

ENGROSSED LEGISLATIVE BILL 824

Introduced by Lonowski, 33; Conrad, 46; DeBoer, 10; Hardin, 48; Juarez, 5; Lippincott, 34; McKeon, 41; Murman, 38; Storer, 43.

A BILL FOR AN ACT relating to retirement; to amend sections 79-920, 79-930, and 79-992, Reissue Revised Statutes of Nebraska, and sections 79-902 and 79-978, Revised Statutes Supplement, 2025; to redefine termination of employment and termination; to change provisions relating to termination of employment under the School Employees Retirement Act and the Class V School Employees Retirement Act; to provide an operative date; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 79-902, Revised Statutes Supplement, 2025, is amended to read:

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

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

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

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

(c) For a school employee hired on or after July 1, 2017, or rehired on or after July 1, 2017, after termination of employment and being paid a retirement benefit or taking a refund of contributions, the determinations shall be based

on a unisex mortality table and an interest rate specified by the board. Both the mortality table and the interest rate shall be recommended by the actuary and approved by the retirement board following an actuarial experience study, a benefit adequacy study, or a plan valuation. The mortality table, interest rate, and actuarial factors in effect on the school employee's retirement date will be used to calculate actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate.

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

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

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

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

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

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

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

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

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

(8) Disability means an inability to engage in any substantially gainful

activity by reason of any medically determinable physical or mental impairment which was initially diagnosed or became disabling while the member was an active participant in the plan and which can be expected to result in death or be of a long-continued and indefinite duration;

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

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

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

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

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

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

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

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

(f) Any other form of separation payments made by an employer to a member at termination, including, but not limited to, purchasing retirement annuity contracts for the member pursuant to section 79-514, depositing money for the member in an account established under section 403(b) of the Internal Revenue

Code except for payments for accrued unused leave, or purchasing service credit for the member pursuant to section 79-933.08;

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

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

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

(15)(a) Final average compensation means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

public funds, except schools under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or the community college boards of governors for any community college areas;

(24) Regular employee means an employee hired by a public school or under contract in a regular full-time or part-time position who works a full-time or part-time schedule on an ongoing basis for twenty or more hours per week. An employee hired as described in this subdivision to provide service for less than twenty hours per week but who provides service for an average of twenty hours or more per week in each calendar month of any three calendar months of a plan year shall, beginning with the next full payroll period, commence contributions and shall be deemed a regular employee for all future employment with the same employer. The twenty-hour-per-week threshold shall be calculated by dividing the total number of hours of service provided for the same employer in a calendar month by the total number of calendar days in the month, and multiplying such number by seven;

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

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

(27) Required beginning date means, for purposes of the deferral of distributions and the commencement of mandatory distributions pursuant to section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder, April 1 of the year following the calendar year in which a member:

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

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

(B) Attained at least seventy-two years of age for a member who attained seventy and one-half years of age on or after January 1, 2020, and prior to January 1, 2023;

(C) Attained at least seventy-three years of age for a member who attained seventy-two years of age after December 31, 2022, and seventy-three years of age prior to January 1, 2033; or

(D) Attained at least seventy-five years of age for a member who attained seventy-four years of age after December 31, 2032; or

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

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

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

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

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

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

(32) Retirement date means (a) if the member has terminated employment, the first day of the month following the date upon which a member's request for retirement is received on a retirement application provided by the retirement system or (b) if the member has filed a retirement application but has not yet terminated employment, the first day of the month following the date on which the member terminates employment. An application may be filed no more than two hundred seventy days prior to the effective date of the member's initial

benefit;

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

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

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

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

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

(38) Service means employment as a school employee and shall not be deemed interrupted by (a) termination at the end of the school year of the contract of employment of an employee in a public school if the employee enters into a contract of employment in any public school, except a school in a Class V school district, for the following school year, (b) temporary or seasonal

suspension of service that does not terminate the employee's employment, (c) leave of absence authorized by the employer for a period not exceeding twelve months, (d) leave of absence because of disability, or (e) military service when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under sections 79-951 to 79-953;

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

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

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

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

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

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

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

(45)(a) Termination of employment or termination means the date the member experiences a bona fide separation from service with the member's employer. The date of the separation is the end of the member's contractual agreement or, if there is no contract or only partial fulfillment of a contract, as determined by the employer.

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

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

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

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

(c) A member who experiences a separation from service must comply with the return-to-work provisions of section 79-930 if the member is subsequently employed by an employer participating in the retirement system; and

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

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

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

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

(b) Eligible school plan state employee means an individual who satisfies all school plan eligibility criteria and who is (i) an individual employed by the State Department of Education after July 1, 1989, as a state school

official, (ii) an individual who is employed by any state agency in a position covered by the association and who is required to hold a certificate as defined in section 79-807 for the position in which such individual is employed, or (iii) an individual who is employed by any state agency not in a position covered by the association who is required to hold a certificate as defined in section 79-807 for the position in which such individual is employed;

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

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

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

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

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

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

(b) An individual who is required to participate in the school plan pursuant to subdivision (2)(a) of this section shall not be deemed to have terminated employment for school plan purposes if such individual subsequently provides service to any employer participating in the school plan, including any school district or educational service unit, or any state agency school plan employer, within one hundred twenty days after ceasing employment.

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

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

(i) The individual has never previously participated in the school plan

while employed as an eligible school plan state employee with a state agency school plan employer;

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

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

(b) An individual who is required to participate in the state plan pursuant to subdivision (3)(a) of this section shall not be deemed to have terminated employment for state plan purposes if such individual subsequently provides service to any employer participating in the state plan, including any state agency school plan employer or an agency of the State of Nebraska, within one hundred twenty days after ceasing employment. No such individual shall be permitted to work as a volunteer or substitute employee to any employer participating in the school plan for at least one hundred twenty days after ceasing employment.

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

(a) A school district or an educational service unit participating in the school plan or a state agency school plan employer within one hundred twenty days after terminating employment; or

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

Sec. 3. Section 79-930, Reissue Revised Statutes of Nebraska, is amended to read:

79-930 (1)(a) A member who experiences a separation from service with the member's employer but has not submitted a retirement application or a request

for distribution pursuant to section 79-955, or received a retirement benefit, disability retirement benefit, or distribution pursuant to section 79-955, from the retirement system, may return to work as a temporary employee, substitute employee, or volunteer for any employer participating in the retirement system.

Such an employee:

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

(ii) Shall not be deemed to have incurred a termination for purposes of sections 79-933, 79-951, and 79-955, and shall not be eligible to receive a retirement benefit, disability retirement benefit, or distribution pursuant to section 79-955, from the retirement system, until the member incurs a termination of employment as described in subdivision (45) of section 79-902; and

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

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

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

(c) Work performed while the member is not contributing to the retirement system pursuant to subdivision (1)(a) of this section shall not accrue service credit in the retirement system pursuant to section 79-927 and cannot be

purchased as service credit under sections 79-933.03 to 79-933.06 and 79-933.08.

(2)(a) A member who experiences a separation from service with the member's employer and has submitted a retirement application or a request for distribution pursuant to section 79-955, or received a retirement benefit, disability retirement benefit, or distribution pursuant to section 79-955, from the retirement system, shall not be deemed to have incurred a termination of employment if the member subsequently returns to work for any employer participating in the retirement system within one hundred twenty days after separating from service.

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

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

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

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

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

(B) The date the member's retirement application or request for distribution pursuant to section 79-955 is received by the Nebraska Public Employees Retirement Systems.

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

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

Sec. 4. Section 79-978, Revised Statutes Supplement, 2025, is amended to read:

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

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

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

(3) Actuarial tables means:

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

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

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

(b) For joint and survivorship annuities:

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

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

(4) Administrator of the retirement system or administrator means (a) until September 1, 2024, the person administering the retirement system who is appointed by the board or (b) beginning on September 1, 2024, the director appointed by the retirement board pursuant to section 84-1503;

(5) Annuitant means any member receiving an allowance;

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

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

retirement system;

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

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

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

(11) Board of trustees means:

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

(b) Beginning September 1, 2024, the board of education shall be deemed to be the successor in interest for all liability associated with the actions or inactions of the entity identified under subdivision (11)(a) of this section and as specified in the Class V School Employees Retirement Act;

(12)(a) Compensation means gross wages or salaries payable to the member during a fiscal year and includes (i) overtime pay, (ii) member contributions to the retirement system that are picked up under section 414(h) of the Internal Revenue Code, as defined in section 49-801.01, (iii) retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements, and (iv) amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code, as defined in section 49-801.01, or any other section of the code which defers or excludes such amounts from income.

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

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

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

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

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

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

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

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

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

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

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

(f) Any other form of separation payments made by an employer to a member at termination, including, but not limited to, purchasing retirement contracts

for the member pursuant to section 79-514, or depositing money for the member in an account established under section 403(b) of the Internal Revenue Code except for payments for accrued unused leave;

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

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

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

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

(21) Interest means, for the purchase of service credit, the purchase of prior service credit, restored refunds, and delayed payments, the investment return assumption used in the most recent actuarial valuation;

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

(23) Membership service means service on or after September 1, 1951, as an employee of the school district and a member of the system for which compensation is paid by the school district. Credit for more than one year of membership service shall not be allowed for service rendered in any fiscal year. Beginning September 1, 2005, a member shall be credited with a year of membership service for each fiscal year in which the member performs one thousand or more hours of compensated service as an employee of the school district. For an employee who becomes a member prior to July 1, 2018, an hour of compensated service shall include any hour for which the member is compensated by the school district during periods when no service is performed due to vacation or approved leave. For an employee who becomes a member on or after July 1, 2018, an hour of compensated service shall include any hour for

which the member is compensated by the school district during periods when no service is performed due to used accrued sick days, used accrued vacation days, federal and state holidays, and jury duty leave for which the member is paid full compensation by an employer. If a member performs less than one thousand hours of compensated service during a fiscal year, one-tenth of a year of membership service shall be credited for each one hundred hours of compensated service by the member in such fiscal year. In determining a member's total membership service, all periods of membership service, including fractional years of membership service in one-tenth-year increments, shall be aggregated;

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

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

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

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

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

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

(b) Effective September 1, 2021, a person hired by an employer or under contract to provide service for less than thirty hours per week but who provides service for an average of thirty hours or more per week in each calendar month of any three calendar months of a fiscal year shall, beginning with the next full payroll period:

(i) Commence contributions;

(ii) Be deemed a regular employee; and

(iii) Remain a deemed regular employee regardless of hours worked thereafter;

(30) Regular interest means interest (a) on the total contributions of the member prior to the close of the last preceding fiscal year, (b) compounded annually, and (c)(i) beginning September 1, 2016, at a rate equal to the daily treasury yield curve for one-year treasury securities, as published by the Secretary of the Treasury of the United States, that applies on September 1 of each year and (ii) prior to September 1, 2016, at rates to be determined annually by the board, which shall have the sole, absolute, and final discretionary authority to make such determination, except that the rate for any given year in no event shall exceed the actual percentage of net earnings of the system during the last preceding fiscal year;

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

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

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

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

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

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

(37) Secondary beneficiary means the person or persons entitled to receive

or receiving a benefit by reason of the death of all primary beneficiaries prior to the death of the member. If no primary beneficiary survives the member, secondary beneficiaries shall be treated in the same manner as primary beneficiaries;

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

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

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

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

(42)(a) Termination of employment or termination means the date the member experiences a bona fide separation from service of employment with the member's employer, the date of which separation is the last day of service under the member's contractual agreement or, if there is no contract or only partial fulfillment of a contract, as determined by an employer. A member who experiences a separation from service shall comply with the return-to-work provisions of section 79-992 if the member returns to work for an employer.

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

(i) a claimed termination of employment was not a bona fide separation from service with the employer; (ii) a member was compensated for a full contractual period when the member stopped working prior to the end date of the member's employment as determined by the member's contract or labor agreement; or (iii) a member prearranged a return to work that violates the Class V School Employees Retirement Act;

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

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

(b) Merger or consolidation of any Class V school employees retirement system established under the Class V School Employees Retirement Act with the School Employees Retirement System of the State of Nebraska or any other retirement system administered by the retirement board;

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

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

Sec. 5. Section 79-992, Reissue Revised Statutes of Nebraska, is amended to read:

79-992 (1) A member who has five years or more of creditable service, excluding years of prior service acquired pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, and who terminates his or her employment may elect to leave his or her contributions in the retirement system, in which event he

or she shall receive a retirement allowance at normal retirement age based on the annuity earned to the date of such termination of employment. Such member may elect to receive a retirement allowance at early retirement age if such member retires at an early retirement date. Such annuity shall be adjusted in accordance with section 79-9,100. Upon termination of employment, except on account of retirement, a member shall be entitled to receive refunds as follows: (a) An amount equal to the accumulated contributions to the retirement system by the member; and (b) any contributions made to a previously existing system which were refundable under the terms of that system. Any member receiving a refund of contributions shall thereby forfeit and relinquish all accrued rights in the retirement system including all accumulated creditable service, except that if any member who has withdrawn his or her contributions as provided in this section reenters the service of the district and again becomes a member of the retirement system, he or she may restore any or all money previously received by him or her as a refund, including the interest on the amount of the restored refund for the period of his or her absence from the district's service as determined using the interest rate for interest on such restored refunds, and he or she shall then again receive credit for that portion of service which the restored money represents. Such restoration may be made as the board may direct until September 1, 2024, and as the retirement board may direct beginning September 1, 2024, through direct payments to the system or on an installment basis pursuant to a binding irrevocable payroll deduction authorized between the member and the school district over a period of not to exceed five years from the date of reemployment. Interest on delayed payments shall be at the rate of interest for determining interest on delayed payments by members to the retirement system. Creditable service may be purchased only in one-tenth-year increments, starting with the most recent years' salary.

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

(a)(i) A retired member, or a member described in subdivision (2)(c) or (d) of this subsection, who returns to employment as or again becomes an

employee of the school district shall again participate in the retirement system as a new member and shall make contributions to the retirement system commencing upon reemployment as an employee.

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

(b) Upon termination of employment of the reemployed member, the member shall receive in addition to the retirement annuity which commenced at the time of the previous retirement (i) if the member has accrued five years or more of creditable service after his or her return to employment, excluding years of prior service acquired pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, a retirement annuity as provided in section 79-999 or 79-9,100, as applicable, calculated solely on the basis of creditable service and final average compensation accrued and earned after the member's return to employment after his or her original retirement, and as adjusted to reflect any payment in other than the normal form or (ii) if the member has not accrued five years or more of creditable service after his or her return to employment, a refund equal to the member's accumulated contributions which were credited to the member after the member's return to employment. In no event shall the member's creditable service which accrued prior to a previous retirement be considered as part of the member's creditable service after his or her return to employment for any purpose of the Class V School Employees Retirement Act;

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

employee, substitute employee, or volunteer:

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

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

(iii) Except as provided in subdivision (2)(a)(i) of this section, shall not be eligible to contribute to the retirement system pursuant to section 79-9,113 or earn membership service credit in the retirement system as described in subdivision (23) of section 79-978; and

(d)(i) A member who experiences a separation from service and has submitted a retirement application or request for distribution pursuant to this section or as described in subdivision (32) of section 79-978, or received a retirement benefit, disability retirement benefit, or distribution, shall not be deemed to have incurred a termination of employment if the member subsequently returns to work for the district within one hundred twenty days after separating from service.

(ii) The one-hundred-twenty-day period described in subdivision (2)(d)(i) of this section begins on the later of:

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

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

(iii) A member may seek a determination from the administrator that it has been at least one hundred twenty days since the member satisfied the requirements described in this subdivision (2)(d). The administrator shall make such determination if the member produces clear and convincing evidence that is received by the administrator within forty-five days after the later of:

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

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

(iv) A member may appeal the administrator's determination to the board within thirty days after the determination by the administrator. The board's determination on appeal shall be final and shall not be appealable to any court.

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

Sec. 6. This act becomes operative on May 1, 2026.

Sec. 7. Original sections 79-920, 79-930, and 79-992, Reissue Revised Statutes of Nebraska, and sections 79-902 and 79-978, Revised Statutes Supplement, 2025, are repealed.

Sec. 8. Since an emergency exists, this act takes effect when passed and approved according to law.

PRESIDENT OF THE LEGISLATURE

THIS IS TO CERTIFY that the within LB 824 was passed by the One Hundred Ninth Legislature of Nebraska at its Second Session on the day of 20.....

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR