

AMENDMENTS TO LB34

Introduced by Nebraska Retirement Systems.

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

3 Section 1. Section 23-2306, Revised Statutes Cumulative Supplement,
4 2018, is amended to read:

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

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

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

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

5 (b)(i) To aid governmental entities in their business decisionmaking
6 process, any governmental entity currently participating in the
7 retirement system contemplating a business transaction that may result in
8 such entity no longer qualifying, in whole or in part, under section
9 414(d) of the Internal Revenue Code may notify the board in writing as
10 soon as reasonably practicable, but no later than one hundred eighty days
11 before the transaction is to occur.

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

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

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

31 (c) If the board makes a determination pursuant to subdivision (4)

1 (a) of this section, or if the entity engages in the contemplated
2 business transaction reviewed under subdivision (4)(b) of this section
3 that results in the entity no longer qualifying under section 414(d) of
4 the Internal Revenue Code:

5 (i) The board shall notify the entity that it no longer qualifies
6 under section 414(d) of the Internal Revenue Code within ten business
7 days after the determination;

8 (ii) The affected plan members shall be immediately considered fully
9 vested;

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

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

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

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

22 (d) For purposes of this subsection:

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

27 (ii) Funding obligation means the financial liability of the
28 retirement system to provide benefits for the affected plan members
29 incurred by the retirement system due to the entity's business
30 transaction calculated using the methodology and assumptions recommended
31 by the board's contracted actuary and approved by the board. The

1 methodology and assumptions used must be structured in a way that ensures
2 the entity is financially liable for all the costs of the entity's
3 business transaction, and the retirement system is not financially liable
4 for any of the cost of the entity's business transaction.

5 (e) The board may adopt and promulgate rules and regulations to
6 carry out this subsection including, but not limited to, the methods of
7 notifying the board of pending business transactions, the acceptable
8 methods of payment, and the timing of such payment.

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

18 (6) Any employee who qualifies for membership in the retirement
19 system pursuant to this section may not be disqualified from membership
20 in the retirement system solely because such employee also maintains
21 separate employment which qualifies the employee for membership in
22 another public retirement system, nor may membership in this retirement
23 system disqualify such an employee from membership in another public
24 retirement system solely by reason of separate employment which qualifies
25 such employee for membership in this retirement system.

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

31 (8) A full-time or part-time employee of a city, village, fire

1 protection district, or township who becomes a municipal county employee
2 shall receive credit for his or her years of employment with the city,
3 village, fire protection district, or township for purposes of the
4 vesting provisions of this section.

5 (9) A full-time or part-time employee of the state who becomes a
6 county employee pursuant to transfer of assessment function to a county
7 shall not be deemed to have experienced a termination of employment and
8 shall receive vesting credit for his or her years of participation in the
9 State Employees Retirement System of the State of Nebraska.

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

15 Sec. 2. Section 23-2308.01, Revised Statutes Cumulative Supplement,
16 2018, is amended to read:

17 23-2308.01 (1) It is the intent of the Legislature that, in order to
18 improve the competitiveness of the retirement plan for county employees,
19 a cash balance benefit shall be added to the County Employees Retirement
20 Act on and after January 1, 2003. Each member who is employed and
21 participating in the retirement system prior to January 1, 2003, may
22 either elect to continue participation in the defined contribution
23 benefit as provided in the act prior to January 1, 2003, or elect to
24 participate in the cash balance benefit as set forth in this section. An
25 active member shall make a one-time election beginning September 1, 2012,
26 through October 31, 2012, in order to participate in the cash balance
27 benefit. If no such election is made, the member shall be treated as
28 though he or she elected to continue participating in the defined
29 contribution benefit as provided in the act prior to January 1, 2003.
30 Members who elect to participate in the cash balance benefit beginning
31 September 1, 2012, through October 31, 2012, shall commence participation

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

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

11 (a) ~~The Except as provided in subdivision (2)(b) of section~~
12 ~~23-2319.01,~~ the employee cash balance account within the County Employees
13 Retirement Fund shall, at any time, be equal to the following:

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

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

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

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

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

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

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

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

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

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

10 Sec. 3. Section 23-2317, Revised Statutes Cumulative Supplement,
11 2018, is amended to read:

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

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

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

31 In any case, the amount of the monthly payment shall be such that

1 the annuity chosen shall be the actuarial equivalent of the retirement
2 value as specified in section 23-2316 except as provided in this section.

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

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

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

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

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

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

29 Such annuity shall be equal to the actuarial equivalent of the
30 member cash balance account or the sum of the employee and employer
31 accounts, whichever is applicable, as of the date of final account value.

1 As a part of the annuity, the normal form of payment may include a two
2 and one-half percent cost-of-living adjustment purchased by the member,
3 if the member elects such a payment option.

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

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

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

30 (b) For the calendar year beginning January 1, 2003, and each
31 calendar year thereafter, the actuary for the board shall perform an

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

24 (c) If the unfunded accrued actuarial liability under the entry age
25 actuarial cost method is less than zero on an actuarial valuation date,
26 and on the basis of all data in the possession of the retirement board,
27 including such mortality and other tables as are recommended by the
28 actuary engaged by the retirement board and adopted by the retirement
29 board, the retirement board may elect to pay a dividend to all members
30 participating in the cash balance option in an amount that would not
31 increase the actuarial contribution rate above ninety percent of the

1 actual contribution rate. Dividends shall be credited to the employee
2 cash balance account and the employer cash balance account based on the
3 account balances on the actuarial valuation date. In the event a dividend
4 is granted and paid after the actuarial valuation date, interest for the
5 period from the actuarial valuation date until the dividend is actually
6 paid shall be paid on the dividend amount. The interest rate shall be the
7 interest credit rate earned on regular contributions.

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

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

30 Sec. 4. Section 23-2319.01, Revised Statutes Cumulative Supplement,
31 2018, is amended to read:

1 23-2319.01 (1) For a member who has terminated employment and is not
2 vested, the balance of the member's employer account or employer cash
3 balance account shall be forfeited. The forfeited account shall be
4 credited to the County Employees Retirement Fund and shall first be used
5 to meet the expense charges incurred by the retirement board in
6 connection with administering the retirement system, which charges shall
7 be credited to the County Employees Defined Contribution Retirement
8 Expense Fund, if the member participated in the defined contribution
9 option, or to the County Employees Cash Balance Retirement Expense Fund,
10 if the member participated in the cash balance option, and the remainder,
11 if any, shall then be used to restore employer accounts or employer cash
12 balance accounts. Except as provided in subsection (3) of section
13 23-2310.04 and subdivision (4)(c) of section 23-2317, no forfeited
14 amounts shall be applied to increase the benefits any member would
15 otherwise receive under the County Employees Retirement Act.

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

24 ~~(b) If a member elects to receive benefits payable under sections~~
25 ~~23-2315 and 23-2319 after a grievance or appeal is filed, the member may~~
26 ~~receive an amount up to the balance of his or her employee account or~~
27 ~~member cash balance account or twenty-five thousand dollars payable from~~
28 ~~the employee account or member cash balance account, whichever is less.~~

29 (3) The County Employer Retirement Expense Fund is created. The fund
30 shall be administered by the Public Employees Retirement Board. Prior to
31 July 1, 2012, the County Employer Retirement Expense Fund shall be used

1 to meet expenses of the retirement system whether such expenses are
2 incurred in administering the member's employer account or in
3 administering the member's employer cash balance account when the funds
4 available in the County Employees Defined Contribution Retirement Expense
5 Fund or County Employees Cash Balance Retirement Expense Fund make such
6 use reasonably necessary. The County Employer Retirement Expense Fund
7 shall consist of any reduction in a county contribution which would
8 otherwise be required to fund future service retirement benefits or to
9 restore employer accounts or employer cash balance accounts referred to
10 in subsection (1) of this section. On July 1, 2012, or as soon as
11 practicable thereafter, any money in the County Employer Retirement
12 Expense Fund shall be transferred by the State Treasurer to the County
13 Employees Retirement Fund and credited to the cash balance benefit
14 established in section 23-2308.01.

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

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

25 23-2320 (1) Prior to January 1, 2020, except ~~Except~~ as otherwise
26 provided in this section, a member of the retirement system who has a
27 five-year break in service shall upon reemployment be considered a new
28 employee with respect to the County Employees Retirement Act and shall
29 not receive credit for service prior to his or her reemployment date.

30 (2)(a) A member who ceases to be an employee before becoming
31 eligible for retirement under section 23-2315 and again becomes a

1 permanent full-time or permanent part-time county employee prior to
2 having a five-year break in service shall immediately be reenrolled in
3 the retirement system and resume making contributions. For purposes of
4 vesting employer contributions made prior to and after the reentry into
5 the retirement system under subsection (3) of section 23-2319, years of
6 participation include years of participation prior to such employee's
7 original termination. For a member who is not vested and has received a
8 termination benefit pursuant to section 23-2319, the years of
9 participation prior to such employee's original termination shall be
10 limited in a ratio equal to the amount that the member repays divided by
11 the termination benefit withdrawn pursuant to section 23-2319.

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

25 (c) The value of the member's forfeited employer account or employer
26 cash balance account, as of the date of forfeiture, shall be restored in
27 a ratio equal to the amount of the benefit that the member has repaid
28 divided by the termination benefit received. The employer account or
29 employer cash balance account shall be restored first out of the current
30 forfeiture amounts and then by additional employer contributions.

31 (3) For a member who retired pursuant to section 23-2315 and becomes

1 a permanent full-time employee or permanent part-time employee with a
2 county under the County Employees Retirement Act more than one hundred
3 twenty days after his or her retirement date, the member shall continue
4 receiving retirement benefits. Such a retired member or a retired member
5 who received a lump-sum distribution of his or her benefit shall be
6 considered a new employee as of the date of reemployment and shall not
7 receive credit for any service prior to the member's retirement for
8 purposes of the act.

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

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

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

22 (b) Shall be immediately reenrolled in:

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

25 (ii) The cash balance benefit in which the member was participating
26 prior to ceasing employment if the member was contributing to the cash
27 balance benefit prior to ceasing employment;

28 (c) Shall immediately resume making contributions;

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

31 (e) Shall have all distributions from the retirement system

1 canceled; and

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

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

8 (i) Shall be immediately reenrolled in:

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

11 (B) The cash balance benefit in which the member was participating
12 prior to ceasing employment if the member was contributing to the cash
13 balance benefit prior to ceasing employment;

14 (ii) Shall immediately resume making contributions;

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

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

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

31 (c) A reemployed member may repay all or a portion of the value of a

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

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

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

29 (b) Except as provided in section 42-1107, the The death benefit
30 shall be paid pursuant to section 8 of this act to the member's
31 beneficiary, to an alternate payee pursuant to a qualified domestic

1 ~~relations order as provided in section 42-1107, or to the member's estate~~
2 ~~if there are no designated beneficiaries.~~

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

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

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

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

29 23-2331 Sections 23-2301 to 23-2332.01 and section 8 of this act
30 shall be known and may be cited as the County Employees Retirement Act.

31 Sec. 8. (1) Except as provided in section 42-1107, in the event of

1 a member's death, the death benefit shall be paid to the following, in
2 order of priority:

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

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

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

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

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

16 79-901 Sections 79-901 to 79-977.03 and section 11 of this act shall
17 be known and may be cited as the School Employees Retirement Act.

18 Sec. 10. Section 79-902, Revised Statutes Cumulative Supplement,
19 2018, is amended to read:

20 79-902 For purposes of the School Employees Retirement Act, unless
21 the context otherwise requires:

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

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

29 (b) For a school employee hired before July 1, 2017, the
30 determinations shall be based on the 1994 Group Annuity Mortality Table
31 reflecting sex-distinct factors blended using twenty-five percent of the

1 male table and seventy-five percent of the female table. An interest rate
2 of eight percent per annum shall be reflected in making these
3 determinations except when a lump-sum settlement is made to an estate.

4 (c) For a school employee hired on or after July 1, 2017, or rehired
5 on or after July 1, 2017, after termination of employment and being paid
6 a retirement benefit or taking a refund of contributions, the
7 determinations shall be based on a unisex mortality table and an interest
8 rate specified by the board. Both the mortality table and the interest
9 rate shall be recommended by the actuary and approved by the retirement
10 board following an actuarial experience study, a benefit adequacy study,
11 or a plan valuation. The mortality table, interest rate, and actuarial
12 factors in effect on the school employee's retirement date will be used
13 to calculate actuarial equivalency of any retirement benefit. Such
14 interest rate may be, but is not required to be, equal to the assumed
15 rate.

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

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

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

1 defers or excludes such amounts from income.

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

11 (c) Compensation in excess of the limitations set forth in section
12 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01
13 shall be disregarded. For an employee who was a member of the retirement
14 system before the first plan year beginning after December 31, 1995, the
15 limitation on compensation shall not be less than the amount which was
16 allowed to be taken into account under the retirement system as in effect
17 on July 1, 1993;

18 (5) 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 (6)(a) 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; and

28 (b) Creditable ~~For employees hired prior to July 1, 2018, creditable~~
29 service includes working days, sick days, vacation days, holidays, and
30 any other leave days for which the employee is paid regular wages as part
31 of the employee's agreement with the employer. Creditable service does

1 not include lump-sum payments to the employee upon termination or
2 retirement in lieu of accrued benefits for such days, eligibility and
3 vesting credit, service years for which member contributions are
4 withdrawn and not repaid by the member, service rendered for which the
5 retirement board determines that the member was paid less in compensation
6 than the minimum wage as provided in the Wage and Hour Act, ~~or~~ service
7 which the board determines was rendered with the intent to defraud the
8 retirement system, or service provided to an employer in a retirement
9 system established pursuant to the Class V School Employees Retirement
10 Act;

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

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

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

29 (8) Disability means an inability to engage in any substantially
30 gainful activity by reason of any medically determinable physical or
31 mental impairment which was initially diagnosed or became disabling while

1 the member was an active participant in the plan and which can be
2 expected to result in death or be of a long-continued and indefinite
3 duration;

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

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

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

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

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

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

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

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

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

1 403(b) of the Internal Revenue Code except for payments for accrued
2 unused leave, or purchasing service credit for the member pursuant to
3 section 79-933.08;

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

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

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

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

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

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

31 (B) If a member has such compensation for less than thirty-six

1 months, the sum of the member's total compensation in all months divided
2 by the total number of months of his or her creditable service therefor;
3 and

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

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

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

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

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

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

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

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

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

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

26 (22) 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 (23) 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 (24) 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 (25) 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 (26) Relinquished creditable service means, with respect to a member
24 who has withdrawn his or her accumulated contributions under section
25 79-955, the total amount of creditable service which such member has
26 given up as a result of his or her election not to remain a member of the
27 retirement system;

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

31 (28) Retirement means qualifying for and accepting a school or

1 disability retirement allowance granted under the School Employees
2 Retirement Act;

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

6 (30) Retirement board or board means the Public Employees Retirement
7 Board;

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

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

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

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

31 (35) School year means one fiscal year which includes not less than

1 one thousand instructional hours or, in the case of service in the State
2 of Nebraska prior to July 1, 1945, not less than seventy-five percent of
3 the then legal school year;

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

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

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

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

29 (40) State school official means the Commissioner of Education and
30 his or her professional staff who are required by law or by the State
31 Department of Education to hold a certificate as such term is defined in

1 section 79-807;

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

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

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

24 (44) Termination of employment occurs on the date on which the
25 member experiences a bona fide separation from service of employment with
26 the member's employer, the date of which separation is determined by the
27 end of the member's contractual agreement or, if there is no contract or
28 only partial fulfillment of a contract, by the employer.

29 A member shall not be deemed to have terminated employment if the
30 member subsequently provides service to any employer participating in the
31 retirement system provided for in the School Employees Retirement Act

1 within one hundred eighty days after ceasing employment unless such
2 service:

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

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

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

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

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

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

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

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

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

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

31 Sec. 12. Section 79-921, Revised Statutes Cumulative Supplement,

1 2018, is amended to read:

2 79-921 (1) The membership of any person in the retirement system
3 shall cease only if he or she (a) withdraws his or her accumulated
4 contributions under section 79-955, (b) retires on a school or formula or
5 disability retirement allowance, or (c) dies.

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

17 (b) The member shall submit certification to the board on a form
18 prescribed by the board, under penalty of prosecution pursuant to section
19 79-949, whether or not the member accepted and received an early
20 retirement inducement from his or her employer.

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

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

30 (b) The date of such membership shall relate back to the beginning
31 of his or her original membership in the retirement system only if such

1 school employee has repaid all amounts required in accordance with
2 subsection (4) of this section. Unless and until all such amounts are
3 repaid, the school employee shall be considered a new member, effective
4 as of the date he or she again becomes a school employee.

5 (4)(a) With respect to any person who is reinstated to membership in
6 the retirement system pursuant to subdivision (3)(a) of this section
7 prior to April 17, 2014, and who files a valid and complete one-time
8 application with the retirement board for the restoration of part or all
9 of his or her relinquished creditable service prior to six years after
10 April 17, 2014, but prior to termination, the following shall apply:

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

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

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

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

29 (ii) Payment for restoration of such relinquished creditable service
30 must be completed within five years of the date of such member's
31 reinstatement to membership in the retirement system or prior to

1 termination, whichever is earlier.

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

5 (b) Repayment may be made through direct payment, installment
6 payments, an irrevocable payroll deduction authorization, cash rollover
7 contributions pursuant to section 79-933.02, or trustee-to-trustee
8 transfers pursuant to section 79-933.09, except that if the application
9 for the restoration of part or all of the relinquished creditable service
10 is received by the retirement system within one year before the member's
11 termination date or the applicable last payment date as specified in
12 subsection (4) of this section, whichever is earlier, repayment may only
13 be made through a lump-sum direct payment, cash rollover contributions
14 pursuant to section 79-933.02, or trustee-to-trustee transfers pursuant
15 to section 79-933.09.

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

18 79-927 (1) The board shall grant service credit pursuant to this
19 section on an annual basis to members who participate during each fiscal
20 year.

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

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

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

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

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

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

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

15 ~~(3) (4)~~ The board may adopt and promulgate rules and regulations for
16 the granting of service credit in accordance with this section, but in no
17 case shall more than one year of service be granted for all service in
18 one plan year.

19 Sec. 14. Section 79-934, Revised Statutes Cumulative Supplement,
20 2018, is amended to read:

21 79-934 (1) In lieu of the school retirement allowance provided by
22 section 79-933, any member who is not an employee of a Class V school
23 district and who becomes eligible to make application for and receive a
24 school retirement allowance under section 79-931 may receive a formula
25 annuity retirement allowance if it is greater than the school retirement
26 allowance provided by section 79-933.

27 (2) Subject to the other provisions of this section, the monthly
28 formula annuity in the normal form shall be determined by multiplying the
29 number of years of creditable service for which such member would
30 otherwise receive the service annuity provided by section 79-933 by (a)
31 one and one-quarter percent of his or her final average compensation for

1 a member who has acquired the equivalent of one-half year of service or
2 more as a school employee under the retirement system following August
3 24, 1975, (b) one and one-half percent of his or her final average
4 compensation for a member who has acquired the equivalent of one-half
5 year of service or more as a school employee under the retirement system
6 following July 17, 1982, (c) one and sixty-five hundredths percent of his
7 or her final average compensation for a member who has acquired the
8 equivalent of one-half year of service or more as a school employee under
9 the retirement system following July 1, 1984, (d) one and seventy-three
10 hundredths percent of his or her final average compensation for a member
11 actively employed as a school employee under the retirement system or
12 under contract with an employer on or after June 5, 1993, (e) one and
13 eight-tenths percent of his or her final average compensation for a
14 member who has acquired the equivalent of one-half year of service or
15 more as a school employee under the retirement system following July 1,
16 1995, and was employed as a school employee under the retirement system
17 or under contract with an employer on or after April 10, 1996, (f) one
18 and nine-tenths percent of his or her final average compensation for a
19 member who has acquired the equivalent of one-half year of service or
20 more as a school employee under the retirement system following July 1,
21 1998, and was employed as a school employee under the retirement system
22 or under contract with an employer on or after April 29, 1999, (g) two
23 percent of his or her final average compensation for a member who has
24 acquired the equivalent of one-half year of service or more as a school
25 employee under the retirement system following July 1, 2000, who was
26 employed as a school employee under the retirement system or under
27 contract with an employer on or after May 2, 2001, and hired prior to
28 July 1, 2016, and who has not retired prior to May 2, 2001, or (h) two
29 percent of his or her final average compensation for a member initially
30 hired on or after July 1, 2016, or a member who has taken a refund or
31 retirement and is rehired or hired by a separate employer covered by the

1 retirement system on or after July 1, 2016, and has acquired the
2 equivalent of five years of service or more as a school employee under
3 the retirement system or under contract with an employer on or after July
4 1, 2016. Subdivision (2)(f) of this section shall not apply to a member
5 who is retired prior to April 29, 1999. Subdivision (2)(g) of this
6 section shall not apply to a member who is retired prior to May 2, 2001.

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

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

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

21 (b) For a member hired on or after July 1, 2016, and prior to July
22 1, 2018, or for a member who has taken a retirement or refund that
23 relinquished all prior service credit and who has not repaid the full
24 amount of the refund pursuant to section 79-921 and is rehired or hired
25 by any employer covered by the retirement system on or after July 1,
26 2016, and prior to July 1, 2018, if the annuity begins at a time when the
27 sum of the member's attained age and creditable service totals eighty-
28 five and the member is at least fifty-five years of age, the annuity
29 shall not be reduced.

30 (c) For a member hired on or after July 1, 2018, or for a member or
31 former member who has taken a retirement or refund that relinquished all

1 prior service credit and who has not repaid the full amount of the refund
2 pursuant to section 79-921 and is rehired or hired by any employer
3 covered by the retirement system on or after July 1, 2018, if the annuity
4 begins at a time when the sum of the member's attained age and creditable
5 service totals eighty-five and the member is at least sixty years of age,
6 the annuity shall not be reduced.

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

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

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

23 (8) All formula annuities shall be paid from the School Retirement
24 Fund.

25 (9)(a)(i) For purposes of this section, in the determination of
26 compensation for members on or after July 1, 2005, that part of a
27 member's compensation for the plan year which exceeds the member's
28 compensation with the same employer for the preceding plan year by more
29 than seven percent of the compensation base during the sixty months
30 preceding the member's retirement shall be excluded unless (A) the member
31 experienced a substantial change in employment position, (B) as verified

1 by the school board, the excess compensation above seven percent occurred
2 as the result of a collective-bargaining agreement between the employer
3 and a recognized collective-bargaining unit or category of school
4 employee, and the percentage increase in compensation above seven percent
5 shall not be excluded for employees outside of a collective-bargaining
6 unit or within the same category of school employee, or (C) the excess
7 compensation occurred as the result of a districtwide permanent benefit
8 change made by the employer for a category of school employee in
9 accordance with subdivision (4)(a)(iv) of section 79-902.

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

11 (A) Category of school employee means either all employees of the
12 employer who are administrators or certificated teachers, or all
13 employees of the employer who are not administrators or certificated
14 teachers, or both;

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

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

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

1 (ii) For purposes of subdivision (9)(b) of this section,
2 compensation base means (A) for current members employed with the same
3 employer, the member's compensation for the plan year ending June 30,
4 2012, or (B) for members newly hired or hired by a separate employer on
5 or after July 1, 2012, the member's compensation for the first full plan
6 year following the member's date of hiring.

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

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

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

18 (B) Final compensation date means the later of (I) the date on which
19 a retiring member's final compensation is actually paid or (II) if a
20 retiring member's final compensation is paid in advance as a lump sum,
21 the date on which such final compensation would have been paid to the
22 member in the absence of such advance payment.

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

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

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

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

24 (3) When the deceased member who was a school employee on or after
25 May 1, 2001, has not less than five years of creditable service and less
26 than twenty years of creditable service and dies before his or her sixty-
27 fifth birthday and leaves a surviving spouse who has been designated in
28 writing as beneficiary and who, as of the date of the member's death, is
29 the sole surviving primary beneficiary, such beneficiary may elect,
30 within twelve months after the death of the member, to receive (a) a
31 refund of the member's contribution account balance with interest plus an

1 additional one hundred one percent of the member's contribution account
2 balance with interest or (b) an annuity payable monthly for the surviving
3 spouse's lifetime which shall be equal to the benefit amount that had
4 accrued to the member at the date of the member's death, commencing when
5 the member would have reached age sixty, or the member's age at death if
6 greater, reduced by three percent for each year payments commence before
7 the member would have reached age sixty-five, and adjusted for payment in
8 the form of a one-hundred-percent joint and survivor annuity.

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

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

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

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

28 (7) For any member whose death occurs on or after January 1, 2007,
29 while performing qualified military service as defined in section 414(u)
30 of the Internal Revenue Code, the member's beneficiary shall be entitled
31 to any additional death benefit that would have been provided, other than

1 the accrual of any benefit relating to the period of qualified military
2 service. The additional death benefit shall be determined as if the
3 member had returned to employment with the employer and such employment
4 had terminated on the date of the member's death.

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

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

20 Sec. 17. Section 79-978.01, Revised Statutes Cumulative Supplement,
21 2018, is amended to read:

22 79-978.01 Sections 79-978 to 79-9,118 and section 18 of this act
23 shall be known and may be cited as the Class V School Employees
24 Retirement Act.

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

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

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

1 writing on forms provided by the system; or

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

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

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

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

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

1 applicable percentage shall be one and eighty-hundredths percent of his
2 or her final average compensation. For retirements on or after March 4,
3 1998, and before March 22, 2000, the applicable percentage shall be one
4 and eighty-five hundredths percent of his or her final average
5 compensation. For retirements on or after March 22, 2000, the applicable
6 percentage shall be two percent of his or her final average compensation.

7 (3) Final average compensation shall be determined:

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

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

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

29 (b) For purposes of this subsection:

30 (i) Capping period means the five plan years preceding the later of
31 (A) such member's retirement date or (B) such member's final compensation

1 date; and

2 (ii) Final compensation date means the later of (A) the date on
3 which a retiring member's final compensation is actually paid or (B) if a
4 retiring member's final compensation is paid in advance as a lump sum,
5 the date on which such final compensation would have been paid to the
6 member in the absence of such advance payment.

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

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

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

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

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

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

29 (7)(a) Except as provided in section 79-9,104, the ~~(7)~~ The normal
30 form of the formula retirement annuity based on final average
31 compensation shall be an annuity payable monthly during the remainder of

1 the member's life with the provision that in the event of the member's
2 ~~his or her~~ death before sixty monthly payments have been made the monthly
3 payments will continue ~~be continued to his or her estate or to the~~
4 ~~beneficiary he or she has designated~~ until a total of sixty monthly
5 payments have been made in total pursuant to section 18 of this act.

6 (b) A member may elect to receive, in lieu of the normal form of
7 annuity, an actuarially equivalent annuity in any optional form provided
8 by section 79-9,101.

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

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

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

1 the retirement system a form requiring that the beneficiary receive a
2 lump-sum settlement in lieu of the survivorship annuity, the beneficiary
3 shall receive, in lieu of the survivorship annuity, a lump-sum settlement
4 in an amount equal to the member's accumulated contributions
5 notwithstanding any other provision of this section.

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

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

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

27 Sec. 21. Section 84-1307, Revised Statutes Cumulative Supplement,
28 2018, is amended to read:

29 84-1307 (1) The membership of the retirement system shall be
30 composed of all persons who are or were employed by the State of Nebraska
31 and who maintain an account balance with the retirement system.

1 (2) The following employees of the State of Nebraska are authorized
2 to participate in the retirement system: (a) All permanent full-time
3 employees who have attained the age of eighteen years shall begin
4 participation in the retirement system upon employment; and (b) all
5 permanent part-time employees who have attained the age of eighteen years
6 may exercise the option to begin participation in the retirement system
7 within the first thirty days of employment. An employee who exercises the
8 option to begin participation in the retirement system pursuant to this
9 section shall remain in the retirement system until his or her
10 termination of employment or retirement, regardless of any change of
11 status as a permanent or temporary employee.

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

18 (4) For purposes of this section, (a) permanent full-time employees
19 includes employees of the Legislature or Legislative Council who work
20 one-half or more of the regularly scheduled hours during each pay period
21 of the legislative session and (b) permanent part-time employees includes
22 employees of the Legislature or Legislative Council who work less than
23 one-half of the regularly scheduled hours during each pay period of the
24 legislative session.

25 (5)(a) Within the first one hundred eighty days of employment, a
26 full-time employee may apply to the board for vesting credit for years of
27 participation in another Nebraska governmental plan, as defined by
28 section 414(d) of the Internal Revenue Code. During the years of
29 participation in the other Nebraska governmental plan, the employee must
30 have been a full-time employee, as defined in the Nebraska governmental
31 plan in which the credit was earned. The board may adopt and promulgate

1 rules and regulations governing the assessment and granting of vesting
2 credit.

3 (b) If the contributory retirement plan or contract let pursuant to
4 section 48-609, as such section existed prior to January 1, 2018, is
5 terminated, employees of the Department of Labor who are active
6 participants in such contributory retirement plan or contract on the date
7 of termination of such plan or contract shall be granted vesting credit
8 for their years of participation in such plan or contract.

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

17 (7) State agencies shall ensure that employees authorized to
18 participate in the retirement system pursuant to this section shall
19 enroll and make required contributions to the retirement system
20 immediately upon becoming an employee. Information necessary to determine
21 membership in the retirement system shall be provided by the employer.

22 Sec. 22. Section 84-1309.02, Revised Statutes Cumulative Supplement,
23 2018, is amended to read:

24 84-1309.02 (1) It is the intent of the Legislature that, in order to
25 improve the competitiveness of the retirement plan for state employees, a
26 cash balance benefit shall be added to the State Employees Retirement Act
27 on and after January 1, 2003. Each member who is employed and
28 participating in the retirement system prior to January 1, 2003, may
29 either elect to continue participation in the defined contribution
30 benefit as provided in the act prior to January 1, 2003, or elect to
31 participate in the cash balance benefit as set forth in this section. An

1 active member shall make a one-time election beginning September 1, 2012,
2 through October 31, 2012, in order to participate in the cash balance
3 benefit. If no such election is made, the member shall be treated as
4 though he or she elected to continue participating in the defined
5 contribution benefit as provided in the act prior to January 1, 2003.
6 Members who elect to participate in the cash balance benefit beginning
7 September 1, 2012, through October 31, 2012, shall commence participation
8 in the cash balance benefit on January 2, 2013. Any member who made the
9 election prior to April 7, 2012, does not have to make another election
10 of the cash balance benefit beginning September 1, 2012, through October
11 31, 2012.

12 (2) For a member employed and participating in the retirement system
13 beginning on and after January 1, 2003, or a member employed and
14 participating in the retirement system on January 1, 2003, who, prior to
15 April 7, 2012, or beginning September 1, 2012, through October 31, 2012,
16 elects to convert his or her employee and employer accounts to the cash
17 balance benefit:

18 (a) ~~The Except as provided in subdivision (2)(b) of section~~
19 ~~84-1321.01,~~ the employee cash balance account within the State Employees
20 Retirement Fund shall, at any time, be equal to the following:

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

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

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

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

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

31 (i) The initial employer account balance, if any, transferred from

1 the defined contribution plan account described in section 84-1311; plus
2 (ii) Employer contribution credits deposited in accordance with
3 section 84-1309; plus
4 (iii) Interest credits credited in accordance with subdivision (19)
5 of section 84-1301; plus
6 (iv) Dividend amounts credited in accordance with subdivision (4)(c)
7 of section 84-1319.

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

17 Sec. 23. Section 84-1319, Revised Statutes Cumulative Supplement,
18 2018, is amended to read:

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

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

31 Except as provided in section 42-1107, in lieu of the future service

1 retirement annuity, a retiring employee may receive a benefit not to
2 exceed the amount in his or her employer and employee accounts as of the
3 date of final account value payable in a lump sum and, if the employee
4 chooses not to receive the entire amount in such accounts, an annuity
5 equal to the actuarial equivalent of the remainder of the retirement
6 value, and the employee may choose any form of such annuity as provided
7 for by the board.

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

11 (2) Except as provided in subsection (4) of this section, the
12 monthly annuity income payable to a member retiring on or after January
13 1, 1984, shall be as follows:

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

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

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

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

30 (4)(a) The normal form of payment shall be a single life annuity
31 with five-year certain, which is an annuity payable monthly during the

1 remainder of the member's life with the provision that, in the event of
2 the member's ~~his or her~~ death before sixty monthly payments have been
3 made, the monthly payments will continue ~~be continued to his or her~~
4 ~~estate or to the beneficiary he or she has designated~~ until sixty monthly
5 payments have been made in total pursuant to section 28 of this act.

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

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

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

27 For an employee who is a member prior to January 1, 2003, who has
28 elected not to participate in the cash balance benefit pursuant to
29 section 84-1309.02, and who, at the time of retirement, chooses the
30 annuity option rather than the lump-sum option, his or her employee and
31 employer accounts as of the date of final account value shall be

1 converted to an annuity using an interest rate that is equal to the
2 lesser of (i) the Pension Benefit Guaranty Corporation initial interest
3 rate for valuing annuities for terminating plans as of the beginning of
4 the year during which payment begins plus three-fourths of one percent or
5 (ii) the interest rate to calculate the retirement benefits for the cash
6 balance plan members.

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

1 (c) If the unfunded accrued actuarial liability under the entry age
2 actuarial cost method is less than zero on an actuarial valuation date,
3 and on the basis of all data in the possession of the retirement board,
4 including such mortality and other tables as are recommended by the
5 actuary engaged by the retirement board and adopted by the retirement
6 board, the retirement board may elect to pay a dividend to all members
7 participating in the cash balance option in an amount that would not
8 increase the actuarial contribution rate above ninety percent of the
9 actual contribution rate. Dividends shall be credited to the employee
10 cash balance account and the employer cash balance account based on the
11 account balances on the actuarial valuation date. In the event a dividend
12 is granted and paid after the actuarial valuation date, interest for the
13 period from the actuarial valuation date until the dividend is actually
14 paid shall be paid on the dividend amount. The interest rate shall be the
15 interest credit rate earned on regular contributions.

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

24 (6) A participant or beneficiary who would have been required to
25 receive required minimum distributions for 2009 but for the enactment of
26 section 401(a)(9)(H) of the Internal Revenue Code, and who would have
27 satisfied that requirement by receiving distributions that are either
28 equal to the 2009 required minimum distributions or one or more payments
29 in a series of substantially equal distributions, including the 2009
30 required minimum distribution, made at least annually and expected to
31 last for the life or life expectancy of the participant, the joint lives

1 or joint life expectancy of the participant and the participant's
2 designated beneficiary, or for a period of at least ten years, shall
3 receive those distributions for 2009 unless the participant or
4 beneficiary chooses not to receive such distributions. Participants and
5 beneficiaries shall be given the opportunity to elect to stop receiving
6 the distributions described in this subsection.

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

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

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

1 ~~(b) If a member elects to receive benefits payable under sections~~
2 ~~84-1317 and 84-1321 after a grievance or appeal is filed, the member may~~
3 ~~receive an amount up to the balance of his or her employee account or~~
4 ~~member cash balance account or twenty-five thousand dollars payable from~~
5 ~~the employee account or member cash balance account, whichever is less.~~

6 (3) The State Employer Retirement Expense Fund is created. The fund
7 shall be administered by the Public Employees Retirement Board. Prior to
8 July 1, 2012, the fund shall be used to meet expenses of the State
9 Employees Retirement System of the State of Nebraska whether such
10 expenses are incurred in administering the member's employer account or
11 in administering the member's employer cash balance account when the
12 funds available in the State Employees Defined Contribution Retirement
13 Expense Fund or State Employees Cash Balance Retirement Expense Fund make
14 such use reasonably necessary. On July 1, 2012, or as soon as practicable
15 thereafter, any money in the State Employer Retirement Expense Fund shall
16 be transferred by the State Treasurer to the State Employees Retirement
17 Fund and credited to the cash balance benefit established in section
18 84-1309.02.

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

1 allocated in accordance with subsection (3) of this section. Any money in
2 the State Employer Retirement Expense Fund available for investment shall
3 be invested by the state investment officer pursuant to the Nebraska
4 Capital Expansion Act and the Nebraska State Funds Investment Act.

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

7 84-1322 (1) Prior to January 1, 2020, except ~~Except~~ as otherwise
8 provided in this section, a member of the retirement system who has a
9 five-year break in service shall upon reemployment be considered a new
10 employee with respect to the State Employees Retirement Act and shall not
11 receive credit for service prior to his or her reemployment date.

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

27 (b) The reemployed member may repay the value of, or a portion of
28 the value of, the termination benefit withdrawn pursuant to section
29 84-1321. A reemployed member who elects to repay all or a portion of the
30 value of the termination benefit withdrawn pursuant to section 84-1321
31 shall repay the actual earnings on such value. Repayment of the

1 termination benefit shall commence within three years after reemployment
2 and shall be completed within five years after reemployment or prior to
3 termination of employment, whichever occurs first, through (i) direct
4 payments to the retirement system, (ii) installment payments made
5 pursuant to a binding irrevocable payroll deduction authorization made by
6 the member, (iii) an eligible rollover distribution as provided under the
7 Internal Revenue Code, or (iv) a direct rollover distribution made in
8 accordance with section 401(a)(31) of the Internal Revenue Code.

9 (c) The value of the member's forfeited employer account or employer
10 cash balance account, as of the date of forfeiture, shall be restored in
11 a ratio equal to the amount of the benefit that the member has repaid
12 divided by the termination benefit received. The employer account or
13 employer cash balance account shall be restored first out of the current
14 forfeiture amounts and then by additional employer contributions.

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

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

30 (5) Beginning January 1, 2020, if a contributing member of the
31 retirement system ceases to be an employee and returns to service in any

1 capacity with the state prior to having a one-hundred-twenty-day break in
2 service, the member:

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

5 (b) Shall be immediately reenrolled in:

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

8 (ii) The cash balance benefit in which the member was participating
9 prior to ceasing employment if the member was contributing to the cash
10 balance benefit prior to ceasing employment;

11 (c) Shall immediately resume making contributions;

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

14 (e) Shall have all distributions from the retirement system
15 canceled; and

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

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

21 (i) Shall be immediately reenrolled in:

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

24 (B) The cash balance benefit in which the member was participating
25 prior to ceasing employment if the member was contributing to the cash
26 balance benefit prior to ceasing employment;

27 (ii) Shall immediately resume making contributions;

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

30 (iv) Shall be prohibited from taking any distributions from the
31 retirement system until the employee again terminates employment with the

1 state.

2 (b) For the purposes of vesting employer contributions made prior to
3 and after reentry into the retirement system, the member's years of
4 participation prior to the date the member originally ceased employment
5 and the years of participation after the member is reenrolled in the
6 retirement system shall be included as years of participation, except
7 that if the member has taken a distribution, the years of participation
8 prior to the date the member originally ceased employment shall be
9 limited in a ratio equal to the value of the distribution that the member
10 repays divided by the total value of the distribution taken as described
11 in subdivision (6)(c) of this section.

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

1 contributions.

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

4 84-1323 (1)(a) ~~(1)~~ In the event of a member's ~~the~~ death before the
5 member's ~~his or her~~ retirement date ~~of any employee who is a member of~~
6 ~~the system~~, the death benefit shall be equal to (i) ~~(a)~~ for participants
7 in the defined contribution benefit, the total of the employee account
8 and the employer account and (ii) ~~(b)~~ for participants in the cash
9 balance benefit, the benefit provided in section 84-1309.02.

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

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

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

31 (3) For any member whose death occurs on or after January 1, 2007,

1 while performing qualified military service as defined in section 414(u)
2 of the Internal Revenue Code, the member's beneficiary shall be entitled
3 to any additional death benefit that would have been provided, other than
4 the accrual of any benefit relating to the period of qualified military
5 service. The additional death benefit shall be determined as if the
6 member had returned to employment with the State of Nebraska and such
7 employment had terminated on the date of the member's death.

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

10 84-1331 Sections 84-1301 to 84-1331 and section 28 of this act shall
11 be known and may be cited as the State Employees Retirement Act.

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

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

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

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

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

26 Sec. 29. Section 84-1503, Revised Statutes Cumulative Supplement,
27 2018, is amended to read:

28 84-1503 (1) It shall be the duty of the Public Employees Retirement
29 Board:

30 (a) To administer the retirement systems provided for in the County
31 Employees Retirement Act, the Judges Retirement Act, the Nebraska State

1 Patrol Retirement Act, the School Employees Retirement Act, and the State
2 Employees Retirement Act. The agency for the administration of the
3 retirement systems and under the direction of the board shall be known
4 and may be cited as the Nebraska Public Employees Retirement Systems;

5 (b) To appoint a director to administer the systems under the
6 direction of the board. The appointment shall be subject to the approval
7 of the Governor and a majority of the Legislature. The director shall be
8 qualified by training and have at least five years of experience in the
9 administration of a qualified public or private employee retirement plan.
10 The director shall not be a member of the board. The salary of the
11 director shall be set by the board. The director shall serve without term
12 and may be removed by the board;

13 (c) To provide for an equitable allocation of expenses among the
14 retirement systems administered by the board, and all expenses shall be
15 provided from the investment income earned by the various retirement
16 funds unless alternative sources of funds to pay expenses are specified
17 by law;

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

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

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

26 (g) To adopt and implement procedures for reporting information by
27 employers, as well as testing and monitoring procedures in order to
28 verify the accuracy of such information. The information necessary to
29 determine membership shall be provided by the employer. The board may
30 adopt and promulgate rules and regulations and prescribe such forms
31 necessary to carry out this subdivision. Nothing in this subdivision

1 shall be construed to require the board to conduct onsite audits of
2 political subdivisions for compliance with statutes, rules, and
3 regulations governing the retirement systems listed in subdivision (1)(a)
4 of this section regarding membership and contributions; and

5 (h) To prescribe and furnish forms for the public retirement system
6 plan reports required to be filed pursuant to sections 2-3228, 12-101,
7 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118,
8 23-3526, 71-1631.02, and 79-987 through December 31, 2017.

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

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

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

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

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

21 (e) To obtain, by a competitive, formal, and sealed bidding process
22 through the materiel division of the Department of Administrative
23 Services, actuarial services on behalf of the State of Nebraska as may be
24 necessary in the administration and development of the retirement
25 systems, including, but not limited to, preparation of an annual
26 actuarial valuation report of each of the defined benefit and cash
27 balance plans administered by the board. Such annual valuation reports
28 shall be presented by the actuary to the Nebraska Retirement Systems
29 Committee of the Legislature at a public hearing or hearings. Any
30 contract for actuarial services shall contain a provision allowing the
31 actuary, without prior approval of the board, to perform actuarial

1 studies of the systems as requested by entities other than the board, if
2 notice, which does not identify the entity or substance of the request,
3 is given to the board, all costs are paid by the requesting entity,
4 results are provided to the board, the Nebraska Retirement Systems
5 Committee of the Legislature, and the Legislative Fiscal Analyst upon
6 being made public, and such actuarial studies do not interfere with the
7 actuary's ongoing responsibility to the board. The term of the contract
8 shall be for up to three years. A competitive, formal, and sealed bidding
9 process shall be completed at least once every three years, unless the
10 board determines that such a process would not be cost effective under
11 the circumstances and that the actuarial services performed have been
12 satisfactory, in which case the contract may also contain an option for
13 renewal without a competitive, formal, and sealed bidding process for up
14 to three additional years. An actuary under contract for the State of
15 Nebraska shall be a member of the American Academy of Actuaries and meet
16 the academy's qualification standards to render a statement of actuarial
17 opinion;

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

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

28 (h) To obtain, by a competitive, formal, and sealed bidding process
29 through the materiel division of the Department of Administrative
30 Services, auditing services for a separate compliance audit of the
31 retirement systems to be completed by December 31, 2020, and from time to

1 time thereafter at the request of the Nebraska Retirement Systems
2 Committee of the Legislature, to be completed not more than every four
3 years but not less than every ten years. The compliance audit shall be in
4 addition to the annual audit conducted by the Auditor of Public Accounts.
5 The compliance audit shall include, but not be limited to, an examination
6 of records, files, and other documents and an evaluation of all policies
7 and procedures to determine compliance with all state and federal laws. A
8 copy of the compliance audit shall be given to the Governor, the board,
9 and the Nebraska Retirement Systems Committee of the Legislature and
10 shall be presented to the committee at a public hearing;

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

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

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

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

31 (C) To the member's estate if the member is not married on the

1 member's date of death and there is no surviving designated beneficiary
2 on file with the board; and

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

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

18 (l) (k) To administer all retirement system plans in a manner which
19 will maintain each plan's status as a qualified plan pursuant to the
20 Internal Revenue Code, as defined in section 49-801.01, including:
21 Section 401(a)(9) of the Internal Revenue Code relating to the time and
22 manner in which benefits are required to be distributed, including the
23 incidental death benefit distribution requirement of section 401(a)(9)(G)
24 of the Internal Revenue Code; section 401(a)(25) of the Internal Revenue
25 Code relating to the specification of actuarial assumptions; section
26 401(a)(31) of the Internal Revenue Code relating to direct rollover
27 distributions from eligible retirement plans; section 401(a)(37) of the
28 Internal Revenue Code relating to the death benefit of a member whose
29 death occurs while performing qualified military service; and section
30 401(a) of the Internal Revenue Code by meeting the requirements of
31 section 414(d) of the Internal Revenue Code relating to the establishment

1 of retirement plans for governmental employees of a state or political
2 subdivision thereof. The board may adopt and promulgate rules and
3 regulations necessary or appropriate to maintain such status including,
4 but not limited to, rules or regulations which restrict discretionary or
5 optional contributions to a plan or which limit distributions from a
6 plan.

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

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

28 (b) The director shall provide an electronic copy of the first draft
29 and a final draft of the experience study and annual valuation reports to
30 the Nebraska Retirement Systems Committee and the Governor when the
31 director receives the drafts from the actuary. The drafts shall be deemed

1 confidential information. The draft copies obtained by the Nebraska
2 Retirement Systems Committee and the Governor pursuant to this section
3 shall not be considered public records subject to sections 84-712 to
4 84-712.09.

5 (c) For purposes of this subsection, business days shall be computed
6 by excluding the day the request is received, after which the designated
7 period of time begins to run. A business day shall not include a Saturday
8 or a Sunday or a day during which the Nebraska Public Employees
9 Retirement Systems office is closed.

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

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

22 Sec. 31. Original sections 23-2320, 23-2321, 23-2331, 79-901,
23 79-927, 79-956, 79-971, 79-9,106, 84-1321.01, 84-1322, 84-1323, and
24 84-1331, Reissue Revised Statutes of Nebraska, and sections 23-2306,
25 23-2308.01, 23-2317, 23-2319.01, 79-902, 79-921, 79-934, 79-978.01,
26 79-9,100, 84-1307, 84-1309.02, 84-1319, and 84-1503, Revised Statutes
27 Cumulative Supplement, 2018, are repealed.

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