18 retirement date. Such annuity shall be adjusted in accordance with
19 section 79-9,100. Upon termination of employment, except on account of
20 retirement, a member shall be entitled to receive refunds as follows: (a)
21 An amount equal to the accumulated contributions to the retirement system
22 by the member; and (b) any contributions made to a previously existing
23 system which were refundable under the terms of that system. Any member
24 receiving a refund of contributions shall thereby forfeit and relinquish
25 all accrued rights in the retirement system including all accumulated
26 creditable service, except that if any member who has withdrawn his or
27 her contributions as provided in this section reenters the service of the
28 district and again becomes a member of the retirement system, he or she
29 may restore any or all money previously received by him or her as a
30 refund, including the interest on the amount of the restored refund for
31 the period of his or her absence from the district's service as

1 determined using the interest rate for interest on such restored refunds,
2 and he or she shall then again receive credit for that portion of service
3 which the restored money represents. Such restoration may be made as the
4 board may direct until September 1, 2024, and as the retirement board may
5 direct beginning September 1, 2024, through direct payments to the system
6 or on an installment basis pursuant to a binding irrevocable payroll
7 deduction authorized between the member and the school district over a
8 period of not to exceed five years from the date of reemployment.
9 Interest on delayed payments shall be at the rate of interest for
10 determining interest on delayed payments by members to the retirement
11 system. Creditable service may be purchased only in one-tenth-year
12 increments, starting with the most recent years' salary.

13 (2) Except as provided in section 79-992.01:

14 (a)(i) {a} A retired member, or a member described in subdivision
15 (2)(c) or (d) of this subsection, who returns to employment as or again
16 becomes an employee of the school district shall again participate in the
17 retirement system as a new member and shall make contributions to the
18 retirement system commencing upon reemployment as an employee.

19 (ii) The retirement annuity of a retired member who returns to
20 employment with the school district shall continue to be paid by the
21 retirement system. A retired member who returns to employment as an
22 employee of the school district shall receive creditable service only for
23 service performed after his or her return to employment and in no event
24 shall creditable service which accrues or the compensation paid to the
25 member after such return to employment after retirement increase the
26 amount of the member's original retirement annuity; and

27 (b) Upon termination of employment of the reemployed member, the
28 member shall receive in addition to the retirement annuity which
29 commenced at the time of the previous retirement (i) if the member has
30 accrued five years or more of creditable service after his or her return
31 to employment, excluding years of prior service acquired pursuant to

1 section 79-990, 79-991, 79-994, 79-995, or 79-997, a retirement annuity
2 as provided in section 79-999 or 79-9,100, as applicable, calculated
3 solely on the basis of creditable service and final average compensation
4 accrued and earned after the member's return to employment after his or
5 her original retirement, and as adjusted to reflect any payment in other
6 than the normal form or (ii) if the member has not accrued five years or
7 more of creditable service after his or her return to employment, a
8 refund equal to the member's accumulated contributions which were
9 credited to the member after the member's return to employment. In no
10 event shall the member's creditable service which accrued prior to a
11 previous retirement be considered as part of the member's creditable
12 service after his or her return to employment for any purpose of the
13 Class V School Employees Retirement Act; -

14 (c) A member who experiences a separation from service but has not
15 submitted a retirement application or request for distribution pursuant
16 to this section or as described in subdivision (32) of section 79-978, or
17 received a retirement benefit, disability retirement benefit, or refund
18 may return to work as a temporary employee, substitute employee, or
19 volunteer. Such a temporary employee, substitute employee, or volunteer:

20 (i) Shall be deemed to have incurred a termination of employment for
21 purposes of section 79-991;

22 (ii) Shall not be deemed to have incurred a termination of
23 employment for purposes of this section or sections 79-992.01, 79-9,105,
24 or 79-9,106, or for any other purposes under the Class V School Employees
25 Retirement Act, and shall not be eligible to receive a retirement
26 benefit, disability retirement benefit, or distribution pursuant to this
27 section, until the member incurs a termination of employment as described
28 in subdivision (42) of section 79-978; and

29 (iii) Except as provided in subdivision (2)(a)(i) of this section,
30 shall not be eligible to contribute to the retirement system pursuant to
31 section 79-9,113 or earn membership service credit in the retirement

1 system as described in subdivision (23) of section 79-978; and

2 (d)(i) A member who experiences a separation from service and has
3 submitted a retirement application or request for distribution pursuant
4 to this section or as described in subdivision (32) of section 79-978, or
5 received a retirement benefit, disability retirement benefit, or
6 distribution, shall not be deemed to have incurred a termination of
7 employment if the member subsequently returns to work for the district
8 within one hundred eighty days after separating from service, unless such
9 work is limited to:

10 (A) Bona fide unpaid voluntary service;

11 (B) Work performed as a substitute employee on an intermittent
12 basis; or

13 (C) Work as a temporary employee following a bona fide separation of
14 service of not less than thirty calendar days and which is provided to
15 accomplish a specific purpose or task for a limited period not to exceed
16 one year.

17 (ii) For purposes of subdivision (2)(d) of this section:

18 (A) Intermittent basis means work provided on a day-to-day basis
19 that is not greater than eight days of work during a calendar month; and

20 (B) Day of work means any length of work as a substitute employee
21 provided during a single calendar day.

22 (iii) The one-hundred-eighty-day period described in subdivision (d)
23 (i) of this section begins on the later of:

24 (A) The date the member experienced a bona fide separation from
25 service of all employment as an employee with the school district; or

26 (B) The date the board receives the member's retirement application
27 or request for distribution as described in subdivision (32) of section
28 79-978.

29 (iv) A member may seek a determination from the administrator that
30 it has been at least one hundred eighty days since the member satisfied
31 the requirements described in this subdivision (2)(d). The administrator

1 shall make such determination if the member produces clear and convincing
2 evidence that is received by the administrator within forty-five days
3 after the later of:

4 (A) The date the member experienced a bona fide separation of
5 service of all employment as an employee with the district; or

6 (B) The date the board receives the member's retirement application
7 or request for distribution as described in subdivision (32) of section
8 79-978.

9 (v) A member may appeal the administrator's determination to the
10 board within thirty days of the determination by the administrator. The
11 board's determination on appeal shall be final and shall not be
12 appealable to any court.

13 (3) In the event a member is entitled to receive a refund of
14 contributions pursuant to subsection (1) or subdivision (2)(b)(ii) of
15 this section in an amount greater than one thousand dollars, if the
16 member does not elect to have the refund paid directly to himself or
17 herself or transferred to an eligible retirement plan designated by the
18 member as a direct rollover pursuant to section 79-998, then the refund
19 of contributions shall be paid in a direct rollover to an individual
20 retirement plan as designated by the board until September 1, 2024, and
21 as designated by the retirement board beginning September 1, 2024.

22 Sec. 8. Original section 79-955, Reissue Revised Statutes of
23 Nebraska, and sections 79-901, 79-902, 79-920, 79-978, and 79-992,
24 Revised Statutes Cumulative Supplement, 2022, are repealed.

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