

AMENDMENTS TO LB278

Introduced by Nebraska Retirement Systems.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 23-2301, Revised Statutes Cumulative Supplement,
4 2016, is amended to read:

5 23-2301 For purposes of the County Employees Retirement Act, unless
6 the context otherwise requires:

7 (1) Actuarial equivalent means the equality in value of the
8 aggregate amounts expected to be received under different forms of an
9 annuity payment. The mortality assumption used for purposes of converting
10 the member cash balance account shall be the 1994 Group Annuity Mortality
11 Table using a unisex rate that is fifty percent male and fifty percent
12 female. For purposes of converting the member cash balance account
13 attributable to contributions made prior to January 1, 1984, that were
14 transferred pursuant to the act, the 1994 Group Annuity Mortality Table
15 for males shall be used;

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

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

1 (4) Cash balance benefit means a member's retirement benefit that is
2 equal to an amount based on annual employee contribution credits plus
3 interest credits and, if vested, employer contribution credits plus
4 interest credits and dividend amounts credited in accordance with
5 subdivision (4)(c) of section 23-2317;

6 (5)(a) Compensation means gross wages or salaries payable to the
7 member for personal services performed during the plan year. Compensation
8 does not include insurance premiums converted into cash payments,
9 reimbursement for expenses incurred, fringe benefits, per diems, or
10 bonuses for services not actually rendered, including, but not limited
11 to, early retirement inducements, cash awards, and severance pay, except
12 for retroactive salary payments paid pursuant to court order,
13 arbitration, or litigation and grievance settlements. Compensation
14 includes overtime pay, member retirement contributions, and amounts
15 contributed by the member to plans under sections 125, 403(b), and 457 of
16 the Internal Revenue Code or any other section of the code which defers
17 or excludes such amounts from income.

18 (b) Compensation in excess of the limitations set forth in section
19 401(a)(17) of the Internal Revenue Code shall be disregarded. For an
20 employee who was a member of the retirement system before the first plan
21 year beginning after December 31, 1995, the limitation on compensation
22 shall not be less than the amount which was allowed to be taken into
23 account under the retirement system as in effect on July 1, 1993;

24 (6) Date of adoption of the retirement system by each county means
25 the first day of the month next following the date of approval of the
26 retirement system by the county board or January 1, 1987, whichever is
27 earlier;

28 (7) Date of disability means the date on which a member is
29 determined by the board to be disabled;

30 (8) Defined contribution benefit means a member's retirement benefit
31 from a money purchase plan in which member benefits equal annual

1 contributions and earnings pursuant to section 23-2309 and, if vested,
2 employer contributions and earnings pursuant to section 23-2310;

3 (9) Disability means an inability to engage in any a substantially
4 gainful activity by reason of any medically determinable physical or
5 mental impairment which was initially diagnosed or became disabling while
6 the member was an active participant in the plan and which can be
7 expected to result in death or be of a long-continued ~~long~~ and indefinite
8 duration;

9 (10) Employee means all persons or officers who are employed by a
10 county of the State of Nebraska on a permanent basis, persons or officers
11 employed by or serving in a municipal county formed by at least one
12 county participating in the retirement system, persons employed as
13 provided in section 2-1608, all elected officers of a county, and such
14 other persons or officers as are classified from time to time as
15 permanent employees by the county board of the county by which they are
16 employed, except that employee does not include judges, employees or
17 officers of any county having a population in excess of two hundred fifty
18 thousand inhabitants as determined by the most recent federal decennial
19 census, or, except as provided in section 23-2306, persons making
20 contributions to the School Employees Retirement System of the State of
21 Nebraska;

22 (11) Employee contribution credit means an amount equal to the
23 member contribution amount required by section 23-2307;

24 (12) Employer contribution credit means an amount equal to the
25 employer contribution amount required by section 23-2308;

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

1 (14) Five-year break in service means a period of five consecutive
2 one-year breaks in service;

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

5 (16) Future service means service following the date of adoption of
6 the retirement system;

7 (17) Guaranteed investment contract means an investment contract or
8 account offering a return of principal invested plus interest at a
9 specified rate. For investments made after July 19, 1996, guaranteed
10 investment contract does not include direct obligations of the United
11 States or its instrumentalities, bonds, participation certificates or
12 other obligations of the Federal National Mortgage Association, the
13 Federal Home Loan Mortgage Corporation, or the Government National
14 Mortgage Association, or collateralized mortgage obligations and other
15 derivative securities. This subdivision shall not be construed to require
16 the liquidation of investment contracts or accounts entered into prior to
17 July 19, 1996;

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

23 (19) Interest credits means the amounts credited to the employee
24 cash balance account and the employer cash balance account at the end of
25 each day. Such interest credit for each account shall be determined by
26 applying the daily portion of the interest credit rate to the account
27 balance at the end of the previous day. Such interest credits shall
28 continue to be credited to the employee cash balance account and the
29 employer cash balance account after a member ceases to be an employee,
30 except that no such credit shall be made with respect to the employee
31 cash balance account and the employer cash balance account for any day

1 beginning on or after the member's date of final account value. If
2 benefits payable to the member's surviving spouse or beneficiary are
3 delayed after the member's death, interest credits shall continue to be
4 credited to the employee cash balance account and the employer cash
5 balance account until such surviving spouse or beneficiary commences
6 receipt of a distribution from the plan;

7 (20) Member cash balance account means an account equal to the sum
8 of the employee cash balance account and, if vested, the employer cash
9 balance account and dividend amounts credited in accordance with
10 subdivision (4)(c) of section 23-2317;

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

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

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

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

20 (25) Prior service means service prior to the date of adoption of
21 the retirement system;

22 (26) Regular interest means the rate of interest earned each
23 calendar year as determined by the retirement board in conformity with
24 actual and expected earnings on the investments through December 31,
25 1985;

26 (27) Required contribution means the deduction to be made from the
27 compensation of employees as provided in the act;

28 (28) Retirement means qualifying for and accepting the retirement
29 benefit granted under the act after terminating employment;

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

1 regular or disability retirement;

2 (30) Retirement board or board means the Public Employees Retirement
3 Board;

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

10 (32) Retirement system means the Retirement System for Nebraska
11 Counties;

12 (33) Service means the actual total length of employment as an
13 employee and is not deemed to be interrupted by (a) temporary or seasonal
14 suspension of service that does not terminate the employee's employment,
15 (b) leave of absence authorized by the employer for a period not
16 exceeding twelve months, (c) leave of absence because of disability, or
17 (d) military service, when properly authorized by the retirement board.
18 Service does not include any period of disability for which disability
19 retirement benefits are received under section 23-2315;

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

31 (35) Termination of employment occurs on the date on which a county

1 which is a member of the retirement system determines that its employer-
2 employee relationship with an employee is dissolved. The county shall
3 notify the board of the date on which such a termination has occurred.
4 Termination of employment does not occur if an employee whose employer-
5 employee relationship with a county is dissolved enters into an employer-
6 employee relationship with the same or another county which participates
7 in the Retirement System for Nebraska Counties and there are less than
8 one hundred twenty days between the date when the employee's employer-
9 employee relationship ceased with the county and the date when the
10 employer-employee relationship commenced with the same or another county
11 which qualifies the employee for participation in the plan. It is the
12 responsibility of the employer that is involved in the termination of
13 employment to notify the board of such change in employment and provide
14 the board with such information as the board deems necessary. If the
15 board determines that termination of employment has not occurred and a
16 retirement benefit has been paid to a member of the retirement system
17 pursuant to section 23-2319, the board shall require the member who has
18 received such benefit to repay the benefit to the retirement system; and

19 (36) Vesting credit means credit for years, or a fraction of a year,
20 of participation in another Nebraska governmental plan for purposes of
21 determining vesting of the employer account.

22 Sec. 2. Section 23-2315.01, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 23-2315.01 (1) Any member, disregarding the length of service, may
25 be retired as a result of disability either upon his or her own
26 application or upon the application of his or her employer or any person
27 acting in his or her behalf. Before any member may be so retired, a
28 medical examination shall be made at the expense of the retirement
29 system, which examination shall be conducted by a disinterested physician
30 legally authorized to practice medicine under the laws of the state in
31 which he or she practices, such physician to be selected by the

1 retirement board, and the physician shall certify to the board that the
2 member should be retired because he or she suffers from an inability to
3 engage in any a substantially gainful activity by reason of any medically
4 determinable physical or mental impairment ~~which began while the member~~
5 ~~was a participant in the plan and~~ which was initially diagnosed or became
6 disabling while the member was an active participant in the plan and
7 which can be expected to result in death or to be of long-continued and
8 indefinite duration. The medical examination may be waived if, in the
9 judgment of the retirement board, extraordinary circumstances exist which
10 preclude substantial gainful activity by the member. Such circumstances
11 shall include hospice placement or similar confinement for a terminal
12 illness or injury. The application for disability retirement shall be
13 made within one year of termination of employment.

14 (2) The retirement board may require any disability beneficiary who
15 has not attained the age of fifty-five years to undergo a medical
16 examination at the expense of the board once each year. Should any
17 disability beneficiary refuse to undergo such an examination, his or her
18 disability retirement benefit may be discontinued by the board.

19 (3) The retirement board may adopt and promulgate rules and
20 regulations and prescribe the necessary forms to carry out this section.

21 Sec. 3. Section 79-902, Revised Statutes Cumulative Supplement,
22 2016, is amended to read:

23 79-902 For purposes of the School Employees Retirement Act, unless
24 the context otherwise requires:

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

29 (2) Actuarial equivalent means the equality in value of the
30 aggregate amounts expected to be received under different forms of
31 payment. The determinations shall be based on the 1994 Group Annuity

1 Mortality Table reflecting sex-distinct factors blended using twenty-five
2 percent of the male table and seventy-five percent of the female table.
3 An interest rate of eight percent per annum shall be reflected in making
4 these determinations except when a lump-sum settlement is made to an
5 estate. If the lump-sum settlement is made to an estate, the interest
6 rate will be determined by the Moody's Triple A Bond Index as of the
7 prior June 30, rounded to the next lower quarter percent;

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

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

18 (b) Compensation does not include (i) fraudulently obtained amounts
19 as determined by the retirement board, (ii) amounts for unused sick leave
20 or unused vacation leave converted to cash payments, (iii) insurance
21 premiums converted into cash payments, (iv) reimbursement for expenses
22 incurred, (v) fringe benefits, (vi) per diems paid as expenses, (vii)
23 bonuses for services not actually rendered, including, but not limited
24 to, early retirement inducements, cash awards, and severance pay, or
25 (viii) beginning on September 4, 2005, employer contributions made for
26 the purposes of separation payments made at retirement and early
27 retirement inducements as provided for in section 79-514.

28 (c) Compensation in excess of the limitations set forth in section
29 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01
30 shall be disregarded. For an employee who was a member of the retirement
31 system before the first plan year beginning after December 31, 1995, the

1 limitation on compensation shall not be less than the amount which was
2 allowed to be taken into account under the retirement system as in effect
3 on July 1, 1993;

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

10 (6) Creditable service means prior service for which credit is
11 granted under sections 79-926 to 79-929, service credit purchased under
12 sections 79-933.03 to 79-933.06 and 79-933.08, and all service rendered
13 while a contributing member of the retirement system. Creditable service
14 includes working days, sick days, vacation days, holidays, and any other
15 leave days for which the employee is paid regular wages as part of the
16 employee's agreement with the employer. Creditable service does not
17 include lump-sum payments to the employee upon termination or retirement
18 in lieu of accrued benefits for such days, eligibility and vesting
19 credit, nor service years for which member contributions are withdrawn
20 and not repaid. Creditable service also does not include service rendered
21 by a member for which the retirement board determines that the member was
22 paid less in compensation than the minimum wage as provided in the Wage
23 and Hour Act or service which the board determines was rendered with the
24 intent to defraud the retirement system;

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

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

1 duration;

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

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

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

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

29 (13) Employer means the State of Nebraska or any subdivision thereof
30 or agency of the state or subdivision authorized by law to hire school
31 employees or to pay their compensation;

1 (14)(a) Final average compensation means:

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

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

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

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

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

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

17 (b) Payments under the Retirement Incentive Plan pursuant to section
18 79-855 and Staff Development Assistance pursuant to section 79-856 shall
19 not be included in the determination of final average compensation;

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

22 (16) Initial benefit means the retirement benefit calculated at the
23 time of retirement;

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

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

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

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

1 (21) Public school means any and all schools offering instruction in
2 elementary or high school grades, as defined in section 79-101, which
3 schools are supported by public funds and are wholly under the control
4 and management of the State of Nebraska or any subdivision thereof,
5 including (a) schools or other entities established, maintained, and
6 controlled by the school boards of local school districts, except Class V
7 school districts, (b) any educational service unit, and (c) any other
8 educational institution wholly supported by public funds, except schools
9 under the control and management of the Board of Trustees of the Nebraska
10 State Colleges, the Board of Regents of the University of Nebraska, or
11 the community college boards of governors for any community college
12 areas;

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

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

27 (24) Relinquished creditable service means, with respect to a member
28 who has withdrawn his or her accumulated contributions under section
29 79-955, the total amount of creditable service which such member has
30 given up as a result of his or her election not to remain a member of the
31 retirement system;

1 (25) Required deposit means the deduction from a member's
2 compensation as provided for in section 79-958 which shall be deposited
3 in the School Retirement Fund;

4 (26) Retirement means qualifying for and accepting a school or
5 disability retirement allowance granted under the School Employees
6 Retirement Act;

7 (27) Retirement application means the form approved and provided by
8 the retirement system for acceptance of a member's request for either
9 regular or disability retirement;

10 (28) Retirement board or board means the Public Employees Retirement
11 Board;

12 (29) Retirement date means (a) if the member has terminated
13 employment, the first day of the month following the date upon which a
14 member's request for retirement is received on a retirement application
15 provided by the retirement system or (b) if the member has filed a
16 retirement application but has not yet terminated employment, the first
17 day of the month following the date on which the member terminates
18 employment. An application may be filed no more than one hundred twenty
19 days prior to the effective date of the member's initial benefit;

20 (30) Retirement system means the School Employees Retirement System
21 of the State of Nebraska;

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

24 (32) School employee means a contributing member who earns service
25 credit pursuant to section 79-927. For purposes of this section,
26 contributing member means the following persons who receive compensation
27 from a public school: (a) Regular employees; (b) regular employees having
28 retired pursuant to the School Employees Retirement Act who subsequently
29 provide compensated service on a regular basis in any capacity; and (c)
30 regular employees hired by a public school on an ongoing basis to assume
31 the duties of other regular employees who are temporarily absent.

1 Substitute employees, temporary employees, and employees who have not
2 attained the age of eighteen years shall not be considered school
3 employees;

4 (33) School year means one fiscal year which includes not less than
5 one thousand instructional hours or, in the case of service in the State
6 of Nebraska prior to July 1, 1945, not less than seventy-five percent of
7 the then legal school year;

8 (34) School retirement allowance means the total of the savings
9 annuity and the service annuity or formula annuity paid a person who has
10 retired under sections 79-931 to 79-935. The monthly payments shall be
11 payable at the end of each calendar month during the life of a retired
12 member. The first payment shall include all amounts accrued since the
13 effective date of the award of annuity. The last payment shall be at the
14 end of the calendar month in which such member dies or in accordance with
15 the payment option chosen by the member;

16 (35) Service means employment as a school employee and shall not be
17 deemed interrupted by (a) termination at the end of the school year of
18 the contract of employment of an employee in a public school if the
19 employee enters into a contract of employment in any public school,
20 except a school in a Class V school district, for the following school
21 year, (b) temporary or seasonal suspension of service that does not
22 terminate the employee's employment, (c) leave of absence authorized by
23 the employer for a period not exceeding twelve months, (d) leave of
24 absence because of disability, or (e) military service when properly
25 authorized by the retirement board. Service does not include any period
26 of disability for which disability retirement benefits are received under
27 sections 79-951 to 79-953;

28 (36) Service annuity means payments for life, made in equal monthly
29 installments, derived from appropriations made by the State of Nebraska
30 to the retirement system;

31 (37) State deposit means the deposit by the state in the retirement

1 system on behalf of any member;

2 (38) State school official means the Commissioner of Education and
3 his or her professional staff who are required by law or by the State
4 Department of Education to hold a certificate as such term is defined in
5 section 79-807;

6 (39) Substitute employee means a person hired by a public school as
7 a temporary employee to assume the duties of regular employees due to a
8 temporary absence of any regular employees. Substitute employee does not
9 mean a person hired as a regular employee on an ongoing basis to assume
10 the duties of other regular employees who are temporarily absent;

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

22 (41) Temporary employee means an employee hired by a public school
23 who is not a regular employee and who is hired to provide service for a
24 limited period of time to accomplish a specific purpose or task. When
25 such specific purpose or task is complete, the employment of such
26 temporary employee shall terminate and in no case shall the temporary
27 employment period exceed one year in duration; and

28 (42) Termination of employment occurs on the date on which the
29 member experiences a bona fide separation from service of employment with
30 the member's employer, the date of which separation is determined by the
31 end of the member's contractual agreement or, if there is no contract or

1 only partial fulfillment of a contract, by the employer. A member shall
2 not be deemed to have terminated employment if the member subsequently
3 provides service to any employer participating in the retirement system
4 provided for in the School Employees Retirement Act within one hundred
5 eighty days after ceasing employment unless such service:

6 (a) Is bona fide unpaid voluntary service or substitute service,
7 provided on an intermittent basis; or

8 (b) Is as provided in subsection (2) of section 79-920.

9 Nothing in this subdivision precludes an employer from adopting a
10 policy which limits or denies employees who have terminated employment
11 from providing voluntary or substitute service within one hundred eighty
12 days after termination.

13 A member shall not be deemed to have terminated employment if the
14 board determines that a claimed termination was not a bona fide
15 separation from service with the employer or that a member was
16 compensated for a full contractual period when the member terminated
17 prior to the end date of the contract.

18 Sec. 4. Section 79-951, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 79-951 (1) Any member, disregarding the length of service, may be
21 retired as a result of disability either upon his or her own application
22 or upon the application of his or her employer or any person acting in
23 his or her behalf. Before any member may be so retired, a medical
24 examination shall be made at the expense of the retirement system, which
25 examination shall be conducted by a disinterested physician legally
26 authorized to practice medicine under the laws of the state in which he
27 or she practices, such physician to be selected by the retirement board,
28 and the physician shall certify to the board that the member should be
29 retired because he or she suffers from an inability to engage in any
30 substantially gainful activity by reason of any medically determinable
31 physical or mental impairment which was initially diagnosed or became

1 disabling while the member was an active participant in the plan and
2 which can be expected to result in death or to be of long-continued and
3 indefinite duration. The medical examination may be waived if, in the
4 judgment of the retirement board, extraordinary circumstances exist which
5 preclude substantial gainful activity by the member. Such circumstances
6 shall include hospice placement or similar confinement for a terminal
7 illness or injury. The application for disability retirement shall be
8 made within one year of termination of employment A member shall be
9 retired on account of disability, either upon his or her own application
10 or the application of his or her employer or a person acting in his or
11 her behalf, if a medical examination, made at the expense of the
12 retirement system and conducted by a competent disinterested physician
13 legally authorized to practice medicine under the laws of the state in
14 which he or she practices, selected by the retirement board, shows and
15 the physician certifies to the retirement board that the member is unable
16 to engage in a substantially gainful activity by reason of any medically
17 determinable physical or mental impairment which began while the member
18 was a participant in the plan and which can be expected to result in
19 death or be of a long and indefinite duration. The medical examination
20 may be waived if, in the judgment of the retirement board, extraordinary
21 circumstances exist which preclude substantial gainful activity by the
22 member. Such circumstances shall include hospice placement or similar
23 confinement for a terminal illness or injury.

24 (2) The member shall have five years from the date he or she
25 terminates employment in a public school located in Nebraska in which to
26 make application for disability retirement benefits if the disability is
27 related to employment in a public school located in Nebraska. If the
28 disability is not related to a public school located in Nebraska, the
29 member shall have one year from the date he or she terminates employment
30 in which to make application for disability retirement benefits. Any
31 application for retirement on account of disability shall be made on a

1 ~~retirement application provided by the retirement system. Upon approval~~
2 ~~by the board, benefits shall begin on the disability retirement date.~~

3 (2) The retirement board may adopt and promulgate rules and
4 regulations and prescribe the necessary forms to carry out this section.

5 Sec. 5. Section 79-954, Revised Statutes Cumulative Supplement,
6 2016, is amended to read:

7 79-954 If a disability beneficiary under the age of sixty-five years
8 is restored to active service as a school employee or if the examining
9 physician certifies that the person is no longer disabled for service as
10 a school employee, the ~~school~~ or disability retirement allowance shall
11 cease. If the beneficiary again becomes a school employee, he or she
12 shall become a member of the retirement system. Any prior service
13 certificate, on the basis of which his or her creditable service was
14 computed at the time of his or her retirement for disability, shall be
15 restored to full force and effect upon his or her again becoming a member
16 of such retirement system.

17 Sec. 6. Section 84-1301, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 84-1301 For purposes of the State Employees Retirement Act, unless
20 the context otherwise requires:

21 (1) Actuarial equivalent means the equality in value of the
22 aggregate amounts expected to be received under different forms of an
23 annuity payment. The mortality assumption used for purposes of converting
24 the member cash balance account shall be the 1994 Group Annuity Mortality
25 Table using a unisex rate that is fifty percent male and fifty percent
26 female. For purposes of converting the member cash balance account
27 attributable to contributions made prior to January 1, 1984, that were
28 transferred pursuant to the act, the 1994 Group Annuity Mortality Table
29 for males shall be used;

30 (2) Annuity means equal monthly payments provided by the retirement
31 system to a member or beneficiary under forms determined by the board

1 beginning the first day of the month after an annuity election is
2 received in the office of the Nebraska Public Employees Retirement
3 Systems or the first day of the month after the employee's termination of
4 employment, whichever is later. The last payment shall be at the end of
5 the calendar month in which the member dies or in accordance with the
6 payment option chosen by the member;

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

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

16 (5)(a) Compensation means gross wages or salaries payable to the
17 member for personal services performed during the plan year. Compensation
18 does not include insurance premiums converted into cash payments,
19 reimbursement for expenses incurred, fringe benefits, per diems, or
20 bonuses for services not actually rendered, including, but not limited
21 to, early retirement inducements, cash awards, and severance pay, except
22 for retroactive salary payments paid pursuant to court order,
23 arbitration, or litigation and grievance settlements. Compensation
24 includes overtime pay, member retirement contributions, and amounts
25 contributed by the member to plans under sections 125, 403(b), and 457 of
26 the Internal Revenue Code or any other section of the code which defers
27 or excludes such amounts from income.

28 (b) Compensation in excess of the limitations set forth in section
29 401(a)(17) of the Internal Revenue Code shall be disregarded. For an
30 employee who was a member of the retirement system before the first plan
31 year beginning after December 31, 1995, the limitation on compensation

1 shall not be less than the amount which was allowed to be taken into
2 account under the retirement system as in effect on July 1, 1993;

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

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

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

15 (9) Employee means any employee of the State Board of Agriculture
16 who is a member of the state retirement system on July 1, 1982, and any
17 person or officer employed by the State of Nebraska whose compensation is
18 paid out of state funds or funds controlled or administered by a state
19 department through any of its executive or administrative officers when
20 acting exclusively in their respective official, executive, or
21 administrative capacities. Employee does not include (a) judges as
22 defined in section 24-701, (b) members of the Nebraska State Patrol,
23 except for those members of the Nebraska State Patrol who elected
24 pursuant to section 60-1304 to remain members of the State Employees
25 Retirement System of the State of Nebraska, (c) employees of the
26 University of Nebraska, (d) employees of the state colleges, (e)
27 employees of community colleges, (f) employees of the Department of Labor
28 employed prior to July 1, 1984, and paid from funds provided pursuant to
29 Title III of the federal Social Security Act or funds from other federal
30 sources, except that if the contributory retirement plan or contract let
31 pursuant to section 48-609 is terminated, such employees shall become

1 employees for purposes of the State Employees Retirement Act on the first
2 day of the first pay period following the termination of such
3 contributory retirement plan or contract, (g) employees of the State
4 Board of Agriculture who are not members of the state retirement system
5 on July 1, 1982, (h) the Nebraska National Guard air and army
6 technicians, (i) persons eligible for membership under the School
7 Employees Retirement System of the State of Nebraska who have not elected
8 to become members of the retirement system pursuant to section 79-920 or
9 been made members of the system pursuant to such section, except that
10 those persons so eligible and who as of September 2, 1973, are
11 contributing to the State Employees Retirement System of the State of
12 Nebraska shall continue as members of such system, or (j) employees of
13 the Coordinating Commission for Postsecondary Education who are eligible
14 for and have elected to become members of a qualified retirement program
15 approved by the commission which is commensurate with retirement programs
16 at the University of Nebraska. Any individual appointed by the Governor
17 may elect not to become a member of the State Employees Retirement System
18 of the State of Nebraska;

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

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

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

29 (13) Five-year break in service means five consecutive one-year
30 breaks in service;

31 (14) Full-time employee means an employee who is employed to work

1 one-half or more of the regularly scheduled hours during each pay period;

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

4 (16) Guaranteed investment contract means an investment contract or
5 account offering a return of principal invested plus interest at a
6 specified rate. For investments made after July 19, 1996, guaranteed
7 investment contract does not include direct obligations of the United
8 States or its instrumentalities, bonds, participation certificates or
9 other obligations of the Federal National Mortgage Association, the
10 Federal Home Loan Mortgage Corporation, or the Government National
11 Mortgage Association, or collateralized mortgage obligations and other
12 derivative securities. This subdivision shall not be construed to require
13 the liquidation of investment contracts or accounts entered into prior to
14 July 19, 1996;

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

20 (18) Interest credits means the amounts credited to the employee
21 cash balance account and the employer cash balance account at the end of
22 each day. Such interest credit for each account shall be determined by
23 applying the daily portion of the interest credit rate to the account
24 balance at the end of the previous day. Such interest credits shall
25 continue to be credited to the employee cash balance account and the
26 employer cash balance account after a member ceases to be an employee,
27 except that no such credit shall be made with respect to the employee
28 cash balance account and the employer cash balance account for any day
29 beginning on or after the member's date of final account value. If
30 benefits payable to the member's surviving spouse or beneficiary are
31 delayed after the member's death, interest credits shall continue to be

1 credited to the employee cash balance account and the employer cash
2 balance account until such surviving spouse or beneficiary commences
3 receipt of a distribution from the plan;

4 (19) Member cash balance account means an account equal to the sum
5 of the employee cash balance account and, if vested, the employer cash
6 balance account and dividend amounts credited in accordance with
7 subdivision (4)(c) of section 84-1319;

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

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

12 (22) Part-time employee means an employee who is employed to work
13 less than one-half of the regularly scheduled hours during each pay
14 period;

15 (23) Plan year means the twelve-month period beginning on January 1
16 and ending on December 31;

17 (24) Prior service means service before January 1, 1964;

18 (25) Regular interest means the rate of interest earned each
19 calendar year commencing January 1, 1975, as determined by the retirement
20 board in conformity with actual and expected earnings on the investments
21 through December 31, 1984;

22 (26) Required contribution means the deduction to be made from the
23 compensation of employees as provided in section 84-1308;

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

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

30 (29) Retirement board or board means the Public Employees Retirement
31 Board;

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

7 (31) Retirement system means the State Employees Retirement System
8 of the State of Nebraska;

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

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

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

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

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

23 Sec. 7. Section 84-1323.01, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 84-1323.01 (1) Any member who is an employee, disregarding the
26 length of service, may be retired as a result of disability either upon
27 the member's own application or upon the application of the member's
28 employer or any person acting in the member's behalf. Before any member
29 may be so retired, a medical examination shall be made at the expense of
30 the retirement system, which examination shall be conducted by a
31 disinterested physician legally authorized to practice medicine under the

1 laws of the state in which he or she practices, such physician to be
2 selected by the retirement board, and the physician shall certify to the
3 board that the member suffers from an inability to engage in any a
4 substantially gainful activity by reason of any medically determinable
5 physical or mental impairment which was initially diagnosed or became
6 disabling ~~began~~ while the member was an active a participant in the plan
7 and which can be expected to result in death or to be of long-continued
8 and indefinite duration. The medical examination may be waived if, in the
9 judgment of the retirement board, extraordinary circumstances exist which
10 preclude substantial gainful activity by the member. Such circumstances
11 shall include hospice placement or similar confinement for a terminal
12 illness or injury and should be retired. The application for disability
13 retirement shall be made within one year of termination of employment.

14 (2) The retirement board may require any disability beneficiary who
15 has not attained the age of fifty-five years to undergo a medical
16 examination at the expense of the board once each year. If any disability
17 beneficiary refuses to undergo such an examination, the disability
18 retirement benefit may be discontinued by the board.

19 (3) The retirement board may adopt and promulgate rules and
20 regulations and prescribe the necessary forms to carry out this section.

21 Sec. 8. Original sections 23-2315.01, 79-951, 84-1301, and
22 84-1323.01, Reissue Revised Statutes of Nebraska, and sections 23-2301,
23 79-902, and 79-954, Revised Statutes Cumulative Supplement, 2016, are
24 repealed.