

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 34

FINAL READING

Introduced by Kolterman, 24.

Read first time January 10, 2019

Committee: Nebraska Retirement Systems

1 A BILL FOR AN ACT relating to retirement; to amend sections 23-2320,
2 23-2321, 23-2331, 79-901, 79-927, 79-956, 79-971, 79-9,106,
3 84-1321.01, 84-1322, 84-1323, and 84-1331, Reissue Revised Statutes
4 of Nebraska, and sections 23-2306, 23-2308.01, 23-2317, 23-2319.01,
5 79-902, 79-921, 79-934, 79-978.01, 79-9,100, 84-1307, 84-1309.02,
6 84-1319, and 84-1503, Revised Statutes Cumulative Supplement, 2018;
7 to eliminate provisions relating to benefits payable after the
8 filing of a grievance or appeal and change provisions relating to
9 reemployment, reinstatement, repayment, and age eligibility
10 regarding certain retirement system members under the County
11 Employees Retirement Act and State Employees Retirement Act; to
12 redefine creditable service for certain member employees, change a
13 deadline for payment for restoration of relinquished creditable
14 service, and change provisions relating to required forms of payment
15 and service credit computation under the School Employees Retirement
16 Act; to change provisions relating to a designated beneficiary
17 determination under the Retirement System for Nebraska Counties, the
18 School Employees Retirement System of the State of Nebraska, any
19 school employees retirement system established under the Class V
20 School Employees Retirement Act, and the State Employees Retirement
21 System of the State of Nebraska; to provide a duty for the Public
22 Employees Retirement Board as prescribed; to harmonize provisions;

1 to provide severability; to repeal the original sections; and to
2 declare an emergency.
3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-2306, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 23-2306 (1) The membership of the retirement system shall be
4 composed of all persons who are or were employed by member counties and
5 who maintain an account balance with the retirement system.

6 (2) The following employees of member counties are authorized to
7 participate in the retirement system: (a) All permanent full-time
8 employees who have attained the age of eighteen years shall begin
9 participation in the retirement system upon employment and full-time
10 elected officials shall begin participation in the retirement system upon
11 taking office, (b) all permanent part-time employees who have attained
12 the age of eighteen years may exercise the option to begin participation
13 in the retirement system within the first thirty days of employment, and
14 (c) all part-time elected officials may exercise the option to begin
15 participation in the retirement system within thirty days after taking
16 office. An employee who exercises the option to begin participation in
17 the retirement system shall remain in the system until termination or
18 retirement, regardless of any change of status as a permanent or
19 temporary employee.

20 (3) On and after July 1, 2010, no employee of a member county shall
21 be authorized to participate in the retirement system provided for in the
22 County Employees Retirement Act unless the employee (a) is a United
23 States citizen or (b) is a qualified alien under the federal Immigration
24 and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on
25 January 1, 2009, and is lawfully present in the United States.

26 (4)(a) The board may determine that a governmental entity currently
27 participating in the retirement system no longer qualifies, in whole or
28 in part, under section 414(d) of the Internal Revenue Code as a
29 participating employer in a governmental plan.

30 (b)(i) To aid governmental entities in their business decisionmaking
31 process, any governmental entity currently participating in the

1 retirement system contemplating a business transaction that may result in
2 such entity no longer qualifying, in whole or in part, under section
3 414(d) of the Internal Revenue Code may notify the board in writing as
4 soon as reasonably practicable, but no later than one hundred eighty days
5 before the transaction is to occur.

6 (ii) The board when timely notified shall, as soon as is reasonably
7 practicable, obtain from its contracted actuary the cost of any actuarial
8 study necessary to determine the potential funding obligation. The board
9 shall notify the entity of such cost.

10 (iii) If such entity pays the board's contracted actuary pursuant to
11 subdivision (4)(c)(vi) of this section for any actuarial study necessary
12 to determine the potential funding obligation, the board shall, as soon
13 as reasonably practicable following its receipt of the actuarial study,
14 (A) determine whether the entity's contemplated business transaction will
15 cause the entity to no longer qualify under section 414(d) of the
16 Internal Revenue Code, (B) determine whether the contemplated business
17 transaction constitutes a plan termination by the entity, (C) determine
18 the potential funding obligation, (D) determine the administrative costs
19 that will be incurred by the board or the Nebraska Public Employees
20 Retirement Systems in connection with the entity's removal from the
21 retirement system, and (E) notify the entity of such determinations.

22 (iv) Failure to timely notify the board pursuant to subdivision (4)
23 (b)(i) of this section may result in the entity being treated as though
24 the board made a decision pursuant to subdivision (4)(a) of this section.

25 (c) If the board makes a determination pursuant to subdivision (4)
26 (a) of this section, or if the entity engages in the contemplated
27 business transaction reviewed under subdivision (4)(b) of this section
28 that results in the entity no longer qualifying under section 414(d) of
29 the Internal Revenue Code:

30 (i) The board shall notify the entity that it no longer qualifies
31 under section 414(d) of the Internal Revenue Code within ten business

1 days after the determination;

2 (ii) The affected plan members shall be immediately considered fully
3 vested;

4 (iii) The affected plan members shall become inactive within ninety
5 days after the board's determination;

6 (iv) The entity shall pay to the County Employees Retirement Fund an
7 amount equal to any funding obligation;

8 (v) The entity shall pay to the County Employees Cash Balance
9 Retirement Expense Fund an amount equal to any administrative costs
10 incurred by the board or the Nebraska Public Employees Retirement Systems
11 in connection with the entity's removal from the retirement system; and

12 (vi) The entity shall pay directly to the board's contracted actuary
13 an amount equal to the cost of any actuarial study necessary to aid the
14 board in determining the amount of such funding obligation, if not
15 previously paid.

16 (d) For purposes of this subsection:

17 (i) Business transaction means a merger; consolidation; sale of
18 assets, equipment, or facilities; termination of a division, department,
19 section, or subgroup of the entity; or any other business transaction
20 that results in termination of some or all of the entity's workforce; and

21 (ii) Funding obligation means the financial liability of the
22 retirement system to provide benefits for the affected plan members
23 incurred by the retirement system due to the entity's business
24 transaction calculated using the methodology and assumptions recommended
25 by the board's contracted actuary and approved by the board. The
26 methodology and assumptions used must be structured in a way that ensures
27 the entity is financially liable for all the costs of the entity's
28 business transaction, and the retirement system is not financially liable
29 for any of the cost of the entity's business transaction.

30 (e) The board may adopt and promulgate rules and regulations to
31 carry out this subsection including, but not limited to, the methods of

1 notifying the board of pending business transactions, the acceptable
2 methods of payment, and the timing of such payment.

3 (5) Within the first one hundred eighty days of employment, a full-
4 time employee may apply to the board for vesting credit for years of
5 participation in another Nebraska governmental plan, as defined by
6 section 414(d) of the Internal Revenue Code. During the years of
7 participation in the other Nebraska governmental plan, the employee must
8 have been a full-time employee, as defined in the Nebraska governmental
9 plan in which the credit was earned. The board may adopt and promulgate
10 rules and regulations governing the assessment and granting of vesting
11 credit.

12 (6) Any employee who qualifies for membership in the retirement
13 system pursuant to this section may not be disqualified from membership
14 in the retirement system solely because such employee also maintains
15 separate employment which qualifies the employee for membership in
16 another public retirement system, nor may membership in this retirement
17 system disqualify such an employee from membership in another public
18 retirement system solely by reason of separate employment which qualifies
19 such employee for membership in this retirement system.

20 (7) A full-time or part-time employee of a city, village, or
21 township who becomes a county employee pursuant to a merger of services
22 shall receive vesting credit for his or her years of participation in a
23 Nebraska governmental plan, as defined by section 414(d) of the Internal
24 Revenue Code, of the city, village, or township.

25 (8) A full-time or part-time employee of a city, village, fire
26 protection district, or township who becomes a municipal county employee
27 shall receive credit for his or her years of employment with the city,
28 village, fire protection district, or township for purposes of the
29 vesting provisions of this section.

30 (9) A full-time or part-time employee of the state who becomes a
31 county employee pursuant to transfer of assessment function to a county

1 shall not be deemed to have experienced a termination of employment and
2 shall receive vesting credit for his or her years of participation in the
3 State Employees Retirement System of the State of Nebraska.

4 (10) Counties shall ensure that employees authorized to participate
5 in the retirement system pursuant to this section shall enroll and make
6 required contributions to the retirement system immediately upon becoming
7 an employee. Information necessary to determine membership in the
8 retirement system shall be provided by the employer.

9 Sec. 2. Section 23-2308.01, Revised Statutes Cumulative Supplement,
10 2018, is amended to read:

11 23-2308.01 (1) It is the intent of the Legislature that, in order to
12 improve the competitiveness of the retirement plan for county employees,
13 a cash balance benefit shall be added to the County Employees Retirement
14 Act on and after January 1, 2003. Each member who is employed and
15 participating in the retirement system prior to January 1, 2003, may
16 either elect to continue participation in the defined contribution
17 benefit as provided in the act prior to January 1, 2003, or elect to
18 participate in the cash balance benefit as set forth in this section. An
19 active member shall make a one-time election beginning September 1, 2012,
20 through October 31, 2012, in order to participate in the cash balance
21 benefit. If no such election is made, the member shall be treated as
22 though he or she elected to continue participating in the defined
23 contribution benefit as provided in the act prior to January 1, 2003.
24 Members who elect to participate in the cash balance benefit beginning
25 September 1, 2012, through October 31, 2012, shall commence participation
26 in the cash balance benefit on January 2, 2013. Any member who made the
27 election prior to April 7, 2012, does not have to make another election
28 of the cash balance benefit beginning September 1, 2012, through October
29 31, 2012.

30 (2) For a member employed and participating in the retirement system
31 beginning on and after January 1, 2003, or a member employed and

1 participating in the retirement system on January 1, 2003, who, prior to
2 April 7, 2012, or beginning September 1, 2012, through October 31, 2012,
3 elects to convert his or her employee and employer accounts to the cash
4 balance benefit:

5 (a) ~~The Except as provided in subdivision (2)(b) of section~~
6 ~~23-2319.01,~~ the employee cash balance account within the County Employees
7 Retirement Fund shall, at any time, be equal to the following:

8 (i) The initial employee account balance, if any, transferred from
9 the defined contribution plan account described in section 23-2309; plus

10 (ii) Employee contribution credits deposited in accordance with
11 section 23-2307; plus

12 (iii) Interest credits credited in accordance with subdivision (20)
13 of section 23-2301; plus

14 (iv) Dividend amounts credited in accordance with subdivision (4)(c)
15 of section 23-2317; and

16 (b) The employer cash balance account shall, at any time, be equal
17 to the following:

18 (i) The initial employer account balance, if any, transferred from
19 the defined contribution plan account described in section 23-2310; plus

20 (ii) Employer contribution credits deposited in accordance with
21 section 23-2308; plus

22 (iii) Interest credits credited in accordance with subdivision (20)
23 of section 23-2301; plus

24 (iv) Dividend amounts credited in accordance with subdivision (4)(c)
25 of section 23-2317.

26 (3) In order to carry out the provisions of this section, the board
27 may enter into administrative services agreements for accounting or
28 record-keeping services. No agreement shall be entered into unless the
29 board determines that it will result in administrative economy and will
30 be in the best interests of the counties and their participating
31 employees. The board may develop a schedule for the allocation of the

1 administrative services agreements costs for accounting or record-keeping
2 services and may assess the costs so that each member pays a reasonable
3 fee as determined by the board.

4 Sec. 3. Section 23-2317, Revised Statutes Cumulative Supplement,
5 2018, is amended to read:

6 23-2317 (1) The future service retirement benefit shall be an
7 annuity, payable monthly with the first payment made no earlier than the
8 annuity start date, which shall be the actuarial equivalent of the
9 retirement value as specified in section 23-2316 based on factors
10 determined by the board, except that gender shall not be a factor when
11 determining the amount of such payments pursuant to subsection (2) of
12 this section.

13 Except as provided in section 42-1107, at any time before the
14 annuity start date, the retiring employee may choose to receive his or
15 her annuity either in the form of an annuity as provided under subsection
16 (4) of this section or any optional form that is determined by the board.

17 Except as provided in section 42-1107, in lieu of the future service
18 retirement annuity, a retiring employee may receive a benefit not to
19 exceed the amount in his or her employer and employee accounts as of the
20 date of final account value payable in a lump sum and, if the employee
21 chooses not to receive the entire amount in such accounts, an annuity
22 equal to the actuarial equivalent of the remainder of the retirement
23 value, and the employee may choose any form of such annuity as provided
24 for by the board.

25 In any case, the amount of the monthly payment shall be such that
26 the annuity chosen shall be the actuarial equivalent of the retirement
27 value as specified in section 23-2316 except as provided in this section.

28 (2) Except as provided in subsection (4) of this section, the
29 monthly income payable to a member retiring on or after January 1, 1984,
30 shall be as follows:

31 He or she shall receive at retirement the amount which may be

1 purchased by the accumulated contributions based on annuity rates in
2 effect on the annuity start date which do not utilize gender as a factor,
3 except that such amounts shall not be less than the retirement income
4 which can be provided by the sum of the amounts derived pursuant to
5 subdivisions (a) and (b) of this subsection as follows:

6 (a) The income provided by the accumulated contributions made prior
7 to January 1, 1984, based on male annuity purchase rates in effect on the
8 date of purchase; and

9 (b) The income provided by the accumulated contributions made on and
10 after January 1, 1984, based on the annuity purchase rates in effect on
11 the date of purchase which do not use gender as a factor.

12 (3) Any amount, in excess of contributions, which may be required in
13 order to purchase the retirement income specified in subsection (2) of
14 this section shall be withdrawn from the County Equal Retirement Benefit
15 Fund.

16 (4)(a) The normal form of payment shall be a single life annuity
17 with five-year certain, which is an annuity payable monthly during the
18 remainder of the member's life with the provision that, in the event of
19 the member's ~~his or her~~ death before sixty monthly payments have been
20 made, the monthly payments will continue ~~be continued to his or her~~
21 ~~estate or to the beneficiary he or she has designated~~ until sixty monthly
22 payments have been made in total pursuant to section 8 of this act.

23 Such annuity shall be equal to the actuarial equivalent of the
24 member cash balance account or the sum of the employee and employer
25 accounts, whichever is applicable, as of the date of final account value.
26 As a part of the annuity, the normal form of payment may include a two
27 and one-half percent cost-of-living adjustment purchased by the member,
28 if the member elects such a payment option.

29 Except as provided in section 42-1107, a member may elect a lump-sum
30 distribution of his or her member cash balance account as of the date of
31 final account value upon termination of service or retirement.

1 For a member employed and participating in the retirement system
2 prior to January 1, 2003, who has elected to participate in the cash
3 balance benefit pursuant to section 23-2308.01, or for a member employed
4 and participating in the retirement system beginning on and after January
5 1, 2003, the balance of his or her member cash balance account as of the
6 date of final account value shall be converted to an annuity using an
7 interest rate that is recommended by the actuary and approved by the
8 board following an actuarial experience study, a benefit adequacy study,
9 or a plan valuation. The interest rate and actuarial factors in effect on
10 the member's retirement date will be used to calculate actuarial
11 equivalency of any retirement benefit. Such interest rate may be, but is
12 not required to be, equal to the assumed rate of return.

13 For an employee who is a member prior to January 1, 2003, who has
14 elected not to participate in the cash balance benefit pursuant to
15 section 23-2308.01, and who, at the time of retirement, chooses the
16 annuity option rather than the lump-sum option, his or her employee and
17 employer accounts as of the date of final account value shall be
18 converted to an annuity using an interest rate that is equal to the
19 lesser of (i) the Pension Benefit Guaranty Corporation initial interest
20 rate for valuing annuities for terminating plans as of the beginning of
21 the year during which payment begins plus three-fourths of one percent or
22 (ii) the interest rate used to calculate the retirement benefits for cash
23 balance plan members.

24 (b) For the calendar year beginning January 1, 2003, and each
25 calendar year thereafter, the actuary for the board shall perform an
26 actuarial valuation of the system using the entry age actuarial cost
27 method. Under this method, the actuarially required funding rate is equal
28 to the normal cost rate plus the contribution rate necessary to amortize
29 the unfunded actuarial accrued liability on a level-payment basis. The
30 normal cost under this method shall be determined for each individual
31 member on a level percentage of salary basis. The normal cost amount is

1 then summed for all members. The initial unfunded actual accrued
2 liability as of January 1, 2003, if any, shall be amortized over a
3 twenty-five-year period. During each subsequent actuarial valuation,
4 changes in the unfunded actuarial accrued liability due to changes in
5 benefits, actuarial assumptions, the asset valuation method, or actuarial
6 gains or losses shall be measured and amortized over a twenty-five-year
7 period beginning on the valuation date of such change. If the unfunded
8 actuarial accrued liability under the entry age actuarial cost method is
9 zero or less than zero on an actuarial valuation date, then all prior
10 unfunded actuarial accrued liabilities shall be considered fully funded
11 and the unfunded actuarial accrued liability shall be reinitialized and
12 amortized over a twenty-five-year period as of the actuarial valuation
13 date. If the actuarially required contribution rate exceeds the rate of
14 all contributions required pursuant to the County Employees Retirement
15 Act, there shall be a supplemental appropriation sufficient to pay for
16 the difference between the actuarially required contribution rate and the
17 rate of all contributions required pursuant to the act.

18 (c) If the unfunded accrued actuarial liability under the entry age
19 actuarial cost method is less than zero on an actuarial valuation date,
20 and on the basis of all data in the possession of the retirement board,
21 including such mortality and other tables as are recommended by the
22 actuary engaged by the retirement board and adopted by the retirement
23 board, the retirement board may elect to pay a dividend to all members
24 participating in the cash balance option in an amount that would not
25 increase the actuarial contribution rate above ninety percent of the
26 actual contribution rate. Dividends shall be credited to the employee
27 cash balance account and the employer cash balance account based on the
28 account balances on the actuarial valuation date. In the event a dividend
29 is granted and paid after the actuarial valuation date, interest for the
30 period from the actuarial valuation date until the dividend is actually
31 paid shall be paid on the dividend amount. The interest rate shall be the

1 interest credit rate earned on regular contributions.

2 (5) At the option of the retiring member, any lump sum or annuity
3 provided under this section or section 23-2334 may be deferred to
4 commence at any time, except that no benefit shall be deferred later than
5 April 1 of the year following the year in which the employee has both
6 attained at least seventy and one-half years of age and has terminated
7 his or her employment with the county. Such election by the retiring
8 member may be made at any time prior to the commencement of the lump-sum
9 or annuity payments.

10 (6) A participant or beneficiary who would have been required to
11 receive required minimum distributions for 2009 but for the enactment of
12 section 401(a)(9)(H) of the Internal Revenue Code, and who would have
13 satisfied that requirement by receiving distributions that are either
14 equal to the 2009 required minimum distributions or one or more payments
15 in a series of substantially equal distributions, including the 2009
16 required minimum distribution, made at least annually and expected to
17 last for the life or life expectancy of the participant, the joint lives
18 or joint life expectancy of the participant and the participant's
19 designated beneficiary, or for a period of at least ten years, shall
20 receive those distributions for 2009 unless the participant or
21 beneficiary chooses not to receive such distributions. Participants and
22 beneficiaries shall be given the opportunity to elect to stop receiving
23 the distributions described in this subsection.

24 Sec. 4. Section 23-2319.01, Revised Statutes Cumulative Supplement,
25 2018, is amended to read:

26 23-2319.01 (1) For a member who has terminated employment and is not
27 vested, the balance of the member's employer account or employer cash
28 balance account shall be forfeited. The forfeited account shall be
29 credited to the County Employees Retirement Fund and shall first be used
30 to meet the expense charges incurred by the retirement board in
31 connection with administering the retirement system, which charges shall

1 be credited to the County Employees Defined Contribution Retirement
2 Expense Fund, if the member participated in the defined contribution
3 option, or to the County Employees Cash Balance Retirement Expense Fund,
4 if the member participated in the cash balance option, and the remainder,
5 if any, shall then be used to restore employer accounts or employer cash
6 balance accounts. Except as provided in subsection (3) of section
7 23-2310.04 and subdivision (4)(c) of section 23-2317, no forfeited
8 amounts shall be applied to increase the benefits any member would
9 otherwise receive under the County Employees Retirement Act.

10 (2) ~~(2)(a)~~ If a member ceases to be an employee due to the
11 termination of his or her employment by the county and a grievance or
12 other appeal of the termination is filed, transactions involving
13 forfeiture of his or her employer account or employer cash balance
14 account and, ~~except as provided in subdivision (b) of this subsection,~~
15 transactions for payment of benefits under sections 23-2315 and 23-2319
16 shall be suspended pending the final outcome of the grievance or other
17 appeal.

18 ~~(b) If a member elects to receive benefits payable under sections~~
19 ~~23-2315 and 23-2319 after a grievance or appeal is filed, the member may~~
20 ~~receive an amount up to the balance of his or her employee account or~~
21 ~~member cash balance account or twenty-five thousand dollars payable from~~
22 ~~the employee account or member cash balance account, whichever is less.~~

23 (3) The County Employer Retirement Expense Fund is created. The fund
24 shall be administered by the Public Employees Retirement Board. Prior to
25 July 1, 2012, the County Employer Retirement Expense Fund shall be used
26 to meet expenses of the retirement system whether such expenses are
27 incurred in administering the member's employer account or in
28 administering the member's employer cash balance account when the funds
29 available in the County Employees Defined Contribution Retirement Expense
30 Fund or County Employees Cash Balance Retirement Expense Fund make such
31 use reasonably necessary. The County Employer Retirement Expense Fund

1 shall consist of any reduction in a county contribution which would
2 otherwise be required to fund future service retirement benefits or to
3 restore employer accounts or employer cash balance accounts referred to
4 in subsection (1) of this section. On July 1, 2012, or as soon as
5 practicable thereafter, any money in the County Employer Retirement
6 Expense Fund shall be transferred by the State Treasurer to the County
7 Employees Retirement Fund and credited to the cash balance benefit
8 established in section 23-2308.01.

9 (4) Prior to July 1, 2012, expenses incurred as a result of a county
10 depositing amounts into the County Employer Retirement Expense Fund shall
11 be deducted prior to any additional expenses being allocated. Any
12 remaining amount shall be allocated in accordance with subsection (3) of
13 this section. Any money in the County Employer Retirement Expense Fund
14 available for investment shall be invested by the state investment
15 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
16 State Funds Investment Act.

17 Sec. 5. Section 23-2320, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 23-2320 (1) Prior to January 1, 2020, except ~~Except~~ as otherwise
20 provided in this section, a member of the retirement system who has a
21 five-year break in service shall upon reemployment be considered a new
22 employee with respect to the County Employees Retirement Act and shall
23 not receive credit for service prior to his or her reemployment date.

24 (2)(a) A member who ceases to be an employee before becoming
25 eligible for retirement under section 23-2315 and again becomes a
26 permanent full-time or permanent part-time county employee prior to
27 having a five-year break in service shall immediately be reenrolled in
28 the retirement system and resume making contributions. For purposes of
29 vesting employer contributions made prior to and after the reentry into
30 the retirement system under subsection (3) of section 23-2319, years of
31 participation include years of participation prior to such employee's

1 original termination. For a member who is not vested and has received a
2 termination benefit pursuant to section 23-2319, the years of
3 participation prior to such employee's original termination shall be
4 limited in a ratio equal to the amount that the member repays divided by
5 the termination benefit withdrawn pursuant to section 23-2319.

6 (b) The reemployed member may repay the value of, or a portion of
7 the value of, the termination benefit withdrawn pursuant to section
8 23-2319. A reemployed member who elects to repay all or a portion of the
9 value of the termination benefit withdrawn pursuant to section 23-2319
10 shall repay the actual earnings on such value. Repayment of the
11 termination benefit shall commence within three years of reemployment and
12 shall be completed within five years of reemployment or prior to
13 termination of employment, whichever occurs first, through (i) direct
14 payments to the retirement system, (ii) installment payments made
15 pursuant to a binding irrevocable payroll deduction authorization made by
16 the member, (iii) an eligible rollover distribution as provided under the
17 Internal Revenue Code, or (iv) a direct rollover distribution made in
18 accordance with section 401(a)(31) of the Internal Revenue Code.

19 (c) The value of the member's forfeited employer account or employer
20 cash balance account, as of the date of forfeiture, shall be restored in
21 a ratio equal to the amount of the benefit that the member has repaid
22 divided by the termination benefit received. The employer account or
23 employer cash balance account shall be restored first out of the current
24 forfeiture amounts and then by additional employer contributions.

25 (3) For a member who retired pursuant to section 23-2315 and becomes
26 a permanent full-time employee or permanent part-time employee with a
27 county under the County Employees Retirement Act more than one hundred
28 twenty days after his or her retirement date, the member shall continue
29 receiving retirement benefits. Such a retired member or a retired member
30 who received a lump-sum distribution of his or her benefit shall be
31 considered a new employee as of the date of reemployment and shall not

1 receive credit for any service prior to the member's retirement for
2 purposes of the act.

3 (4) A member who is reinstated as an employee pursuant to a
4 grievance or appeal of his or her termination by the county shall be a
5 member upon reemployment and shall not be considered to have a break in
6 service for such period of time that the grievance or appeal was pending.
7 ~~Following reinstatement, the member shall repay the value of the amount~~
8 ~~received from his or her employee account or member cash balance account~~
9 ~~under subdivision (2)(b) of section 23-2319.01.~~

10 (5) Beginning January 1, 2020, if a contributing member of the
11 retirement system ceases to be an employee and returns to service in any
12 capacity with any county under the County Employees Retirement Act prior
13 to having a one-hundred-twenty-day break in service, the member:

14 (a) Shall not be deemed to have had a bona fide separation of
15 service;

16 (b) Shall be immediately reenrolled in:

17 (i) The defined contribution benefit if the member was contributing
18 to the defined contribution benefit prior to ceasing employment; or

19 (ii) The cash balance benefit in which the member was participating
20 prior to ceasing employment if the member was contributing to the cash
21 balance benefit prior to ceasing employment;

22 (c) Shall immediately resume making contributions;

23 (d) Shall make up any missed contributions based upon services
24 rendered and compensation received;

25 (e) Shall have all distributions from the retirement system
26 canceled; and

27 (f) Shall repay the gross distributions from the retirement system.

28 (6)(a) Beginning January 1, 2020, if a contributing member of the
29 retirement system ceases to be an employee and returns to permanent full-
30 time or permanent part-time service in any capacity with any county under
31 the County Employees Retirement Act after having a one-hundred-twenty-day

1 break in service, the member:

2 (i) Shall be immediately reenrolled in:

3 (A) The defined contribution benefit if the member was contributing
4 to the defined contribution benefit prior to ceasing employment; or

5 (B) The cash balance benefit in which the member was participating
6 prior to ceasing employment if the member was contributing to the cash
7 balance benefit prior to ceasing employment;

8 (ii) Shall immediately resume making contributions;

9 (iii) Shall continue receiving any annuity elected after the member
10 ceased employment and before the member was reemployed; and

11 (iv) Shall be prohibited from taking any distributions from the
12 retirement system until the employee again terminates employment with any
13 and all counties under the County Employees Retirement Act.

14 (b) For the purposes of vesting employer contributions made prior to
15 and after reentry into the retirement system, the member's years of
16 participation prior to the date the member originally ceased employment
17 and the years of participation after the member is reenrolled in the
18 retirement system shall be included as years of participation, except
19 that if the member is not vested on the date the member originally ceased
20 employment and has taken a distribution, the years of participation prior
21 to the date the member originally ceased employment shall be limited in a
22 ratio equal to the value of the distribution that the member repays
23 divided by the total value of the distribution taken as described in
24 subdivision (6)(c) of this section.

25 (c) A reemployed member may repay all or a portion of the value of a
26 distribution except for an annuity elected after the member ceased
27 employment and before the member was reemployed. Repayment of such a
28 distribution shall commence within three years after reemployment and
29 shall be completed within five years after reemployment or prior to the
30 member again ceasing employment, whichever occurs first, through (i)
31 direct payments to the retirement system, (ii) installment payments made

1 pursuant to a binding irrevocable payroll deduction authorization made by
2 the member, (iii) an eligible rollover distribution as provided under the
3 Internal Revenue Code, or (iv) a direct rollover distribution made in
4 accordance with section 401(a)(31) of the Internal Revenue Code. If the
5 member fails to repay all of the value of such a distribution prior to
6 the member again ceasing employment, the member shall be forever barred
7 from repaying the value of such a distribution taken between the periods
8 of employment. The value of the member's forfeited employer account or
9 employer cash balance account, as of the date of forfeiture, shall be
10 restored in a ratio equal to the amount of the distribution repaid by the
11 member divided by the amount of the distribution taken. The employer
12 account or employer cash balance account shall be restored first out of
13 the current forfeiture amounts and then by additional employer
14 contributions.

15 Sec. 6. Section 23-2321, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 23-2321 (1)(a) (1) ~~In the event of a member's the death before the~~
18 ~~member's his or her retirement date of any employee who is a member of~~
19 ~~the system,~~ the death benefit shall be equal to (i) (a) for participants
20 in the defined contribution benefit, the total of the employee account
21 and the employer account and (ii) (b) for participants in the cash
22 balance benefit, the benefit provided in section 23-2308.01.

23 (b) Except as provided in section 42-1107, the ~~The~~ death benefit
24 shall be paid pursuant to section 8 of this act to the member's
25 ~~beneficiary, to an alternate payee pursuant to a qualified domestic~~
26 ~~relations order as provided in section 42-1107, or to the member's estate~~
27 ~~if there are no designated beneficiaries.~~

28 (c) If the beneficiary is not the member's surviving spouse, the
29 death benefit shall be paid as a lump-sum payment or payments, except
30 that the entire account must be distributed by the fifth anniversary of
31 the member's death. If the sole primary beneficiary is the member's

1 surviving spouse, the surviving spouse may elect to receive an annuity
2 calculated as if the member retired and selected a one-hundred-percent
3 joint and survivor annuity effective on the annuity purchase date. If the
4 surviving spouse does not elect the annuity option within one hundred
5 eighty days after the death of the member, the surviving spouse shall
6 receive a lump-sum payment or payments, except that the entire account
7 must be distributed by the fifth anniversary of the member's death.

8 (2) A lump-sum death benefit paid to the member's beneficiary, other
9 than the member's estate, that is an eligible distribution may be
10 distributed in the form of a direct transfer to a retirement plan
11 eligible to receive such transfer under the provisions of the Internal
12 Revenue Code.

13 (3) For any member whose death occurs on or after January 1, 2007,
14 while performing qualified military service as defined in section 414(u)
15 of the Internal Revenue Code, the member's beneficiary shall be entitled
16 to any additional death benefit that would have been provided, other than
17 the accrual of any benefit relating to the period of qualified military
18 service. The additional death benefit shall be determined as if the
19 member had returned to employment with a participating county and such
20 employment had terminated on the date of the member's death.

21 Sec. 7. Section 23-2331, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 23-2331 Sections 23-2301 to 23-2332.01 and section 8 of this act
24 shall be known and may be cited as the County Employees Retirement Act.

25 Sec. 8. (1) Except as provided in section 42-1107, in the event of
26 a member's death, the death benefit shall be paid to the following, in
27 order of priority:

28 (a) To the member's surviving designated beneficiary on file with
29 the board;

30 (b) To the spouse married to the member on the member's date of
31 death if there is no surviving designated beneficiary on file with the

1 board; or

2 (c) To the member's estate if the member is not married on the
3 member's date of death and there is no surviving designated beneficiary
4 on file with the board.

5 (2) The priority designations described in subsection (1) of this
6 section shall not apply if the member has retired under a joint and
7 survivor benefit option.

8 Sec. 9. Section 79-901, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 79-901 Sections 79-901 to 79-977.03 and section 11 of this act shall
11 be known and may be cited as the School Employees Retirement Act.

12 Sec. 10. Section 79-902, Revised Statutes Cumulative Supplement,
13 2018, is amended to read:

14 79-902 For purposes of the School Employees Retirement Act, unless
15 the context otherwise requires:

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

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

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

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

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

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

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

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

27 (b) Compensation does not include (i) fraudulently obtained amounts
28 as determined by the retirement board, (ii) amounts for accrued unused
29 sick leave or accrued unused vacation leave converted to cash payments,
30 (iii) insurance premiums converted into cash payments, (iv) reimbursement
31 for expenses incurred, (v) fringe benefits, (vi) per diems paid as

1 expenses, (vii) bonuses for services not actually rendered, (viii) early
2 retirement inducements, (ix) cash awards, (x) severance pay, or (xi)
3 employer contributions made for the purposes of separation payments made
4 at retirement.

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

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

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

22 (b) Creditable ~~For employees hired prior to July 1, 2018, creditable~~
23 service includes working days, sick days, vacation days, holidays, and
24 any other leave days for which the employee is paid regular wages as part
25 of the employee's agreement with the employer. Creditable service does
26 not include lump-sum payments to the employee upon termination or
27 retirement in lieu of accrued benefits for such days, eligibility and
28 vesting credit, service years for which member contributions are
29 withdrawn and not repaid by the member, service rendered for which the
30 retirement board determines that the member was paid less in compensation
31 than the minimum wage as provided in the Wage and Hour Act, ~~or~~ service

1 which the board determines was rendered with the intent to defraud the
2 retirement system, or service provided to an employer in a retirement
3 system established pursuant to the Class V School Employees Retirement
4 Act;

5 ~~(c) For employees hired on or after July 1, 2018, creditable service~~
6 ~~includes working days, used accrued sick days, used accrued vacation~~
7 ~~days, federal and state holidays, and jury duty leave for which the~~
8 ~~member is paid full compensation by the employer. Creditable service does~~
9 ~~not include lump-sum payments to the employee upon termination or~~
10 ~~retirement in lieu of accrued benefits for such days, eligibility and~~
11 ~~vesting credit, service years for which member contributions are~~
12 ~~withdrawn and not repaid by the member, service rendered for which the~~
13 ~~retirement board determines that the member was paid less in compensation~~
14 ~~than the minimum wage as provided in the Wage and Hour Act, service which~~
15 ~~the board determines was rendered with the intent to defraud the~~
16 ~~retirement system, or any other type of leave not expressly included in~~
17 ~~this subdivision; and~~

18 ~~(d) Creditable service does not include service provided to an~~
19 ~~employer in the retirement system provided under the Class V School~~
20 ~~Employees Retirement Act;~~

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

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

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

31 (10) Disability retirement date means the first day of the month

1 following the date upon which a member's request for disability
2 retirement is received on a retirement application provided by the
3 retirement system if the member has terminated employment in the school
4 system and has complied with sections 79-951 to 79-954 as such sections
5 refer to disability retirement;

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

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

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

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

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

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

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

29 (12) Eligibility and vesting credit means credit for years, or a
30 fraction of a year, of participation in a Nebraska government plan for
31 purposes of determining eligibility for benefits under the School

1 Employees Retirement Act. Such credit shall not be included as years of
2 creditable service in the benefit calculation;

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

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

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

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

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

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

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

30 (A) The sum of the member's total compensation during the five
31 twelve-month periods of service as a school employee in which such

1 compensation was the greatest divided by sixty; or

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

5 (b) Payments under the Retirement Incentive Plan pursuant to section
6 79-855 and Staff Development Assistance pursuant to section 79-856 shall
7 not be included in the determination of final average compensation;

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

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

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

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

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

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

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

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

1 the community college boards of governors for any community college
2 areas;

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

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

17 (26) Relinquished creditable service means, with respect to a member
18 who has withdrawn his or her accumulated contributions under section
19 79-955, the total amount of creditable service which such member has
20 given up as a result of his or her election not to remain a member of the
21 retirement system;

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

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

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

31 (30) Retirement board or board means the Public Employees Retirement

1 Board;

2 (31) Retirement date means (a) if the member has terminated
3 employment, the first day of the month following the date upon which a
4 member's request for retirement is received on a retirement application
5 provided by the retirement system or (b) if the member has filed a
6 retirement application but has not yet terminated employment, the first
7 day of the month following the date on which the member terminates
8 employment. An application may be filed no more than one hundred twenty
9 days prior to the effective date of the member's initial benefit;

10 (32) Retirement system means the School Employees Retirement System
11 of the State of Nebraska;

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

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

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

29 (36) School retirement allowance means the total of the savings
30 annuity and the service annuity or formula annuity paid a person who has
31 retired under sections 79-931 to 79-935. The monthly payments shall be

1 payable at the end of each calendar month during the life of a retired
2 member. The first payment shall include all amounts accrued since the
3 effective date of the award of annuity. The last payment shall be at the
4 end of the calendar month in which such member dies or in accordance with
5 the payment option chosen by the member;

6 (37) Service means employment as a school employee and shall not be
7 deemed interrupted by (a) termination at the end of the school year of
8 the contract of employment of an employee in a public school if the
9 employee enters into a contract of employment in any public school,
10 except a school in a Class V school district, for the following school
11 year, (b) temporary or seasonal suspension of service that does not
12 terminate the employee's employment, (c) leave of absence authorized by
13 the employer for a period not exceeding twelve months, (d) leave of
14 absence because of disability, or (e) military service when properly
15 authorized by the retirement board. Service does not include any period
16 of disability for which disability retirement benefits are received under
17 sections 79-951 to 79-953;

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

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

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

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

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

12 (43) Temporary employee means an employee hired by a public school
13 who is not a regular employee and who is hired to provide service for a
14 limited period of time to accomplish a specific purpose or task. When
15 such specific purpose or task is complete, the employment of such
16 temporary employee shall terminate and in no case shall the temporary
17 employment period exceed one year in duration;

18 (44) Termination of employment occurs on the date on which the
19 member experiences a bona fide separation from service of employment with
20 the member's employer, the date of which separation is determined by the
21 end of the member's contractual agreement or, if there is no contract or
22 only partial fulfillment of a contract, by the employer.

23 A member shall not be deemed to have terminated employment if the
24 member subsequently provides service to any employer participating in the
25 retirement system provided for in the School Employees Retirement Act
26 within one hundred eighty days after ceasing employment unless such
27 service:

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

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

31 Nothing in this subdivision precludes an employer from adopting a

1 policy which limits or denies employees who have terminated employment
2 from providing voluntary or substitute service within one hundred eighty
3 days after termination.

4 A member shall not be deemed to have terminated employment if the
5 board determines that a claimed termination was not a bona fide
6 separation from service with the employer or that a member was
7 compensated for a full contractual period when the member terminated
8 prior to the end date of the contract; and

9 (45) Voluntary service or volunteer means providing bona fide unpaid
10 service to any employer.

11 Sec. 11. (1) Except as provided in section 42-1107, in the event of
12 a member's death, the death benefit shall be paid to the following, in
13 order of priority:

14 (a) To the member's surviving designated beneficiary on file with
15 the board;

16 (b) To the spouse married to the member on the member's date of
17 death if there is no surviving designated beneficiary on file with the
18 board; or

19 (c) To the member's estate if the member is not married on the
20 member's date of death and there is no surviving designated beneficiary
21 on file with the board.

22 (2) The priority designations described in subsection (1) of this
23 section shall not apply if the member has retired under a joint and
24 survivor benefit option.

25 Sec. 12. Section 79-921, Revised Statutes Cumulative Supplement,
26 2018, is amended to read:

27 79-921 (1) The membership of any person in the retirement system
28 shall cease only if he or she (a) withdraws his or her accumulated
29 contributions under section 79-955, (b) retires on a school or formula or
30 disability retirement allowance, or (c) dies.

31 (2)(a) The employer shall (i) notify the board in writing of the

1 date upon which a termination of employment has occurred and provide the
2 board with such information as the board deems necessary, (ii) notify the
3 board in writing whether or not a member accepted and received an early
4 retirement inducement, and (iii) submit in writing with the notice of
5 termination of employment and notice of receipt of an early retirement
6 inducement a completed certification by the employer and member under
7 penalty of prosecution pursuant to section 79-949 that, prior to the
8 member's termination, there was no prearranged written or verbal
9 agreement for the member to return to service in any capacity with the
10 same employer.

11 (b) The member shall submit certification to the board on a form
12 prescribed by the board, under penalty of prosecution pursuant to section
13 79-949, whether or not the member accepted and received an early
14 retirement inducement from his or her employer.

15 (c) The board may adopt and promulgate rules and regulations and
16 prescribe forms as the board determines appropriate in order to carry out
17 this subsection and to ensure full disclosure and reporting by the
18 employer and member in order to minimize fraud and abuse and prevent the
19 filing of false or fraudulent claim or benefit applications.

20 (3)(a) A former member of the retirement system who has withdrawn
21 his or her accumulated contributions under section 79-955 shall be
22 reinstated to membership in the retirement system if such person again
23 becomes a school employee.

24 (b) The date of such membership shall relate back to the beginning
25 of his or her original membership in the retirement system only if such
26 school employee has repaid all amounts required in accordance with
27 subsection (4) of this section. Unless and until all such amounts are
28 repaid, the school employee shall be considered a new member, effective
29 as of the date he or she again becomes a school employee.

30 (4)(a) With respect to any person who is reinstated to membership in
31 the retirement system pursuant to subdivision (3)(a) of this section

1 prior to April 17, 2014, and who files a valid and complete one-time
2 application with the retirement board for the restoration of part or all
3 of his or her relinquished creditable service prior to six years after
4 April 17, 2014, but prior to termination, the following shall apply:

5 (i) Such member shall pay to the retirement system an amount equal
6 to the previously withdrawn contributions for the creditable service to
7 be restored, plus an amount equal to the actuarial assumed rate of return
8 on such amount to the date of repayment; and

9 (ii) Payment for restoration of such relinquished creditable service
10 must be completed within seven ~~six~~ years of April 17, 2014, or prior to
11 termination, whichever is earlier.

12 (b) With respect to any person who is reinstated to membership in
13 the retirement system pursuant to subdivision (3)(a) of this section on
14 and after April 17, 2014, and who files a valid and complete one-time
15 application with the retirement board for the restoration of part or all
16 of his or her relinquished creditable service within five years after the
17 date of such member's reinstatement to membership in the retirement
18 system but prior to termination, the following shall apply:

19 (i) Such member shall pay to the retirement system an amount equal
20 to the previously withdrawn contributions for the creditable service to
21 be restored, plus an amount equal to the actuarial assumed rate of return
22 on such amount to the date of repayment; and

23 (ii) Payment for restoration of such relinquished creditable service
24 must be completed within five years of the date of such member's
25 reinstatement to membership in the retirement system or prior to
26 termination, whichever is earlier.

27 (5)(a) ~~(5)~~ If less than full payment is made by the member,
28 relinquished creditable service shall be restored in proportion to the
29 amounts repaid.

30 (b) Repayment may be made through direct payment, installment
31 payments, an irrevocable payroll deduction authorization, cash rollover

1 contributions pursuant to section 79-933.02, or trustee-to-trustee
2 transfers pursuant to section 79-933.09, except that if the application
3 for the restoration of part or all of the relinquished creditable service
4 is received by the retirement system within one year before the member's
5 termination date or the applicable last payment date as specified in
6 subsection (4) of this section, whichever is earlier, repayment may only
7 be made through a lump-sum direct payment, cash rollover contributions
8 pursuant to section 79-933.02, or trustee-to-trustee transfers pursuant
9 to section 79-933.09.

10 Sec. 13. Section 79-927, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 79-927 (1) The board shall grant service credit pursuant to this
13 section on an annual basis to members who participate during each fiscal
14 year.

15 (2) ~~Service For a member who is subject to the wage and hour~~
16 ~~provisions of the federal Fair Labor Standards Act of 1938, 29 U.S.C. 201~~
17 ~~et seq., as such sections existed on January 1, 2002, service credit~~
18 shall be calculated as follows:

19 (a) For each year during which a member provides compensated service
20 to one or more school districts for one thousand or more hours, the
21 member shall be credited one year of service credit; and

22 (b) For each year during which a member provides less than one
23 thousand hours of compensated service to one or more school districts,
24 the member shall be credited one one-thousandth of a year's service
25 credit for each hour worked.

26 ~~(3) For a member who is exempt from the wage and hour provisions of~~
27 ~~the federal Fair Labor Standards Act of 1938, 29 U.S.C. 201 et seq., as~~
28 ~~such sections existed on January 1, 2002, service credit shall be~~
29 ~~calculated as follows:~~

30 ~~(a) Full-time service rendered for the regular school year in one or~~
31 ~~more public schools shall be equivalent to one year's service;~~

1 ~~(b) Part-time service in one or more public schools shall be~~
2 ~~credited as individual years of fractional employment in proportion to~~
3 ~~the ratio the part-time service bears to the amount of time considered to~~
4 ~~be full-time service for the plan year; and~~

5 ~~(c) If a member is employed for less than the full plan year, the~~
6 ~~member shall be granted a fractional year of service credit calculated~~
7 ~~pursuant to subdivision (a) or (b) of this subsection for only that~~
8 ~~portion of the plan year the member was employed.~~

9 (3) ~~(4)~~ The board may adopt and promulgate rules and regulations for
10 the granting of service credit in accordance with this section, but in no
11 case shall more than one year of service be granted for all service in
12 one plan year.

13 Sec. 14. Section 79-934, Revised Statutes Cumulative Supplement,
14 2018, is amended to read:

15 79-934 (1) In lieu of the school retirement allowance provided by
16 section 79-933, any member who is not an employee of a Class V school
17 district and who becomes eligible to make application for and receive a
18 school retirement allowance under section 79-931 may receive a formula
19 annuity retirement allowance if it is greater than the school retirement
20 allowance provided by section 79-933.

21 (2) Subject to the other provisions of this section, the monthly
22 formula annuity in the normal form shall be determined by multiplying the
23 number of years of creditable service for which such member would
24 otherwise receive the service annuity provided by section 79-933 by (a)
25 one and one-quarter percent of his or her final average compensation for
26 a member who has acquired the equivalent of one-half year of service or
27 more as a school employee under the retirement system following August
28 24, 1975, (b) one and one-half percent of his or her final average
29 compensation for a member who has acquired the equivalent of one-half
30 year of service or more as a school employee under the retirement system
31 following July 17, 1982, (c) one and sixty-five hundredths percent of his

1 or her final average compensation for a member who has acquired the
2 equivalent of one-half year of service or more as a school employee under
3 the retirement system following July 1, 1984, (d) one and seventy-three
4 hundredths percent of his or her final average compensation for a member
5 actively employed as a school employee under the retirement system or
6 under contract with an employer on or after June 5, 1993, (e) one and
7 eight-tenths percent of his or her final average compensation for a
8 member who has acquired the equivalent of one-half year of service or
9 more as a school employee under the retirement system following July 1,
10 1995, and was employed as a school employee under the retirement system
11 or under contract with an employer on or after April 10, 1996, (f) one
12 and nine-tenths percent of his or her final average compensation for a
13 member who has acquired the equivalent of one-half year of service or
14 more as a school employee under the retirement system following July 1,
15 1998, and was employed as a school employee under the retirement system
16 or under contract with an employer on or after April 29, 1999, (g) two
17 percent of his or her final average compensation for a member who has
18 acquired the equivalent of one-half year of service or more as a school
19 employee under the retirement system following July 1, 2000, who was
20 employed as a school employee under the retirement system or under
21 contract with an employer on or after May 2, 2001, and hired prior to
22 July 1, 2016, and who has not retired prior to May 2, 2001, or (h) two
23 percent of his or her final average compensation for a member initially
24 hired on or after July 1, 2016, or a member who has taken a refund or
25 retirement and is rehired or hired by a separate employer covered by the
26 retirement system on or after July 1, 2016, and has acquired the
27 equivalent of five years of service or more as a school employee under
28 the retirement system or under contract with an employer on or after July
29 1, 2016. Subdivision (2)(f) of this section shall not apply to a member
30 who is retired prior to April 29, 1999. Subdivision (2)(g) of this
31 section shall not apply to a member who is retired prior to May 2, 2001.

1 (3) If the annuity begins on or after the member's sixty-fifth
2 birthday, the annuity shall not be reduced.

3 (4) If the annuity begins prior to the member's sixtieth birthday
4 and the member has completed thirty-five or more years of creditable
5 service, the annuity shall be actuarially reduced on the basis of age
6 sixty-five.

7 (5)(a) For a member who has acquired the equivalent of one-half year
8 of creditable service or more as a school employee under the retirement
9 system following July 1, 1997, and who was a school employee on or after
10 March 4, 1998, and who was hired prior to July 1, 2016, if the annuity
11 begins at a time when the sum of the member's attained age and creditable
12 service totals eighty-five and the member is at least fifty-five years of
13 age, the annuity shall not be reduced. This subdivision shall not apply
14 to a member who is retired prior to March 4, 1998.

15 (b) For a member hired on or after July 1, 2016, and prior to July
16 1, 2018, or for a member who has taken a retirement or refund that
17 relinquished all prior service credit and who has not repaid the full
18 amount of the refund pursuant to section 79-921 and is rehired or hired
19 by any employer covered by the retirement system on or after July 1,
20 2016, and prior to July 1, 2018, if the annuity begins at a time when the
21 sum of the member's attained age and creditable service totals eighty-
22 five and the member is at least fifty-five years of age, the annuity
23 shall not be reduced.

24 (c) For a member hired on or after July 1, 2018, or for a member or
25 former member who has taken a retirement or refund that relinquished all
26 prior service credit and who has not repaid the full amount of the refund
27 pursuant to section 79-921 and is rehired or hired by any employer
28 covered by the retirement system on or after July 1, 2018, if the annuity
29 begins at a time when the sum of the member's attained age and creditable
30 service totals eighty-five and the member is at least sixty years of age,
31 the annuity shall not be reduced.

1 (6) If the annuity begins on or after the member's sixtieth birthday
2 and the member has completed at least a total of five years of creditable
3 service including eligibility and vesting credit but has not yet
4 qualified for an unreduced annuity as specified in this section, the
5 annuity shall be reduced by three percent for each year after the
6 member's sixtieth birthday and prior to his or her sixty-fifth birthday.

7 (7)(a) ~~(7)~~ Except as provided in section 42-1107, the normal form of
8 the formula annuity shall be an annuity payable monthly during the
9 remainder of the member's life with the provision that in the event of
10 the member's ~~his or her~~ death before sixty monthly payments have been
11 made the monthly payments will continue ~~be continued to his or her estate~~
12 ~~or to the beneficiary he or she has designated~~ until sixty monthly
13 payments have been made in total pursuant to section 11 of this act.

14 (b) Except as provided in section 42-1107, a member may elect to
15 receive in lieu of the normal form of annuity an actuarially equivalent
16 annuity in any optional form provided by section 79-938.

17 (8) All formula annuities shall be paid from the School Retirement
18 Fund.

19 (9)(a)(i) For purposes of this section, in the determination of
20 compensation for members on or after July 1, 2005, that part of a
21 member's compensation for the plan year which exceeds the member's
22 compensation with the same employer for the preceding plan year by more
23 than seven percent of the compensation base during the sixty months
24 preceding the member's retirement shall be excluded unless (A) the member
25 experienced a substantial change in employment position, (B) as verified
26 by the school board, the excess compensation above seven percent occurred
27 as the result of a collective-bargaining agreement between the employer
28 and a recognized collective-bargaining unit or category of school
29 employee, and the percentage increase in compensation above seven percent
30 shall not be excluded for employees outside of a collective-bargaining
31 unit or within the same category of school employee, or (C) the excess

1 compensation occurred as the result of a districtwide permanent benefit
2 change made by the employer for a category of school employee in
3 accordance with subdivision (4)(a)(iv) of section 79-902.

4 (ii) For purposes of subdivision (9)(a) of this section:

5 (A) Category of school employee means either all employees of the
6 employer who are administrators or certificated teachers, or all
7 employees of the employer who are not administrators or certificated
8 teachers, or both;

9 (B) Compensation base means (I) for current members, employed with
10 the same employer, the member's compensation for the plan year ending
11 June 30, 2005, or (II) for members newly hired or hired by a separate
12 employer on or after July 1, 2005, the member's compensation for the
13 first full plan year following the member's date of hiring. Thereafter,
14 the member's compensation base shall be increased each plan year by the
15 lesser of seven percent of the member's preceding plan year's
16 compensation base or the member's actual annual compensation increase
17 during the preceding plan year; and

18 (C) Recognized collective-bargaining unit means a group of employees
19 similarly situated with a similar community of interest appropriate for
20 bargaining recognized as such by a school board.

21 (b)(i) In the determination of compensation for members whose
22 retirement date is on or after July 1, 2012, through June 30, 2013, that
23 part of a member's compensation for the plan year which exceeds the
24 member's compensation with the same employer for the preceding plan year
25 by more than nine percent of the compensation base shall be excluded.

26 (ii) For purposes of subdivision (9)(b) of this section,
27 compensation base means (A) for current members employed with the same
28 employer, the member's compensation for the plan year ending June 30,
29 2012, or (B) for members newly hired or hired by a separate employer on
30 or after July 1, 2012, the member's compensation for the first full plan
31 year following the member's date of hiring.

1 (c)(i) In the determination of compensation for members whose
2 retirement date is on or after July 1, 2013, that part of a member's
3 compensation for the plan year which exceeds the member's compensation
4 for the preceding plan year by more than eight percent during the capping
5 period shall be excluded. Such member's compensation for the first plan
6 year of the capping period shall be compared to the member's compensation
7 received for the plan year immediately preceding the capping period.

8 (ii) For purposes of subdivision (9)(c) of this section:

9 (A) Capping period means the five plan years preceding the later of
10 (I) such member's retirement date or (II) such member's final
11 compensation date; and

12 (B) Final compensation date means the later of (I) the date on which
13 a retiring member's final compensation is actually paid or (II) if a
14 retiring member's final compensation is paid in advance as a lump sum,
15 the date on which such final compensation would have been paid to the
16 member in the absence of such advance payment.

17 Sec. 15. Section 79-956, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 79-956 ~~(1)(a) Except as provided in section 42-1107, if (1) If a~~
20 ~~member dies before the member's his or her retirement date, the member's~~
21 ~~his or her accumulated contributions shall be paid pursuant to section 11~~
22 ~~of this act his or her estate, to an alternate payee pursuant to a~~
23 ~~qualified domestic relations order as provided in section 42-1107, or to~~
24 ~~the person he or she has nominated by designation duly executed and filed~~
25 ~~with the retirement board.~~

26 (b) Except for payment to an alternative payee pursuant to a
27 qualified domestic relations order, if no legal representative or
28 beneficiary applies for such accumulated contributions within five years
29 following the date of the deceased member's death, the contributions
30 shall be distributed in accordance with the Uniform Disposition of
31 Unclaimed Property Act.

1 (2) When the deceased member has twenty years or more of creditable
2 service regardless of age or dies on or after his or her sixty-fifth
3 birthday and leaves a surviving spouse who has been designated by the
4 member as the sole surviving primary beneficiary ~~as beneficiary and who,~~
5 on forms provided by the board, as of the date of the member's death, ~~is~~
6 ~~the sole surviving primary beneficiary,~~ such beneficiary may elect,
7 within twelve months after the death of the member, to receive (a) a
8 refund of the member's contribution account balance, including interest,
9 plus an additional one hundred one percent of the member's contribution
10 account balance, including interest, or (b) an annuity which shall be
11 equal to the amount that would have accrued to the member had he or she
12 elected to have the retirement annuity paid as a one-hundred-percent
13 joint and survivor annuity payable as long as either the member or the
14 member's spouse should survive and had the member retired (i) on the date
15 of death if his or her age at death is sixty-five years or more or (ii)
16 at age sixty-five years if his or her age at death is less than sixty-
17 five years.

18 (3) When the deceased member who was a school employee on or after
19 May 1, 2001, has not less than five years of creditable service and less
20 than twenty years of creditable service and dies before his or her sixty-
21 fifth birthday and leaves a surviving spouse who has been designated in
22 writing as beneficiary and who, as of the date of the member's death, is
23 the sole surviving primary beneficiary, such beneficiary may elect,
24 within twelve months after the death of the member, to receive (a) a
25 refund of the member's contribution account balance with interest plus an
26 additional one hundred one percent of the member's contribution account
27 balance with interest or (b) an annuity payable monthly for the surviving
28 spouse's lifetime which shall be equal to the benefit amount that had
29 accrued to the member at the date of the member's death, commencing when
30 the member would have reached age sixty, or the member's age at death if
31 greater, reduced by three percent for each year payments commence before

1 the member would have reached age sixty-five, and adjusted for payment in
2 the form of a one-hundred-percent joint and survivor annuity.

3 ~~(4)(a) (4)~~ If the requirements of subsection (2) or (3) of this
4 section are not met, ~~then the beneficiary or the estate, if the member~~
5 ~~has not filed a statement with the board naming a beneficiary, shall be~~
6 ~~paid~~ a lump sum equal to all contributions to the fund made by such
7 member plus regular interest shall be paid pursuant to section 11 of this
8 act.

9 ~~(b) An~~ , ~~except that commencing on January 1, 2006,~~ an application
10 for benefits under subsection (2) or (3) of this section shall be deemed
11 to have been timely filed if the application is received by the
12 retirement system within twelve months after the date of the death of the
13 member.

14 (5) Benefits to which a surviving spouse, beneficiary, or estate of
15 a member shall be entitled pursuant to this section shall commence
16 immediately upon the death of such member.

17 (6) A lump-sum death benefit paid to the member's beneficiary, other
18 than the member's estate, that is an eligible distribution may be
19 distributed in the form of a direct transfer to a retirement plan
20 eligible to receive such transfer under the provisions of the Internal
21 Revenue Code.

22 (7) For any member whose death occurs on or after January 1, 2007,
23 while performing qualified military service as defined in section 414(u)
24 of the Internal Revenue Code, the member's beneficiary shall be entitled
25 to any additional death benefit that would have been provided, other than
26 the accrual of any benefit relating to the period of qualified military
27 service. The additional death benefit shall be determined as if the
28 member had returned to employment with the employer and such employment
29 had terminated on the date of the member's death.

30 Sec. 16. Section 79-971, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 79-971 The Nebraska Public Employees Retirement Systems shall keep
2 an accounting of the required deposits from the compensation of members
3 collected to provide savings annuities. The accumulated contributions,
4 plus statutorily required accumulated interest, of a member may be (1)
5 returned to the member ~~him or her~~ upon the member's ~~his or her~~
6 termination, (2) paid pursuant to section 11 of this act ~~to his or her~~
7 ~~estate or designated beneficiary~~ in the event of the member's ~~his or her~~
8 ~~death as provided in section 79-956~~, or (3) used in the event of the
9 member's ~~his or her~~ retirement, used to assist in funding the member's
10 ~~his or her~~ school retirement allowance, disability retirement allowance,
11 or formula annuity allowance. Any accumulated contributions forfeited
12 shall be transferred from the School Retirement Fund to the Contingent
13 Account.

14 Sec. 17. Section 79-978.01, Revised Statutes Cumulative Supplement,
15 2018, is amended to read:

16 79-978.01 Sections 79-978 to 79-9,118 and section 18 of this act
17 shall be known and may be cited as the Class V School Employees
18 Retirement Act.

19 Sec. 18. (1) Except as provided in section 79-9,104, in the event
20 of a member's death, the death benefit shall be paid to the following, in
21 order of priority:

22 (a) To the member's surviving designated beneficiary as designated
23 in writing on forms provided by the system;

24 (b) To the spouse married to the member on the member's date of
25 death if there is no surviving designated beneficiary as designated in
26 writing on forms provided by the system; or

27 (c) To the member's estate if the member is not married on the
28 member's date of death and there is no surviving designated beneficiary
29 as designated in writing on forms provided by the system.

30 (2) The priority designations described in subsection (1) of this
31 section shall not apply if the member has retired under a joint and

1 survivor benefit option.

2 Sec. 19. Section 79-9,100, Revised Statutes Cumulative Supplement,
3 2018, is amended to read:

4 79-9,100 (1) In lieu of the retirement annuity provided by section
5 79-999 or 79-9,113, any member who becomes eligible to receive a
6 retirement annuity after February 20, 1982, under the Class V School
7 Employees Retirement Act shall receive a formula retirement annuity based
8 on final average compensation, except that if the monthly formula
9 retirement annuity based on final average compensation is less than the
10 monthly retirement annuity specified in section 79-999 or 79-9,113,
11 accrued to the date of retirement or August 31, 1983, whichever first
12 occurs, the member shall receive the monthly retirement annuity specified
13 in section 79-999 or 79-9,113 accrued to the date of retirement or August
14 31, 1983, whichever first occurs.

15 (2) The monthly formula retirement annuity based on final average
16 compensation shall be determined by multiplying the number of years of
17 creditable service for which such member would otherwise receive the
18 retirement annuity provided by section 79-999 or 79-9,113 by one and one-
19 half percent of his or her final average compensation. For retirements
20 after June 15, 1989, and before April 18, 1992, the applicable percentage
21 shall be one and sixty-five hundredths percent of his or her final
22 average compensation. For retirements on or after April 18, 1992, and
23 before June 7, 1995, the applicable percentage shall be one and seventy-
24 hundredths percent of his or her final average compensation. For
25 retirements on or after June 7, 1995, and before March 4, 1998, the
26 applicable percentage shall be one and eighty-hundredths percent of his
27 or her final average compensation. For retirements on or after March 4,
28 1998, and before March 22, 2000, the applicable percentage shall be one
29 and eighty-five hundredths percent of his or her final average
30 compensation. For retirements on or after March 22, 2000, the applicable
31 percentage shall be two percent of his or her final average compensation.

1 (3) Final average compensation shall be determined:

2 (a) Except as provided in subdivision (3)(b) of this section, by
3 dividing the member's total compensation for the three fiscal years in
4 which such compensation was the highest by thirty-six; and

5 (b) For an employee who became a member on or after July 1, 2013, by
6 dividing the member's total compensation for the five fiscal years in
7 which such compensation was the highest by sixty.

8 (4)(a) In the determination of compensation for members whose
9 retirement date is on or after July 1, 2016, that part of a member's
10 compensation for the plan year which exceeds the member's compensation
11 for the preceding plan year by more than eight percent during the capping
12 period shall be excluded. If the compensation for the preceding plan year
13 was reduced as a result of unpaid absence from work, the compensation
14 used in the capping calculation will be the greater of (i) the annualized
15 compensation for the preceding year as if it had been fully received or
16 (ii) the most recent preceding plan year in which the member had no
17 unpaid absence from work. Such member's compensation for the first plan
18 year of the capping period shall be compared to the member's compensation
19 received for the plan year immediately preceding the capping period. If
20 the first plan year of the capping period is the member's first year of
21 membership service, these capping provisions shall not be applied to that
22 first plan year.

23 (b) For purposes of this subsection:

24 (i) Capping period means the five plan years preceding the later of
25 (A) such member's retirement date or (B) such member's final compensation
26 date; and

27 (ii) Final compensation date means the later of (A) the date on
28 which a retiring member's final compensation is actually paid or (B) if a
29 retiring member's final compensation is paid in advance as a lump sum,
30 the date on which such final compensation would have been paid to the
31 member in the absence of such advance payment.

1 (5) This subsection does not apply to employees who become members
2 on or after July 1, 2016. If the annuity begins prior to the sixty-second
3 birthday of the member and the member has completed thirty-five or more
4 years of creditable service, the annuity shall not be reduced. For
5 retirements on or after June 7, 1995, any retirement annuity which begins
6 prior to the sixty-second birthday of the member shall be reduced by
7 twenty-five hundredths percent for each month or partial month between
8 the date the annuity begins and the member's sixty-second birthday. If
9 the annuity begins at a time when:

10 (a) The sum of the member's attained age and creditable service is
11 eighty-five or more, the annuity shall not be reduced;

12 (b) The sum of the member's attained age and creditable service
13 totals eighty-four, the annuity shall not be reduced by an amount greater
14 than three percent of the unreduced annuity;

15 (c) The sum of the member's attained age and creditable service
16 totals eighty-three, the annuity shall not be reduced by an amount
17 greater than six percent of the unreduced annuity; and

18 (d) The sum of the member's attained age and creditable service
19 totals eighty-two, the annuity shall not be reduced by an amount greater
20 than nine percent of the unreduced annuity.

21 (6) For purposes of this section, a member's creditable service and
22 attained age shall be measured in one-half-year increments.

23 ~~(7)(a) Except as provided in section 79-9,104, the~~ (7) The normal
24 form of the formula retirement annuity based on final average
25 compensation shall be an annuity payable monthly during the remainder of
26 the member's life with the provision that in the event of the member's
27 ~~his or her~~ death before sixty monthly payments have been made the monthly
28 payments will continue ~~be continued to his or her estate or to the~~
29 ~~beneficiary he or she has designated~~ until a total of sixty monthly
30 payments have been made in total pursuant to section 18 of this act.

31 (b) A member may elect to receive, in lieu of the normal form of

1 annuity, an actuarially equivalent annuity in any optional form provided
2 by section 79-9,101.

3 (8) Any member receiving a formula retirement annuity based on final
4 average compensation who is a member prior to July 1, 2016, shall also
5 receive the service annuity to be paid by the State of Nebraska as
6 provided in sections 79-933 to 79-935 and 79-951.

7 Sec. 20. Section 79-9,106, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 79-9,106 (1) Upon the death of a member who has not yet retired and
10 who has twenty years or more of creditable service, the member's primary
11 beneficiary, as designated by the member in writing on forms provided by
12 the system, shall receive a survivorship annuity in accordance with
13 subdivision (1) of section 79-9,101 if the primary beneficiary is (a) the
14 member's spouse or (b) one other designated beneficiary whose attained
15 age in the calendar year of the member's death is no more than ten years
16 less than the attained age of the member in such calendar year. The
17 amount of such actuarially equivalent annuity shall be calculated using
18 the attained ages of the member and the beneficiary and be based on the
19 annuity earned to the date of the member's death without reduction due to
20 any early commencement of benefits. Within sixty days from the date of
21 the member's death, if the member has not previously filed with the
22 administrator of the retirement system a form requiring that only the
23 survivorship annuity be paid, the beneficiary may request to receive in a
24 lump sum an amount equal to the member's accumulated contributions. If
25 prior to the member's death, the member files with the administrator of
26 the retirement system a form requiring that the beneficiary receive a
27 lump-sum settlement in lieu of the survivorship annuity, the beneficiary
28 shall receive, in lieu of the survivorship annuity, a lump-sum settlement
29 in an amount equal to the member's accumulated contributions
30 notwithstanding any other provision of this section.

31 (2) Upon the death of a member who has not yet retired and who has

1 less than twenty years of creditable service or upon the death of a
2 member who has not yet retired and who has twenty years or more of
3 creditable service but whose beneficiary does not meet the criteria in
4 subsection (1) of this section, ~~the member's beneficiary or, if no~~
5 ~~beneficiary has been named, the member's estate shall receive in a lump~~
6 ~~sum in an amount equal to the member's accumulated contributions shall be~~
7 ~~paid pursuant to section 18 of this act.~~

8 (3) A lump-sum death benefit paid pursuant to subsection (1) or (2)
9 of this section ~~to the member's beneficiary~~, other than the member's
10 estate, that is an eligible distribution may be distributed in the form
11 of a direct transfer to a retirement plan eligible to receive such
12 transfer under the provisions of the Internal Revenue Code.

13 (4) For any member whose death occurs on or after January 1, 2007,
14 while performing qualified military service as defined in section 414(u)
15 of the Internal Revenue Code, the member's beneficiary shall be entitled
16 to any additional death benefit that would have been provided, other than
17 the accrual of any benefit relating to the period of qualified military
18 service. The additional death benefit shall be determined as if the
19 member had returned to employment with the school district and such
20 employment had terminated on the date of the member's death.

21 Sec. 21. Section 84-1307, Revised Statutes Cumulative Supplement,
22 2018, is amended to read:

23 84-1307 (1) The membership of the retirement system shall be
24 composed of all persons who are or were employed by the State of Nebraska
25 and who maintain an account balance with the retirement system.

26 (2) The following employees of the State of Nebraska are authorized
27 to participate in the retirement system: (a) All permanent full-time
28 employees who have attained the age of eighteen years shall begin
29 participation in the retirement system upon employment; and (b) all
30 permanent part-time employees who have attained the age of eighteen years
31 may exercise the option to begin participation in the retirement system

1 within the first thirty days of employment. An employee who exercises the
2 option to begin participation in the retirement system pursuant to this
3 section shall remain in the retirement system until his or her
4 termination of employment or retirement, regardless of any change of
5 status as a permanent or temporary employee.

6 (3) On and after July 1, 2010, no employee shall be authorized to
7 participate in the retirement system provided for in the State Employees
8 Retirement Act unless the employee (a) is a United States citizen or (b)
9 is a qualified alien under the federal Immigration and Nationality Act, 8
10 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is
11 lawfully present in the United States.

12 (4) For purposes of this section, (a) permanent full-time employees
13 includes employees of the Legislature or Legislative Council who work
14 one-half or more of the regularly scheduled hours during each pay period
15 of the legislative session and (b) permanent part-time employees includes
16 employees of the Legislature or Legislative Council who work less than
17 one-half of the regularly scheduled hours during each pay period of the
18 legislative session.

19 (5)(a) Within the first one hundred eighty days of employment, a
20 full-time employee may apply to the board for vesting credit for years of
21 participation in another Nebraska governmental plan, as defined by
22 section 414(d) of the Internal Revenue Code. During the years of
23 participation in the other Nebraska governmental plan, the employee must
24 have been a full-time employee, as defined in the Nebraska governmental
25 plan in which the credit was earned. The board may adopt and promulgate
26 rules and regulations governing the assessment and granting of vesting
27 credit.

28 (b) If the contributory retirement plan or contract let pursuant to
29 section 48-609, as such section existed prior to January 1, 2018, is
30 terminated, employees of the Department of Labor who are active
31 participants in such contributory retirement plan or contract on the date

1 of termination of such plan or contract shall be granted vesting credit
2 for their years of participation in such plan or contract.

3 (6) Any employee who qualifies for membership in the retirement
4 system pursuant to this section may not be disqualified for membership in
5 the retirement system solely because such employee also maintains
6 separate employment which qualifies the employee for membership in
7 another public retirement system, nor may membership in this retirement
8 system disqualify such an employee from membership in another public
9 employment system solely by reason of separate employment which qualifies
10 such employee for membership in this retirement system.

11 (7) State agencies shall ensure that employees authorized to
12 participate in the retirement system pursuant to this section shall
13 enroll and make required contributions to the retirement system
14 immediately upon becoming an employee. Information necessary to determine
15 membership in the retirement system shall be provided by the employer.

16 Sec. 22. Section 84-1309.02, Revised Statutes Cumulative Supplement,
17 2018, is amended to read:

18 84-1309.02 (1) It is the intent of the Legislature that, in order to
19 improve the competitiveness of the retirement plan for state employees, a
20 cash balance benefit shall be added to the State Employees Retirement Act
21 on and after January 1, 2003. Each member who is employed and
22 participating in the retirement system prior to January 1, 2003, may
23 either elect to continue participation in the defined contribution
24 benefit as provided in the act prior to January 1, 2003, or elect to
25 participate in the cash balance benefit as set forth in this section. An
26 active member shall make a one-time election beginning September 1, 2012,
27 through October 31, 2012, in order to participate in the cash balance
28 benefit. If no such election is made, the member shall be treated as
29 though he or she elected to continue participating in the defined
30 contribution benefit as provided in the act prior to January 1, 2003.
31 Members who elect to participate in the cash balance benefit beginning

1 September 1, 2012, through October 31, 2012, shall commence participation
2 in the cash balance benefit on January 2, 2013. Any member who made the
3 election prior to April 7, 2012, does not have to make another election
4 of the cash balance benefit beginning September 1, 2012, through October
5 31, 2012.

6 (2) For a member employed and participating in the retirement system
7 beginning on and after January 1, 2003, or a member employed and
8 participating in the retirement system on January 1, 2003, who, prior to
9 April 7, 2012, or beginning September 1, 2012, through October 31, 2012,
10 elects to convert his or her employee and employer accounts to the cash
11 balance benefit:

12 (a) ~~The Except as provided in subdivision (2)(b) of section~~
13 ~~84-1321.01,~~ the employee cash balance account within the State Employees
14 Retirement Fund shall, at any time, be equal to the following:

15 (i) The initial employee account balance, if any, transferred from
16 the defined contribution plan account described in section 84-1310; plus

17 (ii) Employee contribution credits deposited in accordance with
18 section 84-1308; plus

19 (iii) Interest credits credited in accordance with subdivision (19)
20 of section 84-1301; plus

21 (iv) Dividend amounts credited in accordance with subdivision (4)(c)
22 of section 84-1319; and

23 (b) The employer cash balance account shall, at any time, be equal
24 to the following:

25 (i) The initial employer account balance, if any, transferred from
26 the defined contribution plan account described in section 84-1311; plus

27 (ii) Employer contribution credits deposited in accordance with
28 section 84-1309; plus

29 (iii) Interest credits credited in accordance with subdivision (19)
30 of section 84-1301; plus

31 (iv) Dividend amounts credited in accordance with subdivision (4)(c)

1 of section 84-1319.

2 (3) In order to carry out the provisions of this section, the board
3 may enter into administrative services agreements for accounting or
4 record-keeping services. No agreement shall be entered into unless the
5 board determines that it will result in administrative economy and will
6 be in the best interests of the state and its participating employees.
7 The board may develop a schedule for the allocation of the administrative
8 services agreements costs for accounting or record-keeping services and
9 may assess the costs so that each member pays a reasonable fee as
10 determined by the board.

11 Sec. 23. Section 84-1319, Revised Statutes Cumulative Supplement,
12 2018, is amended to read:

13 84-1319 (1) The future service retirement benefit shall be an
14 annuity, payable monthly with the first payment made no earlier than the
15 annuity start date, which shall be the actuarial equivalent of the
16 retirement value as specified in section 84-1318 based on factors
17 determined by the board, except that gender shall not be a factor when
18 determining the amount of such payments except as provided in this
19 section.

20 Except as provided in section 42-1107, at any time before the
21 annuity start date, the retiring employee may choose to receive his or
22 her annuity either in the form of an annuity as provided under subsection
23 (4) of this section or any optional form that is determined acceptable by
24 the board.

25 Except as provided in section 42-1107, in lieu of the future service
26 retirement annuity, a retiring employee may receive a benefit not to
27 exceed the amount in his or her employer and employee accounts as of the
28 date of final account value payable in a lump sum and, if the employee
29 chooses not to receive the entire amount in such accounts, an annuity
30 equal to the actuarial equivalent of the remainder of the retirement
31 value, and the employee may choose any form of such annuity as provided

1 for by the board.

2 In any case, the amount of the monthly payment shall be such that
3 the annuity chosen shall be the actuarial equivalent of the retirement
4 value as specified in section 84-1318 except as provided in this section.

5 (2) Except as provided in subsection (4) of this section, the
6 monthly annuity income payable to a member retiring on or after January
7 1, 1984, shall be as follows:

8 He or she shall receive at retirement the amount which may be
9 purchased by the accumulated contributions based on annuity rates in
10 effect on the annuity start date which do not utilize gender as a factor,
11 except that such amounts shall not be less than the retirement income
12 which can be provided by the sum of the amounts derived pursuant to
13 subdivisions (a) and (b) of this subsection as follows:

14 (a) The income provided by the accumulated contributions made prior
15 to January 1, 1984, based on male annuity purchase rates in effect on the
16 date of purchase; and

17 (b) The income provided by the accumulated contributions made on and
18 after January 1, 1984, based on the annuity purchase rates in effect on
19 the date of purchase which do not use gender as a factor.

20 (3) Any amounts, in excess of contributions, which may be required
21 in order to purchase the retirement income specified in subsection (2) of
22 this section shall be withdrawn from the State Equal Retirement Benefit
23 Fund.

24 (4)(a) The normal form of payment shall be a single life annuity
25 with five-year certain, which is an annuity payable monthly during the
26 remainder of the member's life with the provision that, in the event of
27 the member's ~~his or her~~ death before sixty monthly payments have been
28 made, the monthly payments will continue ~~be continued to his or her~~
29 ~~estate or to the beneficiary he or she has designated~~ until sixty monthly
30 payments have been made in total pursuant to section 28 of this act.

31 Such annuity shall be equal to the actuarial equivalent of the

1 member cash balance account or the sum of the employee and employer
2 accounts, whichever is applicable, as of the date of final account value.
3 As a part of the annuity, the normal form of payment may include a two
4 and one-half percent cost-of-living adjustment purchased by the member,
5 if the member elects such a payment option.

6 Except as provided in section 42-1107, a member may elect a lump-sum
7 distribution of his or her member cash balance account as of the date of
8 final account value upon termination of service or retirement.

9 For a member employed and participating in the retirement system
10 prior to January 1, 2003, who has elected to participate in the cash
11 balance benefit pursuant to section 84-1309.02, or for a member employed
12 and participating in the retirement system beginning on and after January
13 1, 2003, the balance of his or her member cash balance account as of the
14 date of final account value shall be converted to an annuity using an
15 interest rate that is recommended by the actuary and approved by the
16 board following an actuarial experience study, a benefit adequacy study,
17 or a plan valuation. The interest rate and actuarial factors in effect on
18 the member's retirement date will be used to calculate actuarial
19 equivalency of any retirement benefit. Such interest rate may be, but is
20 not required to be, equal to the assumed rate of return.

21 For an employee who is a member prior to January 1, 2003, who has
22 elected not to participate in the cash balance benefit pursuant to
23 section 84-1309.02, and who, at the time of retirement, chooses the
24 annuity option rather than the lump-sum option, his or her employee and
25 employer accounts as of the date of final account value shall be
26 converted to an annuity using an interest rate that is equal to the
27 lesser of (i) the Pension Benefit Guaranty Corporation initial interest
28 rate for valuing annuities for terminating plans as of the beginning of
29 the year during which payment begins plus three-fourths of one percent or
30 (ii) the interest rate to calculate the retirement benefits for the cash
31 balance plan members.

1 (b) For the calendar year beginning January 1, 2003, and each
2 calendar year thereafter, the actuary for the board shall perform an
3 actuarial valuation of the system using the entry age actuarial cost
4 method. Under this method, the actuarially required funding rate is equal
5 to the normal cost rate plus the contribution rate necessary to amortize
6 the unfunded actuarial accrued liability on a level-payment basis. The
7 normal cost under this method shall be determined for each individual
8 member on a level percentage of salary basis. The normal cost amount is
9 then summed for all members. The initial unfunded actual accrued
10 liability as of January 1, 2003, if any, shall be amortized over a
11 twenty-five-year period. During each subsequent actuarial valuation,
12 changes in the unfunded actuarial accrued liability due to changes in
13 benefits, actuarial assumptions, the asset valuation method, or actuarial
14 gains or losses shall be measured and amortized over a twenty-five-year
15 period beginning on the valuation date of such change. If the unfunded
16 actuarial accrued liability under the entry age actuarial cost method is
17 zero or less than zero on an actuarial valuation date, then all prior
18 unfunded actuarial accrued liabilities shall be considered fully funded
19 and the unfunded actuarial accrued liability shall be reinitialized and
20 amortized over a twenty-five-year period as of the actuarial valuation
21 date. If the actuarially required contribution rate exceeds the rate of
22 all contributions required pursuant to the State Employees Retirement
23 Act, there shall be a supplemental appropriation sufficient to pay for
24 the difference between the actuarially required contribution rate and the
25 rate of all contributions required pursuant to the act.

26 (c) If the unfunded accrued actuarial liability under the entry age
27 actuarial cost method is less than zero on an actuarial valuation date,
28 and on the basis of all data in the possession of the retirement board,
29 including such mortality and other tables as are recommended by the
30 actuary engaged by the retirement board and adopted by the retirement
31 board, the retirement board may elect to pay a dividend to all members

1 participating in the cash balance option in an amount that would not
2 increase the actuarial contribution rate above ninety percent of the
3 actual contribution rate. Dividends shall be credited to the employee
4 cash balance account and the employer cash balance account based on the
5 account balances on the actuarial valuation date. In the event a dividend
6 is granted and paid after the actuarial valuation date, interest for the
7 period from the actuarial valuation date until the dividend is actually
8 paid shall be paid on the dividend amount. The interest rate shall be the
9 interest credit rate earned on regular contributions.

10 (5) At the option of the retiring member, any lump sum or annuity
11 provided under this section or section 84-1320 may be deferred to
12 commence at any time, except that no benefit shall be deferred later than
13 April 1 of the year following the year in which the employee has both
14 attained at least seventy and one-half years of age and has terminated
15 his or her employment with the state. Such election by the retiring
16 member may be made at any time prior to the commencement of the lump-sum
17 or annuity payments.

18 (6) A participant or beneficiary who would have been required to
19 receive required minimum distributions for 2009 but for the enactment of
20 section 401(a)(9)(H) of the Internal Revenue Code, and who would have
21 satisfied that requirement by receiving distributions that are either
22 equal to the 2009 required minimum distributions or one or more payments
23 in a series of substantially equal distributions, including the 2009
24 required minimum distribution, made at least annually and expected to
25 last for the life or life expectancy of the participant, the joint lives
26 or joint life expectancy of the participant and the participant's
27 designated beneficiary, or for a period of at least ten years, shall
28 receive those distributions for 2009 unless the participant or
29 beneficiary chooses not to receive such distributions. Participants and
30 beneficiaries shall be given the opportunity to elect to stop receiving
31 the distributions described in this subsection.

1 Sec. 24. Section 84-1321.01, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 84-1321.01 (1) For a member who has terminated employment and is not
4 vested, the balance of the member's employer account or employer cash
5 balance account shall be forfeited. The forfeited account shall be
6 credited to the State Employees Retirement Fund and shall first be used
7 to meet the expense charges incurred by the retirement board in
8 connection with administering the retirement system, which charges shall
9 be credited to the State Employees Defined Contribution Retirement
10 Expense Fund, if the member participated in the defined contribution
11 option, or to the State Employees Cash Balance Retirement Expense Fund,
12 if the member participated in the cash balance option, and the remainder,
13 if any, shall then be used to restore employer accounts or employer cash
14 balance accounts. Except as provided in subsection (3) of section 84-1314
15 and subdivision (4)(c) of section 84-1319, no forfeited amounts shall be
16 applied to increase the benefits any member would otherwise receive under
17 the State Employees Retirement Act.

18 (2) ~~(2)(a)~~ If a member ceases to be an employee due to the
19 termination of his or her employment by the state and a grievance or
20 other appeal of the termination is filed, transactions involving
21 forfeiture of his or her employer account or employer cash balance
22 account and, ~~except as provided in subdivision (b) of this subsection,~~
23 transactions for payment of benefits under sections 84-1317 and 84-1321
24 shall be suspended pending the final outcome of the grievance or other
25 appeal.

26 ~~(b) If a member elects to receive benefits payable under sections~~
27 ~~84-1317 and 84-1321 after a grievance or appeal is filed, the member may~~
28 ~~receive an amount up to the balance of his or her employee account or~~
29 ~~member cash balance account or twenty five thousand dollars payable from~~
30 ~~the employee account or member cash balance account, whichever is less.~~

31 (3) The State Employer Retirement Expense Fund is created. The fund

1 shall be administered by the Public Employees Retirement Board. Prior to
2 July 1, 2012, the fund shall be used to meet expenses of the State
3 Employees Retirement System of the State of Nebraska whether such
4 expenses are incurred in administering the member's employer account or
5 in administering the member's employer cash balance account when the
6 funds available in the State Employees Defined Contribution Retirement
7 Expense Fund or State Employees Cash Balance Retirement Expense Fund make
8 such use reasonably necessary. On July 1, 2012, or as soon as practicable
9 thereafter, any money in the State Employer Retirement Expense Fund shall
10 be transferred by the State Treasurer to the State Employees Retirement
11 Fund and credited to the cash balance benefit established in section
12 84-1309.02.

13 (4) Prior to July 1, 2012, the director of the Nebraska Public
14 Employees Retirement Systems shall certify to the Accounting
15 Administrator of the Department of Administrative Services when
16 accumulated employer account forfeiture funds are available to reduce the
17 state contribution which would otherwise be required to fund future
18 service retirement benefits or to restore employer accounts or employer
19 cash balance accounts referred to in subsection (1) of this section.
20 Following such certification, the Accounting Administrator shall transfer
21 the amount reduced from the state contribution from the Imprest Payroll
22 Distributive Fund to the State Employer Retirement Expense Fund. Expenses
23 incurred as a result of the state depositing amounts into the State
24 Employer Retirement Expense Fund shall be deducted prior to any
25 additional expenses being allocated. Any remaining amount shall be
26 allocated in accordance with subsection (3) of this section. Any money in
27 the State Employer Retirement Expense Fund available for investment shall
28 be invested by the state investment officer pursuant to the Nebraska
29 Capital Expansion Act and the Nebraska State Funds Investment Act.

30 Sec. 25. Section 84-1322, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 84-1322 (1) Prior to January 1, 2020, except ~~Except~~ as otherwise
2 provided in this section, a member of the retirement system who has a
3 five-year break in service shall upon reemployment be considered a new
4 employee with respect to the State Employees Retirement Act and shall not
5 receive credit for service prior to his or her reemployment date.

6 (2)(a) A member who ceases to be an employee before becoming
7 eligible for retirement under section 84-1317 and again becomes a
8 permanent full-time or permanent part-time state employee prior to having
9 a five-year break in service shall immediately be reenrolled in the
10 retirement system and resume making contributions. For purposes of
11 vesting employer contributions made prior to and after reentry into the
12 retirement system under subsection (3) of section 84-1321, years of
13 participation include years of participation prior to such employee's
14 original termination. For a member who is not vested and has received a
15 termination benefit pursuant to section 84-1321, the years of
16 participation prior to such employee's original termination shall be
17 limited in a ratio equal to the amount that the member repays divided by
18 the termination benefit withdrawn pursuant to section 84-1321. This
19 subsection shall apply whether or not the person was a state employee on
20 April 20, 1986, or July 17, 1986.

21 (b) The reemployed member may repay the value of, or a portion of
22 the value of, the termination benefit withdrawn pursuant to section
23 84-1321. A reemployed member who elects to repay all or a portion of the
24 value of the termination benefit withdrawn pursuant to section 84-1321
25 shall repay the actual earnings on such value. Repayment of the
26 termination benefit shall commence within three years after reemployment
27 and shall be completed within five years after reemployment or prior to
28 termination of employment, whichever occurs first, through (i) direct
29 payments to the retirement system, (ii) installment payments made
30 pursuant to a binding irrevocable payroll deduction authorization made by
31 the member, (iii) an eligible rollover distribution as provided under the

1 Internal Revenue Code, or (iv) a direct rollover distribution made in
2 accordance with section 401(a)(31) of the Internal Revenue Code.

3 (c) The value of the member's forfeited employer account or employer
4 cash balance account, as of the date of forfeiture, shall be restored in
5 a ratio equal to the amount of the benefit that the member has repaid
6 divided by the termination benefit received. The employer account or
7 employer cash balance account shall be restored first out of the current
8 forfeiture amounts and then by additional employer contributions.

9 (3) For a member who retired pursuant to section 84-1317 and becomes
10 a permanent full-time employee or permanent part-time employee with the
11 state more than one hundred twenty days after his or her retirement date,
12 the member shall continue receiving retirement benefits. Such a retired
13 member or a retired member who received a lump-sum distribution of his or
14 her benefit shall be considered a new employee as of the date of
15 reemployment and shall not receive credit for any service prior to the
16 member's retirement for purposes of the act.

17 (4) A member who is reinstated as an employee pursuant to a
18 grievance or appeal of his or her termination by the state shall be a
19 member upon reemployment and shall not be considered to have a break in
20 service for such period of time that the grievance or appeal was pending.
21 ~~Following reinstatement, the member shall repay the value of the amount~~
22 ~~received from his or her employee account or member cash balance account~~
23 ~~under subdivision (2)(b) of section 84-1321.01.~~

24 (5) Beginning January 1, 2020, if a contributing member of the
25 retirement system ceases to be an employee and returns to service in any
26 capacity with the state prior to having a one-hundred-twenty-day break in
27 service, the member:

28 (a) Shall not be deemed to have had a bona fide separation of
29 service;

30 (b) Shall be immediately reenrolled in:

31 (i) The defined contribution benefit if the member was contributing

1 to the defined contribution benefit prior to ceasing employment; or

2 (ii) The cash balance benefit in which the member was participating
3 prior to ceasing employment if the member was contributing to the cash
4 balance benefit prior to ceasing employment;

5 (c) Shall immediately resume making contributions;

6 (d) Shall make up any missed contributions based upon services
7 rendered and compensation received;

8 (e) Shall have all distributions from the retirement system
9 canceled; and

10 (f) Shall repay the gross distributions from the retirement system.

11 (6)(a) Beginning January 1, 2020, if a contributing member of the
12 retirement system ceases to be an employee and returns to permanent full-
13 time or permanent part-time service in any capacity with the state after
14 having a one-hundred-twenty-day break in service, the member:

15 (i) Shall be immediately reenrolled in:

16 (A) The defined contribution benefit if the member was contributing
17 to the defined contribution benefit prior to ceasing employment; or

18 (B) The cash balance benefit in which the member was participating
19 prior to ceasing employment if the member was contributing to the cash
20 balance benefit prior to ceasing employment;

21 (ii) Shall immediately resume making contributions;

22 (iii) Shall continue receiving any annuity elected after the member
23 ceased employment and before the member was reemployed; and

24 (iv) Shall be prohibited from taking any distributions from the
25 retirement system until the employee again terminates employment with the
26 state.

27 (b) For the purposes of vesting employer contributions made prior to
28 and after reentry into the retirement system, the member's years of
29 participation prior to the date the member originally ceased employment
30 and the years of participation after the member is reenrolled in the
31 retirement system shall be included as years of participation, except

1 that if the member has taken a distribution, the years of participation
2 prior to the date the member originally ceased employment shall be
3 limited in a ratio equal to the value of the distribution that the member
4 repays divided by the total value of the distribution taken as described
5 in subdivision (6)(c) of this section.

6 (c) A reemployed member may repay all or a portion of the value of a
7 distribution except for an annuity elected after the member ceased
8 employment and before the member was reemployed. Repayment of such a
9 distribution shall commence within three years after reemployment and
10 shall be completed within five years after reemployment or prior to the
11 member again ceasing employment, whichever occurs first, through (i)
12 direct payments to the retirement system, (ii) installment payments made
13 pursuant to a binding irrevocable payroll deduction authorization made by
14 the member, (iii) an eligible rollover distribution as provided under the
15 Internal Revenue Code, or (iv) a direct rollover distribution made in
16 accordance with section 401(a)(31) of the Internal Revenue Code. If the
17 member fails to repay all of the value of such a distribution prior to
18 the member again ceasing employment, the member shall be forever barred
19 from repaying the value of such a distribution taken between the periods
20 of employment. The value of the member's forfeited employer account or
21 employer cash balance account, as of the date of forfeiture, shall be
22 restored in a ratio equal to the amount of the distribution repaid by the
23 member divided by the amount of the distribution taken. The employer
24 account or employer cash balance account shall be restored first out of
25 the current forfeiture amounts and then by additional employer
26 contributions.

27 Sec. 26. Section 84-1323, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 84-1323 (1)(a) ~~(1)~~ In the event of a member's the death before the
30 member's his or her retirement date of any employee who is a member of
31 the system, the death benefit shall be equal to (i) ~~(a)~~ for participants

1 in the defined contribution benefit, the total of the employee account
2 and the employer account and (ii) ~~(b)~~ for participants in the cash
3 balance benefit, the benefit provided in section 84-1309.02.

4 (b) Except as provided in section 42-1107, the ~~The~~ death benefit
5 shall be paid pursuant to section 28 of this act ~~the member's~~
6 ~~beneficiary, to an alternate payee pursuant to a qualified domestic~~
7 ~~relations order as provided in section 42-1107, or to the member's estate~~
8 ~~if there are no designated beneficiaries.~~

9 (c) If the beneficiary is not the member's surviving spouse, the
10 death benefit shall be paid as a lump-sum payment or payments, except
11 that the entire account must be distributed by the fifth anniversary of
12 the member's death. If the sole primary beneficiary is the member's
13 surviving spouse, the surviving spouse may elect to receive an annuity
14 calculated as if the member retired and selected a one-hundred-percent
15 joint and survivor annuity effective on the annuity purchase date. If the
16 surviving spouse does not elect the annuity option within one hundred
17 eighty days after the death of the member, the surviving spouse shall
18 receive a lump-sum payment or payments, except that the entire account
19 must be distributed by the fifth anniversary of the member's death.

20 (2) A lump-sum death benefit paid to the member's beneficiary, other
21 than the member's estate, that is an eligible distribution may be
22 distributed in the form of a direct transfer to a retirement plan
23 eligible to receive such transfer under the provisions of the Internal
24 Revenue Code.

25 (3) For any member whose death occurs on or after January 1, 2007,
26 while performing qualified military service as defined in section 414(u)
27 of the Internal Revenue Code, the member's beneficiary shall be entitled
28 to any additional death benefit that would have been provided, other than
29 the accrual of any benefit relating to the period of qualified military
30 service. The additional death benefit shall be determined as if the
31 member had returned to employment with the State of Nebraska and such

1 employment had terminated on the date of the member's death.

2 Sec. 27. Section 84-1331, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 84-1331 Sections 84-1301 to 84-1331 and section 28 of this act shall
5 be known and may be cited as the State Employees Retirement Act.

6 Sec. 28. (1) Except as provided in section 42-1107, in the event of
7 a member's death, the death benefit shall be paid to the following, in
8 order of priority:

9 (a) To the member's surviving designated beneficiary on file with
10 the board;

11 (b) To the spouse married to the member on the member's date of
12 death if there is no surviving designated beneficiary on file with the
13 board; or

14 (c) To the member's estate if the member is not married on the
15 member's date of death and there is no surviving designated beneficiary
16 on file with the board.

17 (2) The priority designations described in subsection (1) of this
18 section shall not apply if the member has retired under a joint and
19 survivor benefit option.

20 Sec. 29. Section 84-1503, Revised Statutes Cumulative Supplement,
21 2018, is amended to read:

22 84-1503 (1) It shall be the duty of the Public Employees Retirement
23 Board:

24 (a) To administer the retirement systems provided for in the County
25 Employees Retirement Act, the Judges Retirement Act, the Nebraska State
26 Patrol Retirement Act, the School Employees Retirement Act, and the State
27 Employees Retirement Act. The agency for the administration of the
28 retirement systems and under the direction of the board shall be known
29 and may be cited as the Nebraska Public Employees Retirement Systems;

30 (b) To appoint a director to administer the systems under the
31 direction of the board. The appointment shall be subject to the approval

1 of the Governor and a majority of the Legislature. The director shall be
2 qualified by training and have at least five years of experience in the
3 administration of a qualified public or private employee retirement plan.
4 The director shall not be a member of the board. The salary of the
5 director shall be set by the board. The director shall serve without term
6 and may be removed by the board;

7 (c) To provide for an equitable allocation of expenses among the
8 retirement systems administered by the board, and all expenses shall be
9 provided from the investment income earned by the various retirement
10 funds unless alternative sources of funds to pay expenses are specified
11 by law;

12 (d) To administer the deferred compensation program authorized in
13 section 84-1504;

14 (e) To hire an attorney, admitted to the Nebraska State Bar
15 Association, to advise the board in the administration of the retirement
16 systems listed in subdivision (a) of this subsection;

17 (f) To hire an internal auditor to perform the duties described in
18 section 84-1503.04 who meets the minimum standards as described in
19 section 84-304.03;

20 (g) To adopt and implement procedures for reporting information by
21 employers, as well as testing and monitoring procedures in order to
22 verify the accuracy of such information. The information necessary to
23 determine membership shall be provided by the employer. The board may
24 adopt and promulgate rules and regulations and prescribe such forms
25 necessary to carry out this subdivision. Nothing in this subdivision
26 shall be construed to require the board to conduct onsite audits of
27 political subdivisions for compliance with statutes, rules, and
28 regulations governing the retirement systems listed in subdivision (1)(a)
29 of this section regarding membership and contributions; and

30 (h) To prescribe and furnish forms for the public retirement system
31 plan reports required to be filed pursuant to sections 2-3228, 12-101,

1 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118,
2 23-3526, 71-1631.02, and 79-987 through December 31, 2017.

3 (2) In administering the retirement systems listed in subdivision
4 (1)(a) of this section, it shall be the duty of the board:

5 (a) To determine, based on information provided by the employer, the
6 prior service annuity, if any, for each person who is an employee of the
7 county on the date of adoption of the retirement system;

8 (b) To determine the eligibility of an individual to be a member of
9 the retirement system and other questions of fact in the event of a
10 dispute between an individual and the individual's employer;

11 (c) To adopt and promulgate rules and regulations, as the board may
12 deem necessary, for the management of the board;

13 (d) To keep a complete record of all proceedings taken at any
14 meeting of the board;

15 (e) To obtain, by a competitive, formal, and sealed bidding process
16 through the materiel division of the Department of Administrative
17 Services, actuarial services on behalf of the State of Nebraska as may be
18 necessary in the administration and development of the retirement
19 systems, including, but not limited to, preparation of an annual
20 actuarial valuation report of each of the defined benefit and cash
21 balance plans administered by the board. Such annual valuation reports
22 shall be presented by the actuary to the Nebraska Retirement Systems
23 Committee of the Legislature at a public hearing or hearings. Any
24 contract for actuarial services shall contain a provision allowing the
25 actuary, without prior approval of the board, to perform actuarial
26 studies of the systems as requested by entities other than the board, if
27 notice, which does not identify the entity or substance of the request,
28 is given to the board, all costs are paid by the requesting entity,
29 results are provided to the board, the Nebraska Retirement Systems
30 Committee of the Legislature, and the Legislative Fiscal Analyst upon
31 being made public, and such actuarial studies do not interfere with the

1 actuary's ongoing responsibility to the board. The term of the contract
2 shall be for up to three years. A competitive, formal, and sealed bidding
3 process shall be completed at least once every three years, unless the
4 board determines that such a process would not be cost effective under
5 the circumstances and that the actuarial services performed have been
6 satisfactory, in which case the contract may also contain an option for
7 renewal without a competitive, formal, and sealed bidding process for up
8 to three additional years. An actuary under contract for the State of
9 Nebraska shall be a member of the American Academy of Actuaries and meet
10 the academy's qualification standards to render a statement of actuarial
11 opinion;

12 (f) To direct the State Treasurer to transfer funds, as an expense
13 of the retirement systems, to the Legislative Council Retirement Study
14 Fund. Such transfer shall occur beginning on or after July 1, 2005, and
15 at intervals of not less than five years and not more than fifteen years
16 and shall be in such amounts as the Legislature shall direct;

17 (g) To adopt and promulgate rules and regulations, as the board may
18 deem necessary, to carry out the provisions of each retirement system
19 described in subdivision (1)(a) of this section, which includes, but is
20 not limited to, the crediting of military service, direct rollover
21 distributions, and the acceptance of rollovers;

22 (h) To obtain, by a competitive, formal, and sealed bidding process
23 through the materiel division of the Department of Administrative
24 Services, auditing services for a separate compliance audit of the
25 retirement systems to be completed by December 31, 2020, and from time to
26 time thereafter at the request of the Nebraska Retirement Systems
27 Committee of the Legislature, to be completed not more than every four
28 years but not less than every ten years. The compliance audit shall be in
29 addition to the annual audit conducted by the Auditor of Public Accounts.
30 The compliance audit shall include, but not be limited to, an examination
31 of records, files, and other documents and an evaluation of all policies

1 and procedures to determine compliance with all state and federal laws. A
2 copy of the compliance audit shall be given to the Governor, the board,
3 and the Nebraska Retirement Systems Committee of the Legislature and
4 shall be presented to the committee at a public hearing;

5 (i) To adopt and promulgate rules and regulations, as the board may
6 deem necessary, for the adjustment of contributions or benefits, which
7 includes, but is not limited to: (i) The procedures for refunding
8 contributions, adjusting future contributions or benefit payments, and
9 requiring additional contributions or repayment of benefits; (ii) the
10 process for a member, member's beneficiary, employee, or employer to
11 dispute an adjustment to contributions or benefits; (iii) establishing
12 materiality and de minimus amounts for agency transactions, adjustments,
13 and inactive account closures; and (iv) notice provided to all affected
14 persons. Following an adjustment, a timely notice shall be sent that
15 describes the adjustment and the process for disputing an adjustment to
16 contributions or benefits;

17 (j)(i) To amend the deferred compensation plan to require that in
18 the event of a member's death except as provided in section 42-1107, the
19 death benefit shall be paid to the following, in order of priority:

20 (A) To the member's surviving designated beneficiary on file with
21 the board;

22 (B) To the spouse married to the member on the member's date of
23 death if there is no surviving designated beneficiary on file with the
24 board; or

25 (C) To the member's estate if the member is not married on the
26 member's date of death and there is no surviving designated beneficiary
27 on file with the board; and

28 (ii) The priority designations described in subdivision (2)(j)(i) of
29 this section shall not apply if the member has retired under a joint and
30 survivor benefit option;

31 (k) ~~(j)~~ To make a thorough investigation through the director or the

1 director's designee, of any overpayment of a benefit, when in the
2 judgment of the director such investigation is necessary, including, but
3 not limited to, circumstances in which benefit payments are made after
4 the death of a member or beneficiary and the retirement system is not
5 made aware of such member's or beneficiary's death. In connection with
6 any such investigation, the board, through the director or the director's
7 designee, shall have the power to compel the attendance of witnesses and
8 the production of books, papers, records, and documents, whether in
9 hardcopy, electronic form, or otherwise, and issue subpoenas for such
10 purposes. Such subpoenas shall be served in the same manner and have the
11 same effect as subpoenas from district courts; and

12 (1) ~~(k)~~ To administer all retirement system plans in a manner which
13 will maintain each plan's status as a qualified plan pursuant to the
14 Internal Revenue Code, as defined in section 49-801.01, including:
15 Section 401(a)(9) of the Internal Revenue Code relating to the time and
16 manner in which benefits are required to be distributed, including the
17 incidental death benefit distribution requirement of section 401(a)(9)(G)
18 of the Internal Revenue Code; section 401(a)(25) of the Internal Revenue
19 Code relating to the specification of actuarial assumptions; section
20 401(a)(31) of the Internal Revenue Code relating to direct rollover
21 distributions from eligible retirement plans; section 401(a)(37) of the
22 Internal Revenue Code relating to the death benefit of a member whose
23 death occurs while performing qualified military service; and section
24 401(a) of the Internal Revenue Code by meeting the requirements of
25 section 414(d) of the Internal Revenue Code relating to the establishment
26 of retirement plans for governmental employees of a state or political
27 subdivision thereof. The board may adopt and promulgate rules and
28 regulations necessary or appropriate to maintain such status including,
29 but not limited to, rules or regulations which restrict discretionary or
30 optional contributions to a plan or which limit distributions from a
31 plan.

1 (3) By March 31 of each year, the board shall prepare a written plan
2 of action and shall present such plan to the Nebraska Retirement Systems
3 Committee of the Legislature at a public hearing. The plan shall include,
4 but not be limited to, the board's funding policy, the administrative
5 costs and other fees associated with each fund and plan overseen by the
6 board, member education and informational programs, the director's duties
7 and limitations, an organizational structure of the office of the
8 Nebraska Public Employees Retirement Systems, and the internal control
9 structure of such office to ensure compliance with state and federal
10 laws.

11 (4)(a) Beginning in 2016, and at least every four years thereafter
12 in even-numbered years or at the request of the Nebraska Retirement
13 Systems Committee of the Legislature, the board shall obtain an
14 experience study. Within thirty business days after presentation of the
15 experience study to the board, the actuary shall present the study to the
16 Nebraska Retirement Systems Committee at a public hearing. If the board
17 does not adopt all of the recommendations in the experience study, the
18 board shall provide a written explanation of its decision to the Nebraska
19 Retirement Systems Committee and the Governor. The explanation shall be
20 delivered within ten business days after formal action by the board to
21 not adopt one or more of the recommendations.

22 (b) The director shall provide an electronic copy of the first draft
23 and a final draft of the experience study and annual valuation reports to
24 the Nebraska Retirement Systems Committee and the Governor when the
25 director receives the drafts from the actuary. The drafts shall be deemed
26 confidential information. The draft copies obtained by the Nebraska
27 Retirement Systems Committee and the Governor pursuant to this section
28 shall not be considered public records subject to sections 84-712 to
29 84-712.09.

30 (c) For purposes of this subsection, business days shall be computed
31 by excluding the day the request is received, after which the designated

1 period of time begins to run. A business day shall not include a Saturday
2 or a Sunday or a day during which the Nebraska Public Employees
3 Retirement Systems office is closed.

4 (5) It shall be the duty of the board to direct the State Treasurer
5 to transfer funds, as an expense of the retirement system provided for
6 under the Class V School Employees Retirement Act, to and from the Class
7 V Retirement System Payment Processing Fund and the Class V School
8 Employees Retirement Fund for the benefit of a retirement system provided
9 for under the Class V School Employees Retirement Act to implement the
10 provisions of section 79-986. The agency for the administration of this
11 provision and under the direction of the board shall be known and may be
12 cited as the Nebraska Public Employees Retirement Systems.

13 Sec. 30. If any section in this act or any part of any section is
14 declared invalid or unconstitutional, the declaration shall not affect
15 the validity or constitutionality of the remaining portions.

16 Sec. 31. Original sections 23-2320, 23-2321, 23-2331, 79-901,
17 79-927, 79-956, 79-971, 79-9,106, 84-1321.01, 84-1322, 84-1323, and
18 84-1331, Reissue Revised Statutes of Nebraska, and sections 23-2306,
19 23-2308.01, 23-2317, 23-2319.01, 79-902, 79-921, 79-934, 79-978.01,
20 79-9,100, 84-1307, 84-1309.02, 84-1319, and 84-1503, Revised Statutes
21 Cumulative Supplement, 2018, are repealed.

22 Sec. 32. Since an emergency exists, this act takes effect when
23 passed and approved according to law.