

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 146**

Introduced by Kolterman, 24.

Read first time January 08, 2021

Committee: Nebraska Retirement Systems

- 1 A BILL FOR AN ACT relating to retirement; to amend sections 79-902 and
- 2 79-978, Revised Statutes Cumulative Supplement, 2020; to define and
- 3 redefine terms under the School Employees Retirement Act and Class V
- 4 School Employees Retirement Act; to harmonize provisions; to repeal
- 5 the original sections; and to declare an emergency.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-902, Revised Statutes Cumulative Supplement,  
2 2020, is amended to read:

3 79-902 For purposes of the School Employees Retirement Act, unless  
4 the context otherwise requires:

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

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

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

18 (c) For a school employee hired on or after July 1, 2017, or rehired  
19 on or after July 1, 2017, after termination of employment and being paid  
20 a retirement benefit or taking a refund of contributions, the  
21 determinations shall be based on a unisex mortality table and an interest  
22 rate specified by the board. Both the mortality table and the interest  
23 rate shall be recommended by the actuary and approved by the retirement  
24 board following an actuarial experience study, a benefit adequacy study,  
25 or a plan valuation. The mortality table, interest rate, and actuarial  
26 factors in effect on the school employee's retirement date will be used  
27 to calculate actuarial equivalency of any retirement benefit. Such  
28 interest rate may be, but is not required to be, equal to the assumed  
29 rate.

30 (d) If the lump-sum settlement is made to an estate, the interest  
31 rate will be determined by the AAA-rated segment of the Bloomberg

1 Barclays Long U.S. Corporate Bond Index as of the prior June 30, rounded  
2 to the next lower quarter percent. If the AAA-rated segment of the  
3 Bloomberg Barclays Long U.S. Corporate Bond Index is discontinued or  
4 replaced, a substitute index shall be selected by the board which shall  
5 be a reasonably representative index;

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

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

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

25 (c) Compensation in excess of the limitations set forth in section  
26 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01  
27 shall be disregarded. For an employee who was a member of the retirement  
28 system before the first plan year beginning after December 31, 1995, the  
29 limitation on compensation shall not be less than the amount which was  
30 allowed to be taken into account under the retirement system as in effect  
31 on July 1, 1993;

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (f) Any other form of separation payments made by an employer to a  
26 member at termination, including, but not limited to, purchasing  
27 retirement annuity contracts for the member pursuant to section 79-514,  
28 depositing money for the member in an account established under section  
29 403(b) of the Internal Revenue Code except for payments for accrued  
30 unused leave, or purchasing service credit for the member pursuant to  
31 section 79-933.08;

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

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

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

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

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

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

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

31 and

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

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

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

8 (b) Payments under the Retirement Incentive Plan pursuant to section  
9 79-855 and Staff Development Assistance pursuant to section 79-856 shall  
10 not be included in the determination of final average compensation;

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

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

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

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

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

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

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

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

1 educational institution wholly supported by public funds, except schools  
2 under the control and management of the Board of Trustees of the Nebraska  
3 State Colleges, the Board of Regents of the University of Nebraska, or  
4 the community college boards of governors for any community college  
5 areas;

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

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

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

25 (27) Required beginning date means, for purposes of the deferral of  
26 distributions, April 1 of the year following the calendar year in which a  
27 member has:

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

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



1 December 31, 2019; or

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

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

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

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

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

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

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

20 (32) Retirement date means (a) if the member has terminated  
21 employment, the first day of the month following the date upon which a  
22 member's request for retirement is received on a retirement application  
23 provided by the retirement system or (b) if the member has filed a  
24 retirement application but has not yet terminated employment, the first  
25 day of the month following the date on which the member terminates  
26 employment. An application may be filed no more than one hundred twenty  
27 days prior to the effective date of the member's initial benefit;

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

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

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

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

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

24           (38) Service means employment as a school employee and shall not be  
25 deemed interrupted by (a) termination at the end of the school year of  
26 the contract of employment of an employee in a public school if the  
27 employee enters into a contract of employment in any public school,  
28 except a school in a Class V school district, for the following school  
29 year, (b) temporary or seasonal suspension of service that does not  
30 terminate the employee's employment, (c) leave of absence authorized by  
31 the employer for a period not exceeding twelve months, (d) leave of

1 absence because of disability, or (e) military service when properly  
2 authorized by the retirement board. Service does not include any period  
3 of disability for which disability retirement benefits are received under  
4 sections 79-951 to 79-953;

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

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

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

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

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

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

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

5 (45)(a) Termination of employment occurs on the date on which the  
6 member experiences a bona fide separation from service of employment with  
7 the member's employer, the date of which separation is determined by the  
8 end of the member's contractual agreement or, if there is no contract or  
9 only partial fulfillment of a contract, by the employer.

10 (b) A member shall not be deemed to have terminated employment if  
11 the member subsequently provides service to any employer participating in  
12 the retirement system provided for in the School Employees Retirement Act  
13 within one hundred eighty days after ceasing employment unless such  
14 service:

15 (i) Is bona fide unpaid voluntary service or substitute service,  
16 provided on an intermittent basis. For purposes of this subdivision, (A)  
17 intermittent basis means service provided on a day-to-day basis that is  
18 not greater than eight days of service during a calendar month and (B)  
19 day of service means any length of substitute service or unpaid voluntary  
20 service provided during a single calendar day; or

21 (ii) Is as provided in subsection (2) of section 79-920.

22 (c) A member shall not be deemed to have terminated employment if  
23 the board determines based on facts and circumstances (i) that a claimed  
24 termination was not a bona fide separation from service with the employer  
25 or (ii) that a member was compensated for a full contractual period when  
26 the member terminated prior to the end date of the contract.

27 (d) Nothing in this subdivision precludes an employer from adopting  
28 a policy which limits or denies employees who have terminated employment  
29 from providing voluntary or substitute service within one hundred eighty  
30 days after termination; and

31 ~~(45) Termination of employment occurs on the date on which the~~

~~1 member experiences a bona fide separation from service of employment with  
2 the member's employer, the date of which separation is determined by the  
3 end of the member's contractual agreement or, if there is no contract or  
4 only partial fulfillment of a contract, by the employer.~~

~~5 A member shall not be deemed to have terminated employment if the  
6 member subsequently provides service to any employer participating in the  
7 retirement system provided for in the School Employees Retirement Act  
8 within one hundred eighty days after ceasing employment unless such  
9 service:~~

~~10 (a) Is bona fide unpaid voluntary service or substitute service,  
11 provided on an intermittent basis; or~~

~~12 (b) Is as provided in subsection (2) of section 79-920.~~

~~13 Nothing in this subdivision precludes an employer from adopting a  
14 policy which limits or denies employees who have terminated employment  
15 from providing voluntary or substitute service within one hundred eighty  
16 days after termination.~~

~~17 A member shall not be deemed to have terminated employment if the  
18 board determines that a claimed termination was not a bona fide  
19 separation from service with the employer or that a member was  
20 compensated for a full contractual period when the member terminated  
21 prior to the end date of the contract; and~~

~~22 (46) Voluntary service or volunteer means providing bona fide unpaid  
23 service to any employer.~~

~~24 Sec. 2. Section 79-978, Revised Statutes Cumulative Supplement,  
25 2020, is amended to read:~~

~~26 79-978 For purposes of the Class V School Employees Retirement Act,  
27 unless the context otherwise requires:~~

~~28 (1) Accumulated contributions means the sum of amounts contributed  
29 by a member of the system together with regular interest credited  
30 thereon;~~

~~31 (2) Actuarial equivalent means the equality in value of the~~

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

7 (3) Actuarial tables means:

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

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

15 (ii) For members hired on or after July 1, 2018, or rehired on or  
16 after July 1, 2018, after termination of employment and being paid a  
17 retirement benefit, the determinations shall be based on a unisex  
18 mortality table and an interest rate specified by the board of trustees.  
19 Both the mortality table and the interest rate shall be recommended by  
20 the actuary retained by the board of trustees and approved by the board  
21 of trustees following an actuarial experience study, a benefit adequacy  
22 study, or a plan valuation. The mortality table, interest rate, and  
23 actuarial factors in effect on the member's retirement date shall be used  
24 to calculate the actuarial equivalency of any retirement benefit. Such  
25 interest rate may be, but is not required to be, equal to the assumed  
26 rate; and

27 (b) For joint and survivorship annuities:

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

1 eight percent compounded annually and a unisex joint annuitant mortality  
2 table using thirty-five percent of the male mortality and sixty-five  
3 percent of the female mortality from the 1994 Group Annuity Mortality  
4 Table with a One Year Setback and using an interest rate of eight percent  
5 compounded annually; and

6 (ii) For members hired on or after July 1, 2018, or rehired on or  
7 after July 1, 2018, after termination of employment and being paid a  
8 retirement benefit, the determinations shall be based on a unisex  
9 mortality table and an interest rate specified by the board of trustees.  
10 Both the mortality table and the interest rate shall be recommended by  
11 the actuary retained by the board of trustees and approved by the board  
12 of trustees following an actuarial experience study, a benefit adequacy  
13 study, or a plan valuation. The mortality table, interest rate, and  
14 actuarial factors in effect on the member's retirement date shall be used  
15 to calculate the actuarial equivalency of any retirement benefit. Such  
16 interest rate may be, but is not required to be, equal to the assumed  
17 rate;

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

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

22 (6) Audit year means the period beginning January 1 in any year and  
23 ending on December 31 of that same year except for the initial audit year  
24 which will begin September 1, 2016, and end on December 31, 2016.  
25 Beginning September 1, 2016, the audit year will be the period of time  
26 used in the preparation of the annual actuarial analysis and valuation  
27 and a financial audit of the investments of the retirement system;

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

30 (8) Board of education means the board of education of the school  
31 district;

1           (9)(a) Compensation means gross wages or salaries payable to the  
2 member during a fiscal year and includes (i) overtime pay, (ii) member  
3 contributions to the retirement system that are picked up under section  
4 414(h) of the Internal Revenue Code, as defined in section 49-801.01,  
5 (iii) retroactive salary payments paid pursuant to court order,  
6 arbitration, or litigation and grievance settlements, and (iv) amounts  
7 contributed by the member to plans under sections 125, 403(b), and 457 of  
8 the Internal Revenue Code, as defined in section 49-801.01, or any other  
9 section of the code which defers or excludes such amounts from income.

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

19           (c) Compensation in excess of the limitations set forth in section  
20 401(a)(17) of the Internal Revenue Code, as defined in section 49-801.01,  
21 shall be disregarded;

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

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

26           (12) Early retirement date means, for members hired prior to July 1,  
27 2016, who have attained age fifty-five, that month and year selected by a  
28 member having at least ten years of creditable service which includes a  
29 minimum of five years of membership service. Early retirement date means,  
30 for members hired on or after July 1, 2016, that month and year selected  
31 by a member having at least five years of creditable service and who has



1 attained age sixty;

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

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

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

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

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

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

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

24 (14) Employee means the following enumerated persons receiving  
25 compensation from the school district: (a) Teachers, other than  
26 substitutes, employed on a written contract basis; (b) administrators  
27 employed on a written contract, agreement, or document basis; and (c)  
28 regular employees ~~Regular teachers and administrators employed on a~~  
29 ~~written contract basis; and (b) regular employees, not included in~~  
30 ~~subdivision (14)(a) of this section, hired upon a full-time basis, which~~  
31 ~~basis shall contemplate a workweek of not less than thirty hours;~~

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

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

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

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

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

15           (20) Membership service means service on or after September 1, 1951,  
16 as an employee of the school district and a member of the system for  
17 which compensation is paid by the school district. Credit for more than  
18 one year of membership service shall not be allowed for service rendered  
19 in any fiscal year. Beginning September 1, 2005, a member shall be  
20 credited with a year of membership service for each fiscal year in which  
21 the member performs one thousand or more hours of compensated service as  
22 an employee of the school district. For an employee who becomes a member  
23 prior to July 1, 2018, an hour of compensated service shall include any  
24 hour for which the member is compensated by the school district during  
25 periods when no service is performed due to vacation or approved leave.  
26 For an employee who becomes a member on or after July 1, 2018, an hour of  
27 compensated service shall include any hour for which the member is  
28 compensated by the school district during periods when no service is  
29 performed due to used accrued sick days, used accrued vacation days,  
30 federal and state holidays, and jury duty leave for which the member is  
31 paid full compensation by the employer. If a member performs less than

1 one thousand hours of compensated service during a fiscal year, one-tenth  
2 of a year of membership service shall be credited for each one hundred  
3 hours of compensated service by the member in such fiscal year. In  
4 determining a member's total membership service, all periods of  
5 membership service, including fractional years of membership service in  
6 one-tenth-year increments, shall be aggregated;

7 (21) Military service means service in the uniformed services as  
8 defined in 38 U.S.C. 4301 et seq., as such provision existed on March 27,  
9 1997;

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

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

15 (24) ~~(23)~~ Primary beneficiary means the person or persons entitled  
16 to receive or receiving a benefit by reason of the death of a member;

17 (25) ~~(24)~~ Prior service means service rendered prior to September 1,  
18 1951, for which credit is allowed under section 79-999, service rendered  
19 by retired employees receiving benefits under preexisting systems, and  
20 service for which credit is allowed under sections 79-990, 79-991,  
21 79-994, 79-995, and 79-997;

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

27 (b) Effective xxxx, a person hired by an employer or under contract  
28 to provide service for less than thirty hours per week but who provides  
29 service for an average of thirty hours or more per week in each calendar  
30 month of any three calendar months of a fiscal year shall, beginning with  
31 the next full payroll period, commence contributions and shall be deemed

1 a regular employee for all future employment with the employer;

2 (27) ~~(25)~~ Regular interest means interest (a) on the total  
3 contributions of the member prior to the close of the last preceding  
4 fiscal year, (b) compounded annually, and (c)(i) beginning September 1,  
5 2016, at a rate equal to the daily treasury yield curve for one-year  
6 treasury securities, as published by the Secretary of the Treasury of the  
7 United States, that applies on September 1 of each year and (ii) prior to  
8 September 1, 2016, at rates to be determined annually by the board, which  
9 shall have the sole, absolute, and final discretionary authority to make  
10 such determination, except that the rate for any given year in no event  
11 shall exceed the actual percentage of net earnings of the system during  
12 the last preceding fiscal year;

13 (28) ~~(26)~~ Retirement allowance means the total annual retirement  
14 benefit payable to a member for service or disability;

15 (29) ~~(27)~~ Retirement date means the date of retirement of a member  
16 for service or disability as fixed by the board of trustees described in  
17 section 79-980;

18 (30) ~~(28)~~ Retirement system or system means the School Employees'  
19 Retirement System of (corporate name of the school district as described  
20 in section 79-405) as provided for by the act;

21 (31) ~~(29)~~ Secondary beneficiary means the person or persons entitled  
22 to receive or receiving a benefit by reason of the death of all primary  
23 beneficiaries prior to the death of the member. If no primary beneficiary  
24 survives the member, secondary beneficiaries shall be treated in the same  
25 manner as primary beneficiaries;

26 (32) ~~(30)~~ Solvency means the rate of all contributions required  
27 pursuant to the Class V School Employees Retirement Act is equal to or  
28 greater than the actuarially required contribution rate as annotated in  
29 the most recent valuation report prepared by the actuary retained by the  
30 board of trustees as provided in section 79-984;

31 (33) ~~(31)~~ State investment officer means the state investment

1 officer appointed pursuant to section 72-1240 and acting pursuant to the  
2 Nebraska State Funds Investment Act;

3 (34) (32) Substitute employee means a person hired by an employer as  
4 a temporary employee to assume the duties of an employee due to a  
5 temporary absence of any employee. Substitute employee does not mean a  
6 person hired as an employee on an ongoing basis to assume the duties of  
7 other employees who are temporarily absent;

8 (35)(a) Termination of employment occurs on the date on which the  
9 member experiences a bona fide separation from service of employment with  
10 the member's employer, the date of which separation is determined by the  
11 end of the member's contractual agreement or, if there is no contract or  
12 only partial fulfillment of a contract, by the employer. A member shall  
13 not be deemed to have terminated employment if the member subsequently  
14 provides service to the employer within one hundred eighty days after  
15 ceasing employment unless such service is:

16 (i) Bona fide unpaid voluntary service;

17 (ii) Substitute service provided on an intermittent basis. For  
18 purposes of this subdivision, (A) intermittent basis means service  
19 provided on a day-to-day basis that is not greater than eight days of  
20 service during a calendar month and (B) day of service means any length  
21 of substitute service provided during a single calendar day; or

22 (iii) Temporary service following a bona fide separation of service  
23 of not less than thirty calendar days and which is provided to accomplish  
24 a specific purpose or task for a limited period not to exceed one year.

25 (b) A member shall not be deemed to have terminated employment if  
26 the board determines that, based on the facts and circumstances, (i) a  
27 claimed termination was not a bona fide separation from service with the  
28 employer or (ii) a member was compensated for a full contractual period  
29 when the member terminated prior to the end date of the contract or labor  
30 agreement.

31 (c) Nothing in this subdivision precludes an employer from adopting

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

4       (36) ~~(33)~~ Temporary employee means a person hired by an employer who  
5 is not an employee and who is hired to provide service for a limited  
6 period of time to accomplish a specific purpose or task. When such  
7 specific purpose or task is complete, the employment of such temporary  
8 employee shall terminate and in no case shall the temporary employment  
9 period exceed one year in duration;

10       (37) ~~(34)~~ Trustee means a trustee provided for in section 79-980;  
11 and

12       (38) ~~(35)~~ Voluntary service or volunteer means providing bona fide  
13 unpaid service to an employer.

14       Sec. 3. Original sections 79-902 and 79-978, Revised Statutes  
15 Cumulative Supplement, 2020, are repealed.

16       Sec. 4. Since an emergency exists, this act takes effect when  
17 passed and approved according to law.