

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 790**

Introduced by Kolterman, 24.

Read first time January 07, 2016

Committee: Nebraska Retirement Systems

1 A BILL FOR AN ACT relating to retirement systems; to amend section  
2 24-710.01, Reissue Revised Statutes of Nebraska, section 16-1002,  
3 Revised Statutes Cumulative Supplement, 2014, and sections 24-701,  
4 79-902, 79-904.01, 79-934, and 79-978, Revised Statutes Supplement,  
5 2015; to alphabetize defined terms; to harmonize provisions; and to  
6 repeal the original sections.

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

1 Section 1. Section 16-1002, Revised Statutes Cumulative Supplement,  
2 2014, is amended to read:

3 16-1002 For purposes of the Police Officers Retirement Act, unless  
4 the context otherwise requires:

5 (1) Actuarial equivalent means equality in value of the aggregate  
6 amount of benefit expected to be received under different forms of  
7 benefit or at different times determined as of a given date as adopted by  
8 the city or the retirement committee for use by the retirement system.  
9 Actuarial equivalencies shall be specified in the funding medium  
10 established for the retirement system, except that if benefits under the  
11 retirement system are obtained through the purchase of an annuity  
12 contract, the actuarial equivalent of any such form of benefit shall be  
13 the amount of pension benefit which can be purchased or otherwise  
14 provided by the police officer's retirement value. All actuarial and  
15 mortality assumptions adopted by the city or retirement committee shall  
16 be on a sex-neutral basis;

17 (2) Annuity contract means the contract or contracts issued by one  
18 or more life insurance companies and purchased by the retirement system  
19 in order to provide any of the benefits described in the act. Annuity  
20 conversion rates contained in any such contract shall be specified on a  
21 sex-neutral basis; and

22 (3 2) Beneficiary means the person or persons designated by a police  
23 officer, pursuant to a written instrument filed with the retirement  
24 committee before the police officer's death, to receive death benefits  
25 which may be payable under the retirement system;

26 (4 3) Funding agent means any bank, trust company, life insurance  
27 company, thrift institution, credit union, or investment management firm  
28 selected by the city or retirement committee to hold or invest the funds  
29 of the retirement system;

30 (5 4) Regular interest means the rate of interest earned each  
31 calendar year equal to the rate of net earnings realized for the calendar

1 year from investments of the retirement fund. Net earnings means the  
2 amount by which income or gain realized from investments of the  
3 retirement fund exceeds the amount of any realized losses from such  
4 investments during the calendar year;

5 (6 5) Regular pay means the average salary of the police officer for  
6 the period of five consecutive years preceding elective retirement,  
7 death, or date of disability which produces the highest average;

8 (7) Retirement committee means the retirement committee created  
9 pursuant to section 16-1014;

10 (8) Retirement system means a retirement system established pursuant  
11 to the act;

12 (9) Retirement value means the accumulated value of the police  
13 officer's employee account and employer account. The retirement value  
14 consists of the sum of the contributions made or transferred to such  
15 accounts by the police officer and by the city on the police officer's  
16 behalf and the regular interest credited to the accounts as of the date  
17 of computation, reduced by any realized losses which were not taken into  
18 account in determining regular interest in any year, and further adjusted  
19 each year to reflect the pro rata share for the accounts of the  
20 appreciation or depreciation of the fair market value of the assets of  
21 the retirement system as determined by the retirement committee. The  
22 retirement value shall be reduced by the amount of all distributions made  
23 to or on the behalf of the police officer from the retirement system.  
24 Such valuation shall be computed annually as of December 31. If separate  
25 investment accounts are established pursuant to subsection (3) of section  
26 16-1004, a police officer's retirement value with respect to such  
27 accounts shall be equal to the value of his or her separate investment  
28 accounts as determined under such subsection;

29 (10 6) Salary means all amounts paid to a participating police  
30 officer by the employing city for personal services as reported on the  
31 participant's federal income tax withholding statement, including the

1 police officer's contributions picked up by the city as provided in  
2 subsection (2) of section 16-1005 and any salary reduction contributions  
3 which are excludable from income for federal income tax purposes pursuant  
4 to section 125 or 457 of the Internal Revenue Code;

5 (11 7) Sex-neutral basis means the benefit calculation provided to  
6 the city of the first class by a licensed domestic or foreign insurance  
7 or annuity company with a product available for purchase in Nebraska that  
8 utilizes a blended, non-gender-specific rate for actuarial assumptions,  
9 mortality assumptions, and annuity conversion rates for a particular  
10 participant, except that if a blended, non-gender-specific rate is not  
11 available for purchase in Nebraska, the benefit calculation shall be  
12 performed using the arithmetic mean of the male-specific actuarial  
13 assumptions, mortality assumptions, or annuity conversion rates and the  
14 female-specific actuarial assumptions, mortality assumptions, or annuity  
15 conversion rates, as applicable, for a particular participant, and the  
16 arithmetic mean shall be determined by adding the male-specific actuarial  
17 assumptions, mortality assumptions, or annuity conversion rates to the  
18 female-specific actuarial assumptions, mortality assumptions, or annuity  
19 conversion rates applicable to a particular participant and dividing the  
20 sum by two; and

21 ~~(8) Retirement committee means the retirement committee created~~  
22 ~~pursuant to section 16-1014;~~

23 ~~(9) Retirement system means a retirement system established pursuant~~  
24 ~~to the act;~~

25 ~~(10) Retirement value means the accumulated value of the police~~  
26 ~~officer's employee account and employer account. The retirement value~~  
27 ~~consists of the sum of the contributions made or transferred to such~~  
28 ~~accounts by the police officer and by the city on the police officer's~~  
29 ~~behalf and the regular interest credited to the accounts as of the date~~  
30 ~~of computation, reduced by any realized losses which were not taken into~~  
31 ~~account in determining regular interest in any year, and further adjusted~~

1 ~~each year to reflect the pro rata share for the accounts of the~~  
2 ~~appreciation or depreciation of the fair market value of the assets of~~  
3 ~~the retirement system as determined by the retirement committee. The~~  
4 ~~retirement value shall be reduced by the amount of all distributions made~~  
5 ~~to or on the behalf of the police officer from the retirement system.~~  
6 ~~Such valuation shall be computed annually as of December 31. If separate~~  
7 ~~investment accounts are established pursuant to subsection (3) of section~~  
8 ~~16-1004, a police officer's retirement value with respect to such~~  
9 ~~accounts shall be equal to the value of his or her separate investment~~  
10 ~~accounts as determined under such subsection;~~

11 ~~(11) Annuity contract means the contract or contracts issued by one~~  
12 ~~or more life insurance companies and purchased by the retirement system~~  
13 ~~in order to provide any of the benefits described in the act. Annuity~~  
14 ~~conversion rates contained in any such contract shall be specified on a~~  
15 ~~sex-neutral basis; and~~

16 (12) Straight life annuity means an ordinary annuity payable for the  
17 life of the primary annuitant only and terminating at his or her death  
18 without refund or death benefit of any kind.

19 Sec. 2. Section 24-701, Revised Statutes Supplement, 2015, is  
20 amended to read:

21 24-701 For purposes of the Judges Retirement Act, unless the context  
22 otherwise requires:

23 (1) Actuarial equivalence means the equality in value of the  
24 aggregate amounts expected to be received under different forms of  
25 payment. The determinations are to be based on the 1994 Group Annuity  
26 Mortality Table reflecting sex-distinct factors blended using seventy-  
27 five percent of the male table and twenty-five percent of the female  
28 table. An interest rate of eight percent per annum shall be reflected in  
29 making these determinations;

30 (2) Beneficiary means a person so designated by a judge in the last  
31 designation of beneficiary on file with the board or, if no designated

1 person survives or if no designation is on file, the estate of such  
2 judge;

3 (3) Board means the Public Employees Retirement Board;

4 (4)(a) Compensation means the statutory salary of a judge or the  
5 salary being received by such judge pursuant to law. Compensation does  
6 not include compensation for unused sick leave or unused vacation leave  
7 converted to cash payments, insurance premiums converted into cash  
8 payments, reimbursement for expenses incurred, fringe benefits, per  
9 diems, or bonuses for services not actually rendered, including, but not  
10 limited to, early retirement inducements, cash awards, and severance pay,  
11 except for retroactive salary payments paid pursuant to court order,  
12 arbitration, or litigation and grievance settlements. Compensation  
13 includes overtime pay, member retirement contributions, and amounts  
14 contributed by the member to plans under sections 125 and 457 of the  
15 Internal Revenue Code as defined in section 49-801.01 or any other  
16 section of the code which defers or excludes such amounts from income.

17 (b) Compensation in excess of the limitations set forth in section  
18 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01  
19 shall be disregarded. For an employee who was a member of the retirement  
20 system before the first plan year beginning after December 31, 1995, the  
21 limitation on compensation shall not be less than the amount which was  
22 allowed to be taken into account under the retirement system as in effect  
23 on July 1, 1993;

24 (5) Creditable service means the total number of years served as a  
25 judge, including prior service, military service, and current service,  
26 computed to the nearest one-twelfth year. For current service prior to  
27 the time that the member has contributed the required percentage of  
28 salary until the maximum benefit as limited by section 24-710 has been  
29 earned, creditable service does not include current service for which  
30 member contributions are not made or are withdrawn and not repaid;

31 (6) Current benefit means the initial benefit increased by all

1 adjustments made pursuant to the Judges Retirement Act;

2 (7)(a) Current service means the period of service (i) any judge of  
3 the Supreme Court or judge of the district court serves in such capacity  
4 from and after January 3, 1957, (ii)(A) any judge of the Nebraska  
5 Workmen's Compensation Court served in such capacity from and after  
6 September 20, 1957, and prior to July 17, 1986, and (B) any judge of the  
7 Nebraska Workers' Compensation Court serves in such capacity on and after  
8 July 17, 1986, (iii) any county judge serves in such capacity from and  
9 after January 5, 1961, (iv) any judge of a separate juvenile court serves  
10 in such capacity, (v) any judge of the municipal court served in such  
11 capacity subsequent to October 23, 1967, and prior to July 1, 1985, (vi)  
12 any judge of the county court or associate county judge serves in such  
13 capacity subsequent to January 4, 1973, (vii) any clerk magistrate, who  
14 was an associate county judge and a member of the fund at the time of  
15 appointment as a clerk magistrate, serves in such capacity from and after  
16 July 1, 1986, and (viii) any judge of the Court of Appeals serves in such  
17 capacity on or after September 6, 1991.

18 (b) Current service shall not be deemed to be interrupted by (i)  
19 temporary or seasonal suspension of service that does not terminate the  
20 employee's employment, (ii) leave of absence authorized by the employer  
21 for a period not exceeding twelve months, (iii) leave of absence because  
22 of disability, or (iv) military service, when properly authorized by the  
23 board. Current service does not include any period of disability for  
24 which disability retirement benefits are received under section 24-709;

25 (8) Final average compensation for a judge who becomes a member  
26 prior to July 1, 2015, means the average monthly compensation for the  
27 three twelve-month periods of service as a judge in which compensation  
28 was the greatest or, in the event of a judge serving less than three  
29 twelve-month periods, the average monthly compensation for such judge's  
30 period of service. Final average compensation for a judge who becomes a  
31 member on and after July 1, 2015, means the average monthly compensation

1 for the five twelve-month periods of service as a judge in which  
2 compensation was the greatest or, in the event of a judge serving less  
3 than five twelve-month periods, the average monthly compensation for such  
4 judge's period of service;

5 (9 ~~1~~) Fund means the Nebraska Retirement Fund for Judges;

6 (10) Future member means a judge who first served as a judge on or  
7 after December 25, 1969, or means a judge who first served as a judge  
8 prior to December 25, 1969, who elects to become a future member on or  
9 before June 30, 1970, as provided in subsection (8) of section 24-703 or  
10 section 24-710.01;

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

13 (12 2) Judge means and includes (a) all duly elected or appointed  
14 Chief Justices or judges of the Supreme Court and judges of the district  
15 courts of Nebraska who serve in such capacity on and after January 3,  
16 1957, (b)(i) all duly appointed judges of the Nebraska Workmen's  
17 Compensation Court who served in such capacity on and after September 20,  
18 1957, and prior to July 17, 1986, and (ii) judges of the Nebraska  
19 Workers' Compensation Court who serve in such capacity on and after July  
20 17, 1986, (c) judges of separate juvenile courts, (d) judges of the  
21 county courts of the respective counties who serve in such capacity on  
22 and after January 5, 1961, (e) judges of the county court and clerk  
23 magistrates who were associate county judges and members of the fund at  
24 the time of their appointment as clerk magistrates, (f) judges of  
25 municipal courts established by Chapter 26, article 1, who served in such  
26 capacity on and after October 23, 1967, and prior to July 1, 1985, and  
27 (g) judges of the Court of Appeals;

28 (13) Member means a judge eligible to participate in the retirement  
29 system established under the Judges Retirement Act;

30 (14) Military service means active service of (a) any judge of the  
31 Supreme Court or judge of the district court in any of the armed forces



1 of the United States during a war or national emergency prior or  
2 subsequent to September 18, 1955, if such service commenced while such  
3 judge was holding the office of judge, (b) any judge of the Nebraska  
4 Workmen's Compensation Court or the Nebraska Workers' Compensation Court  
5 in any of the armed forces of the United States during a war or national  
6 emergency prior or subsequent to September 20, 1957, if such service  
7 commenced while such judge was holding the office of judge, (c) any judge  
8 of the municipal court in any of the armed forces of the United States  
9 during a war or national emergency prior or subsequent to October 23,  
10 1967, and prior to July 1, 1985, if such service commenced while such  
11 judge was holding the office of judge, (d) any judge of the county court  
12 or associate county judge in any of the armed forces of the United States  
13 during a war or national emergency prior or subsequent to January 4,  
14 1973, if such service commenced while such judge was holding the office  
15 of judge, (e) any clerk magistrate, who was an associate county judge and  
16 a member of the fund at the time of appointment as a clerk magistrate, in  
17 any of the armed forces of the United States during a war or national  
18 emergency on or after July 1, 1986, if such service commenced while such  
19 clerk magistrate was holding the office of clerk magistrate, and (f) any  
20 judge of the Court of Appeals in any of the armed forces of the United  
21 States during a war or national emergency on or after September 6, 1991,  
22 if such service commenced while such judge was holding the office of  
23 judge. The board shall have the power to determine when a national  
24 emergency exists or has existed for the purpose of applying this  
25 definition and provision;

26 (15) Normal form annuity means a series of equal monthly payments  
27 payable at the end of each calendar month during the life of a retired  
28 judge as provided in sections 24-707 and 24-710, except as provided in  
29 section 42-1107. The first payment shall include all amounts accrued  
30 since the effective date of the award of the annuity. The last payment  
31 shall be at the end of the calendar month in which such judge dies. If at

1 the time of death the amount of annuity payments such judge has received  
2 is less than contributions to the fund made by such judge, plus regular  
3 interest, the difference shall be paid to the beneficiary or estate;

4 (16) Normal retirement date means the first day of the month  
5 following attainment of age sixty-five;

6 (17) Original member means a judge who first served as a judge prior  
7 to December 25, 1969, who does not elect to become a future member  
8 pursuant to subsection (8) of section 24-703 or section 24-710.01, and  
9 who was retired on or before December 31, 1992;

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

12 (19) 3) Prior service means all the periods of time any person has  
13 served as a (a) judge of the Supreme Court or judge of the district court  
14 prior to January 3, 1957, (b) judge of the county court prior to January  
15 5, 1961, (c) judge of the Nebraska Workmen's Compensation Court prior to  
16 September 20, 1957, (d) judge of the separate juvenile court, or (e)  
17 judge of the municipal court prior to October 23, 1967;

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

23 ~~(4)(a) Current service means the period of service (i) any judge of~~  
24 ~~the Supreme Court or judge of the district court serves in such capacity~~  
25 ~~from and after January 3, 1957, (ii)(A) any judge of the Nebraska~~  
26 ~~Workmen's Compensation Court served in such capacity from and after~~  
27 ~~September 20, 1957, and prior to July 17, 1986, and (B) any judge of the~~  
28 ~~Nebraska Workers' Compensation Court serves in such capacity on and after~~  
29 ~~July 17, 1986, (iii) any county judge serves in such capacity from and~~  
30 ~~after January 5, 1961, (iv) any judge of a separate juvenile court serves~~  
31 ~~in such capacity, (v) any judge of the municipal court served in such~~

1 ~~capacity subsequent to October 23, 1967, and prior to July 1, 1985, (vi)~~  
2 ~~any judge of the county court or associate county judge serves in such~~  
3 ~~capacity subsequent to January 4, 1973, (vii) any clerk magistrate, who~~  
4 ~~was an associate county judge and a member of the fund at the time of~~  
5 ~~appointment as a clerk magistrate, serves in such capacity from and after~~  
6 ~~July 1, 1986, and (viii) any judge of the Court of Appeals serves in such~~  
7 ~~capacity on or after September 6, 1991.~~

8 ~~(b) Current service shall not be deemed to be interrupted by (i)~~  
9 ~~temporary or seasonal suspension of service that does not terminate the~~  
10 ~~employee's employment, (ii) leave of absence authorized by the employer~~  
11 ~~for a period not exceeding twelve months, (iii) leave of absence because~~  
12 ~~of disability, or (iv) military service, when properly authorized by the~~  
13 ~~board. Current service does not include any period of disability for~~  
14 ~~which disability retirement benefits are received under section 24-709;~~

15 ~~(5) Military service means active service of (a) any judge of the~~  
16 ~~Supreme Court or judge of the district court in any of the armed forces~~  
17 ~~of the United States during a war or national emergency prior or~~  
18 ~~subsequent to September 18, 1955, if such service commenced while such~~  
19 ~~judge was holding the office of judge, (b) any judge of the Nebraska~~  
20 ~~Workmen's Compensation Court or the Nebraska Workers' Compensation Court~~  
21 ~~in any of the armed forces of the United States during a war or national~~  
22 ~~emergency prior or subsequent to September 20, 1957, if such service~~  
23 ~~commenced while such judge was holding the office of judge, (c) any judge~~  
24 ~~of the municipal court in any of the armed forces of the United States~~  
25 ~~during a war or national emergency prior or subsequent to October 23,~~  
26 ~~1967, and prior to July 1, 1985, if such service commenced while such~~  
27 ~~judge was holding the office of judge, (d) any judge of the county court~~  
28 ~~or associate county judge in any of the armed forces of the United States~~  
29 ~~during a war or national emergency prior or subsequent to January 4,~~  
30 ~~1973, if such service commenced while such judge was holding the office~~  
31 ~~of judge, (e) any clerk magistrate, who was an associate county judge and~~

1 ~~a member of the fund at the time of appointment as a clerk magistrate, in~~  
2 ~~any of the armed forces of the United States during a war or national~~  
3 ~~emergency on or after July 1, 1986, if such service commenced while such~~  
4 ~~clerk magistrate was holding the office of clerk magistrate, and (f) any~~  
5 ~~judge of the Court of Appeals in any of the armed forces of the United~~  
6 ~~States during a war or national emergency on or after September 6, 1991,~~  
7 ~~if such service commenced while such judge was holding the office of~~  
8 ~~judge. The board shall have the power to determine when a national~~  
9 ~~emergency exists or has existed for the purpose of applying this~~  
10 ~~definition and provision;~~

11 ~~(6) Creditable service means the total number of years served as a~~  
12 ~~judge, including prior service, military service, and current service,~~  
13 ~~computed to the nearest one-twelfth year. For current service prior to~~  
14 ~~the time that the member has contributed the required percentage of~~  
15 ~~salary until the maximum benefit as limited by section 24-710 has been~~  
16 ~~earned, creditable service does not include current service for which~~  
17 ~~member contributions are not made or are withdrawn and not repaid;~~

18 ~~(7)(a) Compensation means the statutory salary of a judge or the~~  
19 ~~salary being received by such judge pursuant to law. Compensation does~~  
20 ~~not include compensation for unused sick leave or unused vacation leave~~  
21 ~~converted to cash payments, insurance premiums converted into cash~~  
22 ~~payments, reimbursement for expenses incurred, fringe benefits, per~~  
23 ~~diems, or bonuses for services not actually rendered, including, but not~~  
24 ~~limited to, early retirement inducements, cash awards, and severance pay,~~  
25 ~~except for retroactive salary payments paid pursuant to court order,~~  
26 ~~arbitration, or litigation and grievance settlements. Compensation~~  
27 ~~includes overtime pay, member retirement contributions, and amounts~~  
28 ~~contributed by the member to plans under sections 125 and 457 of the~~  
29 ~~Internal Revenue Code as defined in section 49-801.01 or any other~~  
30 ~~section of the code which defers or excludes such amounts from income.~~

31 ~~(b) Compensation in excess of the limitations set forth in section~~

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

7 ~~(8) Beneficiary means a person so designated by a judge in the last~~  
8 ~~designation of beneficiary on file with the board or, if no designated~~  
9 ~~person survives or if no designation is on file, the estate of such~~  
10 ~~judge;~~

11 ~~(9) Normal form annuity means a series of equal monthly payments~~  
12 ~~payable at the end of each calendar month during the life of a retired~~  
13 ~~judge as provided in sections 24-707 and 24-710, except as provided in~~  
14 ~~section 42-1107. The first payment shall include all amounts accrued~~  
15 ~~since the effective date of the award of the annuity. The last payment~~  
16 ~~shall be at the end of the calendar month in which such judge dies. If at~~  
17 ~~the time of death the amount of annuity payments such judge has received~~  
18 ~~is less than contributions to the fund made by such judge, plus regular~~  
19 ~~interest, the difference shall be paid to the beneficiary or estate;~~

20 ~~(10) Board means the Public Employees Retirement Board;~~

21 ~~(11) Member means a judge eligible to participate in the retirement~~  
22 ~~system established under the Judges Retirement Act;~~

23 ~~(12) Original member means a judge who first served as a judge prior~~  
24 ~~to December 25, 1969, who does not elect to become a future member~~  
25 ~~pursuant to subsection (8) of section 24-703 or section 24-710.01, and~~  
26 ~~who was retired on or before December 31, 1992;~~

27 ~~(13) Future member means a judge who first served as a judge on or~~  
28 ~~after December 25, 1969, or means a judge who first served as a judge~~  
29 ~~prior to December 25, 1969, who elects to become a future member on or~~  
30 ~~before June 30, 1970, as provided in subsection (8) of section 24-703 or~~  
31 ~~section 24-710.01;~~

1           ~~(14) Final average compensation for a judge who becomes a member~~  
2 ~~prior to July 1, 2015, means the average monthly compensation for the~~  
3 ~~three twelve-month periods of service as a judge in which compensation~~  
4 ~~was the greatest or, in the event of a judge serving less than three~~  
5 ~~twelve-month periods, the average monthly compensation for such judge's~~  
6 ~~period of service. Final average compensation for a judge who becomes a~~  
7 ~~member on and after July 1, 2015, means the average monthly compensation~~  
8 ~~for the five twelve-month periods of service as a judge in which~~  
9 ~~compensation was the greatest or, in the event of a judge serving less~~  
10 ~~than five twelve-month periods, the average monthly compensation for such~~  
11 ~~judge's period of service;~~

12           ~~(15) 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           ~~(16) Normal retirement date means the first day of the month~~  
18 ~~following attainment of age sixty-five;~~

19           ~~(17) Actuarial equivalence means the equality in value of the~~  
20 ~~aggregate amounts expected to be received under different forms of~~  
21 ~~payment. The determinations are to be based on the 1994 Group Annuity~~  
22 ~~Mortality Table reflecting sex-distinct factors blended using seventy-~~  
23 ~~five percent of the male table and twenty-five percent of the female~~  
24 ~~table. An interest rate of eight percent per annum shall be reflected in~~  
25 ~~making these determinations;~~

26           ~~(18) Current benefit means the initial benefit increased by all~~  
27 ~~adjustments made pursuant to the Judges Retirement Act;~~

28           ~~(19) Initial benefit means the retirement benefit calculated at the~~  
29 ~~time of retirement;~~

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

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

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

10          (23) Retirement system or system means the Nebraska Judges  
11 Retirement System as provided in the Judges Retirement Act;

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

23          (25) Termination of employment occurs on the date on which the State  
24 Court Administrator's office determines that the judge's employer-  
25 employee relationship with the State of Nebraska is dissolved. The State  
26 Court Administrator's office shall notify the board of the date on which  
27 such a termination has occurred. Termination of employment does not  
28 include ceasing employment as a judge if the judge returns to regular  
29 employment as a judge or is employed on a regular basis by another agency  
30 of the State of Nebraska and there are less than one hundred twenty days  
31 between the date when the judge's employer-employee relationship ceased

1 and the date when the employer-employee relationship recommences. It is  
2 the responsibility of the employer that is involved in the termination of  
3 employment to notify the board of such change in employment and provide  
4 the board with such information as the board deems necessary. If the  
5 board determines that termination of employment has not occurred and a  
6 retirement benefit has been paid to a member of the retirement system  
7 pursuant to section 24-710, the board shall require the member who has  
8 received such benefit to repay the benefit to the retirement system.

9 Sec. 3. Section 24-710.01, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11 24-710.01 Any original member, as defined in subdivision (~~17~~ 12) of  
12 section 24-701, who has not previously retired, may elect to make  
13 contributions and receive benefits pursuant to subsection (2) of section  
14 24-703 and subsection (2) of section 24-710, instead of those provided by  
15 subsection (1) of section 24-703 and subsection (1) of section 24-710.  
16 Such election shall be by written notice delivered to the board not later  
17 than November 1, 1981. Such member shall thereafter be considered a  
18 future member.

19 Sec. 4. Section 79-902, Revised Statutes Supplement, 2015, is  
20 amended to read:

21 79-902 For purposes of the School Employees Retirement Act, unless  
22 the context otherwise requires:

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

27 (2) Actuarial equivalent means the equality in value of the  
28 aggregate amounts expected to be received under different forms of  
29 payment. The determinations shall be based on the 1994 Group Annuity  
30 Mortality Table reflecting sex-distinct factors blended using twenty-five  
31 percent of the male table and seventy-five percent of the female table.



1 An interest rate of eight percent per annum shall be reflected in making  
2 these determinations except when a lump-sum settlement is made to an  
3 estate. If the lump-sum settlement is made to an estate, the interest  
4 rate will be determined by the Moody's Triple A Bond Index as of the  
5 prior June 30, rounded to the next lower quarter percent;

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

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

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

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

1 on July 1, 1993;

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

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

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

25 (8) Disability means an inability to engage in a substantially  
26 gainful activity by reason of any medically determinable physical or  
27 mental impairment which can be expected to result in death or be of a  
28 long and indefinite 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) Eligibility and vesting credit means credit for years, or a  
7 fraction of a year, of participation in a Nebraska government plan for  
8 purposes of determining eligibility for benefits under the School  
9 Employees Retirement Act. Such credit shall not be included as years of  
10 creditable service in the benefit calculation;

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

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

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

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

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

1 compensation was the greatest divided by thirty-six; or

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

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

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

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

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

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

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

20 (17 3) Member means any person who has an account in the School  
21 Retirement Fund;

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

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

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

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

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

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

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

24 ~~(5) Creditable service means prior service for which credit is~~  
25 ~~granted under sections 79-926 to 79-929, service credit purchased under~~  
26 ~~sections 79-933.03 to 79-933.06 and 79-933.08, and all service rendered~~  
27 ~~while a contributing member of the retirement system. Creditable service~~  
28 ~~includes working days, sick days, vacation days, holidays, and any other~~  
29 ~~leave days for which the employee is paid regular wages as part of the~~  
30 ~~employee's agreement with the employer. Creditable service does not~~  
31 ~~include lump-sum payments to the employee upon termination or retirement~~

~~1 in lieu of accrued benefits for such days, eligibility and vesting  
2 credit, nor service years for which member contributions are withdrawn  
3 and not repaid. Creditable service also does not include service rendered  
4 by a member for which the retirement board determines that the member was  
5 paid less in compensation than the minimum wage as provided in the Wage  
6 and Hour Act or service which the board determines was rendered with the  
7 intent to defraud the retirement system;~~

~~8 (6) Disability retirement allowance means the annuity paid to a  
9 person upon retirement for disability under section 79-952;~~

~~10 (7) Employer means the State of Nebraska or any subdivision thereof  
11 or agency of the state or subdivision authorized by law to hire school  
12 employees or to pay their compensation;~~

~~13 (8) Fiscal year means any year beginning July 1 and ending June 30  
14 next following;~~

~~15 (23 9) Regular interest means interest fixed at a rate equal to the  
16 daily treasury yield curve for one-year treasury securities, as published  
17 by the Secretary of the Treasury of the United States, that applies on  
18 July 1 of each year, which may be credited monthly, quarterly,  
19 semiannually, or annually as the board may direct;~~

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

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

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

~~31 (27) Retirement application means the form approved and provided by~~

1 the retirement system for acceptance of a member's request for either  
2 regular or disability retirement;

3 (28) Retirement board or board means the Public Employees Retirement  
4 Board;

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

13 (30) Retirement system means the School Employees Retirement System  
14 of the State of Nebraska;

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

17 (32 ~~10~~) School employee means a contributing member who earns  
18 service credit pursuant to section 79-927. For purposes of this section,  
19 contributing member means the following persons who receive compensation  
20 from a public school: (a) Regular employees; (b) regular employees having  
21 retired pursuant to the School Employees Retirement Act who subsequently  
22 provide compensated service on a regular basis in any capacity; and (c)  
23 regular employees hired by a public school on an ongoing basis to assume  
24 the duties of other regular employees who are temporarily absent.  
25 Substitute employees, temporary employees, and employees who have not  
26 attained the age of eighteen years shall not be considered school  
27 employees;

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

30 (12) ~~Public school means any and all schools offering instruction in~~  
31 ~~elementary or high school grades, as defined in section 79-101, which~~

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

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

14 ~~(14) Retirement board or board means the Public Employees Retirement~~  
15 ~~Board;~~

16 ~~(15) Retirement system means the School Employees Retirement System~~  
17 ~~of the State of Nebraska;~~

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

21 ~~(33 17) School year means one fiscal year which includes not less~~  
22 ~~than one thousand instructional hours or, in the case of service in the~~  
23 ~~State of Nebraska prior to July 1, 1945, not less than seventy-five~~  
24 ~~percent of the then legal school year;~~

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



1 the payment option chosen by the member;

2 (35 18) Service means employment as a school employee and shall not  
3 be deemed interrupted by (a) termination at the end of the school year of  
4 the contract of employment of an employee in a public school if the  
5 employee enters into a contract of employment in any public school,  
6 except a school in a Class V school district, for the following school  
7 year, (b) temporary or seasonal suspension of service that does not  
8 terminate the employee's employment, (c) leave of absence authorized by  
9 the employer for a period not exceeding twelve months, (d) leave of  
10 absence because of disability, or (e) military service when properly  
11 authorized by the retirement board. Service does not include any period  
12 of disability for which disability retirement benefits are received under  
13 sections 79-951 to 79-953;

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

22 (36 20) Service annuity means payments for life, made in equal  
23 monthly installments, derived from appropriations made by the State of  
24 Nebraska to the retirement system;

25 (37 21) State deposit means the deposit by the state in the  
26 retirement system on behalf of any member;

27 (38 22) State school official means the Commissioner of Education  
28 and his or her professional staff who are required by law or by the State  
29 Department of Education to hold a certificate as such term is defined in  
30 section 79-807;

31 ~~(23) Savings annuity means payments for life, made in equal monthly~~

1 ~~payments, derived from the accumulated contributions of a member;~~

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

16 ~~(25) Actuarial equivalent means the equality in value of the~~  
17 ~~aggregate amounts expected to be received under different forms of~~  
18 ~~payment. The determinations shall be based on the 1994 Group Annuity~~  
19 ~~Mortality Table reflecting sex-distinct factors blended using twenty-five~~  
20 ~~percent of the male table and seventy-five percent of the female table.~~  
21 ~~An interest rate of eight percent per annum shall be reflected in making~~  
22 ~~these determinations except when a lump-sum settlement is made to an~~  
23 ~~estate. If the lump-sum settlement is made to an estate, the interest~~  
24 ~~rate will be determined by the Moody's Triple A Bond Index as of the~~  
25 ~~prior June 30, rounded to the next lower quarter percent;~~

26 ~~(26) Retirement date means (a) if the member has terminated~~  
27 ~~employment, the first day of the month following the date upon which a~~  
28 ~~member's request for retirement is received on a retirement application~~  
29 ~~provided by the retirement system or (b) if the member has filed a~~  
30 ~~retirement application but has not yet terminated employment, the first~~  
31 ~~day of the month following the date on which the member terminates~~

1 ~~employment. An application may be filed no more than one hundred twenty~~  
2 ~~days prior to the effective date of the member's initial benefit;~~

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

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

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

17 ~~(30)(a) Final average compensation means:~~

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

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

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

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

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

30 ~~(B) If a member has such compensation for less than sixty months,~~  
31 ~~the sum of the member's total compensation in all months divided by the~~

1 ~~total number of months of his or her creditable service therefor.~~

2 ~~(b) Payments under the Retirement Incentive Plan pursuant to section~~  
3 ~~79-855 and Staff Development Assistance pursuant to section 79-856 shall~~  
4 ~~not be included in the determination of final average compensation;~~

5 ~~(31) Plan year means the twelve month period beginning on July 1 and~~  
6 ~~ending on June 30 of the following year;~~

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

9 ~~(33) Initial benefit means the retirement benefit calculated at the~~  
10 ~~time of retirement;~~

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

16 ~~(40 34) Surviving spouse means (a) the spouse married to the member~~  
17 ~~on the date of the member's death or (b) the spouse or former spouse of~~  
18 ~~the member if survivorship rights are provided under a qualified domestic~~  
19 ~~relations order filed with the board pursuant to the Spousal Pension~~  
20 ~~Rights Act. The spouse or former spouse shall supersede the spouse~~  
21 ~~married to the member on the date of the member's death as provided under~~  
22 ~~a qualified domestic relations order. If the benefits payable to the~~  
23 ~~spouse or former spouse under a qualified domestic relations order are~~  
24 ~~less than the value of benefits entitled to the surviving spouse, the~~  
25 ~~spouse married to the member on the date of the member's death shall be~~  
26 ~~the surviving spouse for the balance of the benefits;~~

27 ~~(35)(a) Compensation means gross wages or salaries payable to the~~  
28 ~~member for personal services performed during the plan year and includes~~  
29 ~~(i) overtime pay, (ii) member retirement contributions, (iii) retroactive~~  
30 ~~salary payments paid pursuant to court order, arbitration, or litigation~~  
31 ~~and grievance settlements, and (iv) amounts contributed by the member to~~

1 ~~plans under sections 125, 403(b), and 457 of the Internal Revenue Code as~~  
2 ~~defined in section 49-801.01 or any other section of the code which~~  
3 ~~defers or excludes such amounts from income.~~

4 ~~(b) Compensation does not include (i) fraudulently obtained amounts~~  
5 ~~as determined by the retirement board, (ii) amounts for unused sick leave~~  
6 ~~or unused vacation leave converted to cash payments, (iii) insurance~~  
7 ~~premiums converted into cash payments, (iv) reimbursement for expenses~~  
8 ~~incurred, (v) fringe benefits, (vi) per diems paid as expenses, (vii)~~  
9 ~~bonuses for services not actually rendered, including, but not limited~~  
10 ~~to, early retirement inducements, cash awards, and severance pay, or~~  
11 ~~(viii) beginning on September 4, 2005, employer contributions made for~~  
12 ~~the purposes of separation payments made at retirement and early~~  
13 ~~retirement inducements as provided for in section 79-514.~~

14 ~~(c) Compensation in excess of the limitations set forth in section~~  
15 ~~401(a)(17) of the Internal Revenue Code as defined in section 49-801.01~~  
16 ~~shall be disregarded. For an employee who was a member of the retirement~~  
17 ~~system before the first plan year beginning after December 31, 1995, the~~  
18 ~~limitation on compensation shall not be less than the amount which was~~  
19 ~~allowed to be taken into account under the retirement system as in effect~~  
20 ~~on July 1, 1993;~~

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

27 (42 36) Termination of employment occurs on the date on which the  
28 member experiences a bona fide separation from service of employment with  
29 the member's employer, the date of which separation is determined by the  
30 end of the member's contractual agreement or, if there is no contract or  
31 only partial fulfillment of a contract, by the employer. A member shall

1 not be deemed to have terminated employment if the member subsequently  
2 provides service to any employer participating in the retirement system  
3 provided for in the School Employees Retirement Act within one hundred  
4 eighty days after ceasing employment unless such service:

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

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

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

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

17 ~~(37) Disability means an inability to engage in a substantially~~  
18 ~~gainful activity by reason of any medically determinable physical or~~  
19 ~~mental impairment which can be expected to result in death or be of a~~  
20 ~~long and indefinite duration;~~

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

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

28 ~~(40) Regular employee means an employee hired by a public school or~~  
29 ~~under contract in a regular full-time or part-time position who works a~~  
30 ~~full-time or part-time schedule on an ongoing basis for twenty or more~~  
31 ~~hours per week. An employee hired as described in this subdivision to~~

1 ~~provide service for less than twenty hours per week but who provides~~  
2 ~~service for an average of twenty hours or more per week in each calendar~~  
3 ~~month of any three calendar months of a plan year shall, beginning with~~  
4 ~~the next full payroll period, commence contributions and shall be deemed~~  
5 ~~a regular employee for all future employment with the same employer;~~

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

12 ~~(42) Relinquished creditable service means, with respect to a member~~  
13 ~~who has withdrawn his or her accumulated contributions under section~~  
14 ~~79-955, the total amount of creditable service which such member has~~  
15 ~~given up as a result of his or her election not to remain a member of the~~  
16 ~~retirement system.~~

17 Sec. 5. Section 79-904.01, Revised Statutes Supplement, 2015, is  
18 amended to read:

19 79-904.01 (1)(a) If the board determines that the retirement system  
20 has previously received contributions or distributed benefits which for  
21 any reason are not in accordance with the statutory provisions of the  
22 School Employees Retirement Act, the board may refund contributions,  
23 require additional contributions, adjust benefits, or require repayment  
24 of benefits paid. In the event of an overpayment of a benefit, the board  
25 may, in addition to other remedies, offset future benefit payments by the  
26 amount of the prior overpayment, together with regular interest thereon.  
27 In the event of a material underpayment of a benefit, the board shall  
28 immediately make payment equal to the deficit amount plus regular  
29 interest.

30 (b) The board shall have the power, through the director of the  
31 Nebraska Public Employees Retirement Systems or the director's designee,

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

12 (2) If the board determines that termination of employment has not  
13 occurred and a retirement benefit has been paid to a member of the  
14 retirement system pursuant to section 79-933, such member shall repay the  
15 benefit to the retirement system.

16 (3) The board shall adopt and promulgate rules and regulations  
17 implementing this section, which shall include, but not be limited to,  
18 the following: (a) The procedures for refunding contributions, adjusting  
19 future contributions or benefit payments, and requiring additional  
20 contributions or repayment of benefits; (b) the process for a member,  
21 member's beneficiary, employee, or employer to dispute an adjustment of  
22 contributions or benefits; and (c) notice provided to all affected  
23 persons. All notices shall be sent at the time of or prior to an  
24 adjustment and shall describe the process for disputing an adjustment of  
25 contributions or benefits.

26 (4) The board shall not refund contributions made on compensation in  
27 excess of the limitations imposed by subdivision (~~4~~ 35) of section 79-902  
28 or subsection (7) of section 79-934.

29 Sec. 6. Section 79-934, Revised Statutes Supplement, 2015, is  
30 amended to read:

31 79-934 (1) In lieu of the school retirement allowance provided by



1 section 79-933, any member who is not an employee of a Class V school  
2 district and who becomes eligible to make application for and receive a  
3 school retirement allowance under section 79-931 may receive a formula  
4 annuity retirement allowance if it is greater than the school retirement  
5 allowance provided by section 79-933.

6 (2) Subject to the other provisions of this section, the monthly  
7 formula annuity in the normal form shall be determined by multiplying the  
8 number of years of creditable service for which such member would  
9 otherwise receive the service annuity provided by section 79-933 by (a)  
10 one and one-quarter percent of his or her final average compensation for  
11 a member who has acquired the equivalent of one-half year of service or  
12 more as a public school employee under the retirement system following  
13 August 24, 1975, (b) one and one-half percent of his or her final average  
14 compensation for a member who has acquired the equivalent of one-half  
15 year of service or more as a public school employee under the retirement  
16 system following July 17, 1982, (c) one and sixty-five hundredths percent  
17 of his or her final average compensation for a member who has acquired  
18 the equivalent of one-half year of service or more as a public school  
19 employee under the retirement system following July 1, 1984, (d) one and  
20 seventy-three hundredths percent of his or her final average compensation  
21 for a member actively employed as a public school employee under the  
22 retirement system or under contract with an employer on or after June 5,  
23 1993, (e) one and eight-tenths percent of his or her final average  
24 compensation for a member who has acquired the equivalent of one-half  
25 year of service or more as a public school employee under the retirement  
26 system following July 1, 1995, and was employed as a public school  
27 employee under the retirement system or under contract with an employer  
28 on or after April 10, 1996, (f) one and nine-tenths percent of his or her  
29 final average compensation for a member who has acquired the equivalent  
30 of one-half year of service or more as a public school employee under the  
31 retirement system following July 1, 1998, and was employed as a public

1 school employee under the retirement system or under contract with an  
2 employer on or after April 29, 1999, or (g) two percent of his or her  
3 final average compensation for a member who has acquired the equivalent  
4 of one-half year of service or more as a public school employee under the  
5 retirement system following July 1, 2000, who was employed as a public  
6 school employee under the retirement system or under contract with an  
7 employer on or after May 2, 2001, and who has not retired prior to May 2,  
8 2001. Subdivision (2)(f) of this section shall not apply to a member who  
9 is retired prior to April 29, 1999. Subdivision (2)(g) of this section  
10 shall not apply to a member who is retired prior to May 2, 2001.

11 (3) If the annuity begins on or after the sixty-fifth birthday of a  
12 member, the annuity shall not be reduced. If the annuity begins prior to  
13 the sixty-fifth birthday of the member and the member has completed  
14 thirty or more years of creditable service and is at least sixty years of  
15 age, the annuity shall not be reduced. If the annuity begins prior to the  
16 sixtieth birthday of the member and the member has completed thirty-five  
17 or more years of creditable service, the annuity shall be actuarially  
18 reduced on the basis of age sixty-five. If the annuity begins on or after  
19 the sixtieth birthday of the member and the member has completed at least  
20 a total of five years of (a) creditable service plus (b) eligibility and  
21 vesting credit but less than thirty years of creditable service, the  
22 annuity shall be reduced by three percent for each year by which the  
23 member's age is less than the age at which the member's age plus years of  
24 creditable service would have totaled ninety or three percent for each  
25 year after the member's sixtieth birthday and prior to his or her sixty-  
26 fifth birthday, whichever provides the greater annuity.

27 (4) For retirements on or after March 4, 1998, if the annuity begins  
28 at a time when the sum of the member's attained age and creditable  
29 service totals eighty-five and the member is at least fifty-five years of  
30 age, the annuity shall not be reduced. This subsection shall only apply  
31 to a member who has acquired the equivalent of one-half year of service

1 or more as a public school employee under the retirement system following  
2 July 1, 1997, and who was a school employee on or after March 4, 1998.  
3 This subsection shall not apply to a member who is retired prior to March  
4 4, 1998.

5 (5) Except as provided in section 42-1107, the normal form of the  
6 formula annuity shall be an annuity payable monthly during the remainder  
7 of the member's life with the provision that in the event of his or her  
8 death before sixty monthly payments have been made the monthly payments  
9 will be continued to his or her estate or to the beneficiary he or she  
10 has designated until sixty monthly payments have been made. Except as  
11 provided in section 42-1107, a member may elect to receive in lieu of the  
12 normal form of annuity an actuarially equivalent annuity in any optional  
13 form provided by section 79-938.

14 (6) All formula annuities shall be paid from the School Retirement  
15 Fund.

16 (7)(a)(i) For purposes of this section, in the determination of  
17 compensation for members on or after July 1, 2005, that part of a  
18 member's compensation for the plan year which exceeds the member's  
19 compensation with the same employer for the preceding plan year by more  
20 than seven percent of the compensation base during the sixty months  
21 preceding the member's retirement shall be excluded unless (A) the member  
22 experienced a substantial change in employment position, (B) as verified  
23 by the school board, the excess compensation above seven percent occurred  
24 as the result of a collective-bargaining agreement between the employer  
25 and a recognized collective-bargaining unit or category of school  
26 employee, and the percentage increase in compensation above seven percent  
27 shall not be excluded for employees outside of a collective-bargaining  
28 unit or within the same category of school employee, or (C) the excess  
29 compensation occurred as the result of a districtwide permanent benefit  
30 change made by the employer for a category of school employee in  
31 accordance with subdivision (4 ~~35~~)(a)(iv) of section 79-902.

1 (ii) For purposes of subdivision (7)(a) of this section:

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

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

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

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

23 (ii) For purposes of subdivision (7)(b) of this section,  
24 compensation base means (A) for current members employed with the same  
25 employer, the member's compensation for the plan year ending June 30,  
26 2012, or (B) for members newly hired or hired by a separate employer on  
27 or after July 1, 2012, the member's compensation for the first full plan  
28 year following the member's date of hiring.

29 (c)(i) In the determination of compensation for members whose  
30 retirement date is on or after July 1, 2013, that part of a member's  
31 compensation for the plan year which exceeds the member's compensation

1 for the preceding plan year by more than eight percent during the capping  
2 period shall be excluded. Such member's compensation for the first plan  
3 year of the capping period shall be compared to the member's compensation  
4 received for the plan year immediately preceding the capping period.

5 (ii) For purposes of subdivision (7)(c) of this section:

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

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

14 Sec. 7. Section 79-978, Revised Statutes Supplement, 2015, is  
15 amended to read:

16 79-978 For purposes of the Class V School Employees Retirement Act,  
17 unless the context otherwise requires:

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

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

28 (3) Actuarial tables means:

29 (a) For determining the actuarial equivalent of any annuities other  
30 than joint and survivorship annuities, a unisex mortality table using  
31 twenty-five percent of the male mortality and seventy-five percent of the

1 female mortality from the 1994 Group Annuity Mortality Table with a One  
2 Year Setback and using an interest rate of eight percent compounded  
3 annually; and

4 (b) For joint and survivorship annuities, a unisex retiree mortality  
5 table using sixty-five percent of the male mortality and thirty-five  
6 percent of the female mortality from the 1994 Group Annuity Mortality  
7 Table with a One Year Setback and using an interest rate of eight percent  
8 compounded annually and a unisex joint annuitant mortality table using  
9 thirty-five percent of the male mortality and sixty-five percent of the  
10 female mortality from the 1994 Group Annuity Mortality Table with a One  
11 Year Setback and using an interest rate of eight percent compounded  
12 annually;

13 (4) Annuitant means any member receiving an allowance;

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

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

19 (7) Board means the board of education of the school district;

20 (8)(a) Compensation means gross wages or salaries payable to the  
21 member during a fiscal year and includes (i) overtime pay, (ii) member  
22 contributions to the retirement system that are picked up under section  
23 414(h) of the Internal Revenue Code, as defined in section 49-801.01,  
24 (iii) retroactive salary payments paid pursuant to court order,  
25 arbitration, or litigation and grievance settlements, and (iv) amounts  
26 contributed by the member to plans under sections 125, 403(b), and 457 of  
27 the Internal Revenue Code, as defined in section 49-801.01, or any other  
28 section of the code which defers or excludes such amounts from income.

29 (b) Compensation does not include (i) fraudulently obtained amounts  
30 as determined by the board, (ii) amounts for unused sick leave or unused  
31 vacation leave converted to cash payments, (iii) insurance premiums

1 converted into cash payments, (iv) reimbursement for expenses incurred,  
2 (v) fringe benefits, (vi) per diems paid as expenses, (vii) bonuses for  
3 services not actually rendered, including, but not limited to, early  
4 retirement inducements, cash awards, and severance pay, or (viii)  
5 employer contributions made for the purposes of separation payments made  
6 at retirement and early retirement inducements as provided for in section  
7 79-514.

8 (c) Compensation in excess of the limitations set forth in section  
9 401(a)(17) of the Internal Revenue Code, as defined in section 49-801.01,  
10 shall be disregarded;

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

13 (10) Early retirement date means that month and year selected by a  
14 member having at least ten years of creditable service which includes a  
15 minimum of five years of membership service and who has attained age  
16 fifty-five;

17 (11) Employee means the following enumerated persons receiving  
18 compensation from the school district: (a) Regular teachers and  
19 administrators employed on a written contract basis; and (b) regular  
20 employees, not included in subdivision (11)(a) of this section, hired  
21 upon a full-time basis, which basis shall contemplate a workweek of not  
22 less than thirty hours;

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

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

28 (14) Membership service means service on or after September 1, 1951,  
29 as an employee of the school district and a member of the system for  
30 which compensation is paid by the school district. Credit for more than  
31 one year of membership service shall not be allowed for service rendered

1 in any fiscal year. Beginning September 1, 2005, a member shall be  
2 credited with a year of membership service for each fiscal year in which  
3 the member performs one thousand or more hours of compensated service as  
4 an employee of the school district. An hour of compensated service shall  
5 include any hour for which the member is compensated by the school  
6 district during periods where no service is performed due to vacation or  
7 approved leave. If a member performs less than one thousand hours of  
8 compensated service during a fiscal year, one-tenth of a year of  
9 membership service shall be credited for each one hundred hours of  
10 compensated service by the member in such fiscal year. In determining a  
11 member's total membership service, all periods of membership service,  
12 including fractional years of membership service in one-tenth-year  
13 increments, shall be aggregated;

14 (15) Military service means service in the uniformed services as  
15 defined in 38 U.S.C. 4301 et seq., as such provision existed on March 27,  
16 1997;

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

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

22 (18) Prior service means service rendered prior to September 1,  
23 1951, for which credit is allowed under section 79-999, service rendered  
24 by retired employees receiving benefits under preexisting systems, and  
25 service for which credit is allowed under sections 79-990, 79-991,  
26 79-994, 79-995, and 79-997;

27 (19) Regular interest means interest (a) on the total contributions  
28 of the member prior to the close of the last preceding fiscal year, (b)  
29 compounded annually, and (c) at rates to be determined annually by the  
30 board, which shall have the sole, absolute, and final discretionary  
31 authority to make such determination, except that the rate for any given



1 year in no event shall exceed the actual percentage of net earnings of  
2 the system during the last preceding fiscal year;

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

5 (21) Retirement date means the date of retirement of a member for  
6 service or disability as fixed by the board;

7 (22 1) Retirement system or system means the School Employees'  
8 Retirement System of (corporate name of the school district as described  
9 in section 79-405) as provided for by the act;

10 ~~(2) Board means the board of education of the school district;~~

11 (23) Secondary beneficiary means the person or persons entitled to  
12 receive or receiving a benefit by reason of the death of all primary  
13 beneficiaries prior to the death of the member. If no primary beneficiary  
14 survives the member, secondary beneficiaries shall be treated in the same  
15 manner as primary beneficiaries; and

16 ~~(24 3) Trustee means a trustee provided for in section 79-980. ;~~

17 ~~(4) Employee means the following enumerated persons receiving~~  
18 ~~compensation from the school district: (a) Regular teachers and~~  
19 ~~administrators employed on a written contract basis; and (b) regular~~  
20 ~~employees, not included in subdivision (4)(a) of this section, hired upon~~  
21 ~~a full-time basis, which basis shall contemplate a workweek of not less~~  
22 ~~than thirty hours;~~

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

26 ~~(6) Annuitant means any member receiving an allowance;~~

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

29 ~~(8) Membership service means service on or after September 1, 1951,~~  
30 ~~as an employee of the school district and a member of the system for~~  
31 ~~which compensation is paid by the school district. Credit for more than~~

1 ~~one year of membership service shall not be allowed for service rendered~~  
2 ~~in any fiscal year. Beginning September 1, 2005, a member shall be~~  
3 ~~credited with a year of membership service for each fiscal year in which~~  
4 ~~the member performs one thousand or more hours of compensated service as~~  
5 ~~an employee of the school district. An hour of compensated service shall~~  
6 ~~include any hour for which the member is compensated by the school~~  
7 ~~district during periods where no service is performed due to vacation or~~  
8 ~~approved leave. If a member performs less than one thousand hours of~~  
9 ~~compensated service during a fiscal year, one-tenth of a year of~~  
10 ~~membership service shall be credited for each one hundred hours of~~  
11 ~~compensated service by the member in such fiscal year. In determining a~~  
12 ~~member's total membership service, all periods of membership service,~~  
13 ~~including fractional years of membership service in one-tenth-year~~  
14 ~~increments, shall be aggregated;~~

15 ~~(9) Prior service means service rendered prior to September 1, 1951,~~  
16 ~~for which credit is allowed under section 79-999, service rendered by~~  
17 ~~retired employees receiving benefits under preexisting systems, and~~  
18 ~~service for which credit is allowed under sections 79-990, 79-991,~~  
19 ~~79-994, 79-995, and 79-997;~~

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

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

31 ~~(b) Compensation does not include (i) fraudulently obtained amounts~~

1 ~~as determined by the board, (ii) amounts for unused sick leave or unused~~  
2 ~~vacation leave converted to cash payments, (iii) insurance premiums~~  
3 ~~converted into cash payments, (iv) reimbursement for expenses incurred,~~  
4 ~~(v) fringe benefits, (vi) per diems paid as expenses, (vii) bonuses for~~  
5 ~~services not actually rendered, including, but not limited to, early~~  
6 ~~retirement inducements, cash awards, and severance pay, or (viii)~~  
7 ~~employer contributions made for the purposes of separation payments made~~  
8 ~~at retirement and early retirement inducements as provided for in section~~  
9 ~~79-514.~~

10 ~~(c) Compensation in excess of the limitations set forth in section~~  
11 ~~401(a)(17) of the Internal Revenue Code, as defined in section 49-801.01,~~  
12 ~~shall be disregarded;~~

13 ~~(12) Military service means service in the uniformed services as~~  
14 ~~defined in 38 U.S.C. 4301 et seq., as such provision existed on March 27,~~  
15 ~~1997;~~

16 ~~(13) Accumulated contributions means the sum of amounts contributed~~  
17 ~~by a member of the system together with regular interest credited~~  
18 ~~thereon;~~

19 ~~(14) Regular interest means interest (a) on the total contributions~~  
20 ~~of the member prior to the close of the last preceding fiscal year, (b)~~  
21 ~~compounded annually, and (c) at rates to be determined annually by the~~  
22 ~~board, which shall have the sole, absolute, and final discretionary~~  
23 ~~authority to make such determination, except that the rate for any given~~  
24 ~~year in no event shall exceed the actual percentage of net earnings of~~  
25 ~~the system during the last preceding fiscal year;~~

26 ~~(15) Retirement date means the date of retirement of a member for~~  
27 ~~service or disability as fixed by the board;~~

28 ~~(16) Normal retirement date means the end of the month during which~~  
29 ~~the member attains age sixty five and has completed at least five years~~  
30 ~~of membership service;~~

31 ~~(17) Early retirement date means that month and year selected by a~~

1 ~~member having at least ten years of creditable service which includes a~~  
2 ~~minimum of five years of membership service and who has attained age~~  
3 ~~fifty-five;~~

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

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

9 ~~(20) Actuarial tables means:~~

10 ~~(a) For determining the actuarial equivalent of any annuities other~~  
11 ~~than joint and survivorship annuities, a unisex mortality table using~~  
12 ~~twenty-five percent of the male mortality and seventy-five percent of the~~  
13 ~~female mortality from the 1994 Group Annuity Mortality Table with a One~~  
14 ~~Year Setback and using an interest rate of eight percent compounded~~  
15 ~~annually; and~~

16 ~~(b) For joint and survivorship annuities, a unisex retiree mortality~~  
17 ~~table using sixty-five percent of the male mortality and thirty-five~~  
18 ~~percent of the female mortality from the 1994 Group Annuity Mortality~~  
19 ~~Table with a One Year Setback and using an interest rate of eight percent~~  
20 ~~compounded annually and a unisex joint annuitant mortality table using~~  
21 ~~thirty-five percent of the male mortality and sixty-five percent of the~~  
22 ~~female mortality from the 1994 Group Annuity Mortality Table with a One~~  
23 ~~Year Setback and using an interest rate of eight percent compounded~~  
24 ~~annually;~~

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

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

3           ~~(23) Primary beneficiary means the person or persons entitled to~~  
4 ~~receive or receiving a benefit by reason of the death of a member; and~~

5           ~~(24) Secondary beneficiary means the person or persons entitled to~~  
6 ~~receive or receiving a benefit by reason of the death of all primary~~  
7 ~~beneficiaries prior to the death of the member. If no primary beneficiary~~  
8 ~~survives the member, secondary beneficiaries shall be treated in the same~~  
9 ~~manner as primary beneficiaries.~~

10           Sec. 8.   Original section 24-710.01, Reissue Revised Statutes of  
11 Nebraska, section 16-1002, Revised Statutes Cumulative Supplement, 2014,  
12 and sections 24-701, 79-902, 79-904.01, 79-934, and 79-978, Revised  
13 Statutes Supplement, 2015, are repealed.