

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 699

Introduced by Kolterman, 24.

Read first time January 03, 2018

Committee: Nebraska Retirement Systems

1 A BILL FOR AN ACT relating to retirement; to amend sections 79-902,
2 81-2014, and 84-1301, Revised Statutes Supplement, 2017; to redefine
3 actuarial equivalent in the School Employees Retirement Act, the
4 Nebraska State Patrol Retirement Act, and the State Employees
5 Retirement Act; to repeal the original sections; and to declare an
6 emergency.

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

1 Section 1. Section 79-902, Revised Statutes Supplement, 2017, is
2 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;

11 (b) For employees hired prior to July 1, 2018, creditable service
12 includes working days, sick days, vacation days, holidays, and any other
13 leave days for which the employee is paid regular wages as part of the
14 employee's agreement with the employer. Creditable service does not
15 include lump-sum payments to the employee upon termination or retirement
16 in lieu of accrued benefits for such days, eligibility and vesting
17 credit, service years for which member contributions are withdrawn and
18 not repaid by the member, service rendered for which the retirement board
19 determines that the member was paid less in compensation than the minimum
20 wage as provided in the Wage and Hour Act, or service which the board
21 determines was rendered with the intent to defraud the retirement system;

22 (c) For employees hired on or after July 1, 2018, creditable service
23 includes working days, used accrued sick days, used accrued vacation
24 days, federal and state holidays, and jury duty leave for which the
25 member is paid full compensation by the employer. Creditable service does
26 not include lump-sum payments to the employee upon termination or
27 retirement in lieu of accrued benefits for such days, eligibility and
28 vesting credit, service years for which member contributions are
29 withdrawn and not repaid by the member, service rendered for which the
30 retirement board determines that the member was paid less in compensation
31 than the minimum wage as provided in the Wage and Hour Act, service which

1 the board determines was rendered with the intent to defraud the
2 retirement system, or any other type of leave not expressly included in
3 this subdivision; and

4 (d) Creditable service does not include service provided to an
5 employer in the retirement system provided under the Class V School
6 Employees Retirement Act;

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

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

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

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

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

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

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

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

30 (d) An additional salary or wage component of any kind that is being
31 paid as an incentive to leave employment and not for personal services

1 performed for which creditable service is granted;

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

8 (f) Any other form of separation payments made by an employer to a
9 member at termination, including, but not limited to, purchasing
10 retirement annuity contracts for the member pursuant to section 79-514,
11 depositing money for the member in an account established under section
12 403(b) of the Internal Revenue Code except for payments for accrued
13 unused leave, or purchasing service credit for the member pursuant to
14 section 79-933.08;

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

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

1 board that the annuitant was reemployed, rendered a service, and was paid
2 by the district or agency for such services;

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

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

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

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

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

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

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

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

22 (b) Payments under the Retirement Incentive Plan pursuant to section
23 79-855 and Staff Development Assistance pursuant to section 79-856 shall
24 not be included in the determination of final average compensation;

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

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

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

31 (19) Member means any person who has an account in the School

1 Retirement Fund;

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

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

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

8 (23) Public school means any and all schools offering instruction in
9 elementary or high school grades, as defined in section 79-101, which
10 schools are supported by public funds and are wholly under the control
11 and management of the State of Nebraska or any subdivision thereof,
12 including (a) schools or other entities established, maintained, and
13 controlled by the school boards of local school districts, except Class V
14 school districts, (b) any educational service unit, and (c) any other
15 educational institution wholly supported by public funds, except schools
16 under the control and management of the Board of Trustees of the Nebraska
17 State Colleges, the Board of Regents of the University of Nebraska, or
18 the community college boards of governors for any community college
19 areas;

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

29 (25) Regular interest means interest fixed at a rate equal to the
30 daily treasury yield curve for one-year treasury securities, as published
31 by the Secretary of the Treasury of the United States, that applies on

1 July 1 of each year, which may be credited monthly, quarterly,
2 semiannually, or annually as the board may direct;

3 (26) Relinquished creditable service means, with respect to a member
4 who has withdrawn his or her accumulated contributions under section
5 79-955, the total amount of creditable service which such member has
6 given up as a result of his or her election not to remain a member of the
7 retirement system;

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

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

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

17 (30) Retirement board or board means the Public Employees Retirement
18 Board;

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

27 (32) Retirement system means the School Employees Retirement System
28 of the State of Nebraska;

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

31 (34) School employee means a contributing member who earns service

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

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

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

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

1 authorized by the retirement board. Service does not include any period
2 of disability for which disability retirement benefits are received under
3 sections 79-951 to 79-953;

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

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

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

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

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

29 (43) Temporary employee means an employee hired by a public school
30 who is not a regular employee and who is hired to provide service for a
31 limited period of time to accomplish a specific purpose or task. When

1 such specific purpose or task is complete, the employment of such
2 temporary employee shall terminate and in no case shall the temporary
3 employment period exceed one year in duration;

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

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

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

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

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

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

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

28 Sec. 2. Section 81-2014, Revised Statutes Supplement, 2017, is
29 amended to read:

30 81-2014 For purposes of the Nebraska State Patrol Retirement Act:

31 (1)(a) Actuarial equivalent means the equality in value of the

1 aggregate amounts expected to be received under different forms of
2 payment or to be received at an earlier retirement age than the normal
3 retirement age.

4 (b) For an officer hired before July 1, 2017, the determinations
5 shall be based on the 1994 Group Annuity Mortality Table reflecting sex-
6 distinct factors blended using seventy-five percent of the male table and
7 twenty-five percent of the female table. An interest rate of eight
8 percent per annum shall be reflected in making the determinations until
9 such percent is amended by the Legislature.

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

21 (2) Board means the Public Employees Retirement Board;

22 (3)(a)(i) Compensation means gross wages or salaries payable to the
23 member for personal services performed during the plan year. Compensation
24 does not include insurance premiums converted into cash payments,
25 reimbursement for expenses incurred, fringe benefits, per diems, or
26 bonuses for services not actually rendered, including, but not limited
27 to, early retirement inducements, cash awards, and severance pay, except
28 for retroactive salary payments paid pursuant to court order,
29 arbitration, or litigation and grievance settlements. Compensation
30 includes overtime pay, member retirement contributions, and amounts
31 contributed by the member to plans under sections 125 and 457 of the

1 Internal Revenue Code as defined in section 49-801.01 or any other
2 section of the code which defers or excludes such amounts from income.

3 (ii) For any officer employed on or prior to January 4, 1979,
4 compensation includes compensation for unused sick leave or unused
5 vacation leave converted to cash payments.

6 (iii) For any officer employed after January 4, 1979, and prior to
7 July 1, 2016, compensation does not include compensation for unused sick
8 leave or unused vacation leave converted to cash payments and includes
9 compensation for unused holiday compensatory time and unused compensatory
10 time converted to cash payments.

11 (iv) For any officer employed on or after July 1, 2016, compensation
12 does not include compensation for unused sick leave, unused vacation
13 leave, unused holiday compensatory time, unused compensatory time, or any
14 other type of unused leave, compensatory time, or similar benefits,
15 converted to cash payments.

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

23 (4) Creditable service means service granted pursuant to section
24 81-2034 and all service rendered while a contributing member of the
25 retirement system. Creditable service includes working days, sick days,
26 vacation days, holidays, and any other leave days for which the officer
27 is paid regular wages except as specifically provided in the Nebraska
28 State Patrol Retirement Act. Creditable service does not include
29 eligibility and vesting credit nor service years for which member
30 contributions are withdrawn and not repaid;

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

1 adjustments made pursuant to the Nebraska State Patrol Retirement Act;

2 (6) DROP means the deferred retirement option plan as provided in
3 section 81-2041;

4 (7) DROP account means an individual DROP participant's defined
5 contribution account under section 414(k) of the Internal Revenue Code;

6 (8) DROP period means the amount of time the member elects to
7 participate in DROP which shall be for a period not to exceed five years
8 from and after the date of the member's DROP election;

9 (9) Eligibility and vesting credit means credit for years, or a
10 fraction of a year, of participation in a Nebraska government plan for
11 purposes of determining eligibility for benefits under the Nebraska State
12 Patrol Retirement Act. Such credit shall be used toward the vesting
13 percentage pursuant to subsection (2) of section 81-2031 but shall not be
14 included as years of service in the benefit calculation;

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

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

19 (12) Officer means law enforcement officer as defined in section
20 81-1401 and as provided for in sections 81-2001 to 81-2009, but does not
21 include a law enforcement officer who has been granted an appointment
22 conditioned on satisfactory completion of a training program approved by
23 the Nebraska Police Standards Advisory Council;

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

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

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

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

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

9 (17) Retirement system or system means the Nebraska State Patrol
10 Retirement System as provided in the act;

11 (18) Service means employment as a member of the Nebraska State
12 Patrol and shall not be deemed to be interrupted by (a) temporary or
13 seasonal suspension of service that does not terminate the employee's
14 employment, (b) leave of absence authorized by the employer for a period
15 not exceeding twelve months, (c) leave of absence because of disability,
16 or (d) military service, when properly authorized by the board. Service
17 does not include any period of disability for which disability retirement
18 benefits are received under subsection (1) of section 81-2025;

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

1 (20) Termination of employment occurs on the date on which the
2 Nebraska State Patrol determines that the officer's employer-employee
3 relationship with the patrol is dissolved. The Nebraska State Patrol
4 shall notify the board of the date on which such a termination has
5 occurred. Termination of employment does not include ceasing employment
6 with the Nebraska State Patrol if the officer returns to regular
7 employment with the Nebraska State Patrol or another agency of the State
8 of Nebraska and there are less than one hundred twenty days between the
9 date when the employee's employer-employee relationship ceased and the
10 date when the employer-employee relationship commenced with the Nebraska
11 State Patrol or another state agency. Termination of employment does not
12 occur upon an officer's participation in DROP pursuant to section
13 81-2041. It is the responsibility of the employer that is involved in the
14 termination of employment to notify the board of such change in
15 employment and provide the board with such information as the board deems
16 necessary. If the board determines that termination of employment has not
17 occurred and a retirement benefit has been paid to a member of the
18 retirement system pursuant to section 81-2026, the board shall require
19 the member who has received such benefit to repay the benefit to the
20 retirement system.

21 Sec. 3. Section 84-1301, Revised Statutes Supplement, 2017, is
22 amended to read:

23 84-1301 For purposes of the State Employees Retirement Act, unless
24 the context otherwise requires:

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

28 (b) For an employee hired prior to January 1, 2018, the mortality
29 assumption used for purposes of converting the member cash balance
30 account shall be the 1994 Group Annuity Mortality Table using a unisex
31 rate that is fifty percent male and fifty percent female. For purposes of

1 converting the member cash balance account attributable to contributions
2 made prior to January 1, 1984, that were transferred pursuant to the act,
3 the 1994 Group Annuity Mortality Table for males shall be used.

4 (c) For an employee hired on or after January 1, 2018, or rehired on
5 or after January 1, 2018, after termination of employment and being paid
6 a retirement benefit or taking a refund of contributions, the mortality
7 assumption used for purposes of converting the member cash balance
8 account shall be a unisex mortality table that is recommended by the
9 actuary and approved by the board following an actuarial experience
10 study, a benefit adequacy study, or a plan valuation. The mortality table
11 and actuarial factors in effect on the member's retirement date will be
12 used to calculate the actuarial equivalency of any retirement benefit;

13 (2) Annuity means equal monthly payments provided by the retirement
14 system to a member or beneficiary under forms determined by the board
15 beginning the first day of the month after an annuity election is
16 received in the office of the Nebraska Public Employees Retirement
17 Systems or the first day of the month after the employee's termination of
18 employment, whichever is later. The last payment shall be at the end of
19 the calendar month in which the member dies or in accordance with the
20 payment option chosen by the member;

21 (3) Annuity start date means the date upon which a member's annuity
22 is first effective and shall be the first day of the month following the
23 member's termination or following the date the application is received by
24 the board, whichever is later;

25 (4) Cash balance benefit means a member's retirement benefit that is
26 equal to an amount based on annual employee contribution credits plus
27 interest credits and, if vested, employer contribution credits plus
28 interest credits and dividend amounts credited in accordance with
29 subdivision (4)(c) of section 84-1319;

30 (5)(a) Compensation means gross wages or salaries payable to the
31 member for personal services performed during the plan year. Compensation

1 does not include insurance premiums converted into cash payments,
2 reimbursement for expenses incurred, fringe benefits, per diems, or
3 bonuses for services not actually rendered, including, but not limited
4 to, early retirement inducements, cash awards, and severance pay, except
5 for retroactive salary payments paid pursuant to court order,
6 arbitration, or litigation and grievance settlements. Compensation
7 includes overtime pay, member retirement contributions, and amounts
8 contributed by the member to plans under sections 125, 403(b), and 457 of
9 the Internal Revenue Code or any other section of the code which defers
10 or excludes such amounts from income.

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

17 (6) Date of disability means the date on which a member is
18 determined to be disabled by the board;

19 (7) Defined contribution benefit means a member's retirement benefit
20 from a money purchase plan in which member benefits equal annual
21 contributions and earnings pursuant to section 84-1310 and, if vested,
22 employer contributions and earnings pursuant to section 84-1311;

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

29 (9) Employee means any employee of the State Board of Agriculture
30 who is a member of the state retirement system on July 1, 1982, and any
31 person or officer employed by the State of Nebraska whose compensation is

1 paid out of state funds or funds controlled or administered by a state
2 department through any of its executive or administrative officers when
3 acting exclusively in their respective official, executive, or
4 administrative capacities. Employee does not include (a) judges as
5 defined in section 24-701, (b) members of the Nebraska State Patrol,
6 except for those members of the Nebraska State Patrol who elected
7 pursuant to section 60-1304 to remain members of the State Employees
8 Retirement System of the State of Nebraska, (c) employees of the
9 University of Nebraska, (d) employees of the state colleges, (e)
10 employees of community colleges, (f) employees of the Department of Labor
11 employed prior to July 1, 1984, and paid from funds provided pursuant to
12 Title III of the federal Social Security Act or funds from other federal
13 sources, except that if the contributory retirement plan or contract let
14 pursuant to section 48-609, as such section existed prior to January 1,
15 2018, is terminated, such employees shall become employees for purposes
16 of the State Employees Retirement Act on the first day of the first pay
17 period following the termination of such contributory retirement plan or
18 contract, (g) employees of the State Board of Agriculture who are not
19 members of the state retirement system on July 1, 1982, (h) the Nebraska
20 National Guard air and army technicians, (i) persons eligible for
21 membership under the School Employees Retirement System of the State of
22 Nebraska who have not elected to become members of the retirement system
23 pursuant to section 79-920 or been made members of the system pursuant to
24 such section, except that those persons so eligible and who as of
25 September 2, 1973, are contributing to the State Employees Retirement
26 System of the State of Nebraska shall continue as members of such system,
27 or (j) employees of the Coordinating Commission for Postsecondary
28 Education who are eligible for and have elected to become members of a
29 qualified retirement program approved by the commission which is
30 commensurate with retirement programs at the University of Nebraska. Any
31 individual appointed by the Governor may elect not to become a member of

1 the State Employees Retirement System of the State of Nebraska;

2 (10) Employee contribution credit means an amount equal to the
3 member contribution amount required by section 84-1308;

4 (11) Employer contribution credit means an amount equal to the
5 employer contribution amount required by section 84-1309;

6 (12) Final account value means the value of a member's account on
7 the date the account is either distributed to the member or used to
8 purchase an annuity from the plan, which date shall occur as soon as
9 administratively practicable after receipt of a valid application for
10 benefits, but no sooner than forty-five days after the member's
11 termination;

12 (13) Five-year break in service means five consecutive one-year
13 breaks in service;

14 (14) Full-time employee means an employee who is employed to work
15 one-half or more of the regularly scheduled hours during each pay period;

16 (15) Fund means the State Employees Retirement Fund created by
17 section 84-1309;

18 (16) Guaranteed investment contract means an investment contract or
19 account offering a return of principal invested plus interest at a
20 specified rate. For investments made after July 19, 1996, guaranteed
21 investment contract does not include direct obligations of the United
22 States or its instrumentalities, bonds, participation certificates or
23 other obligations of the Federal National Mortgage Association, the
24 Federal Home Loan Mortgage Corporation, or the Government National
25 Mortgage Association, or collateralized mortgage obligations and other
26 derivative securities. This subdivision shall not be construed to require
27 the liquidation of investment contracts or accounts entered into prior to
28 July 19, 1996;

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

31 (18) Interest credit rate means the greater of (a) five percent or

1 (b) the applicable federal mid-term rate, as published by the Internal
2 Revenue Service as of the first day of the calendar quarter for which
3 interest credits are credited, plus one and one-half percent, such rate
4 to be compounded annually;

5 (19) Interest credits means the amounts credited to the employee
6 cash balance account and the employer cash balance account at the end of
7 each day. Such interest credit for each account shall be determined by
8 applying the daily portion of the interest credit rate to the account
9 balance at the end of the previous day. Such interest credits shall
10 continue to be credited to the employee cash balance account and the
11 employer cash balance account after a member ceases to be an employee,
12 except that no such credit shall be made with respect to the employee
13 cash balance account and the employer cash balance account for any day
14 beginning on or after the member's date of final account value. If
15 benefits payable to the member's surviving spouse or beneficiary are
16 delayed after the member's death, interest credits shall continue to be
17 credited to the employee cash balance account and the employer cash
18 balance account until such surviving spouse or beneficiary commences
19 receipt of a distribution from the plan;

20 (20) Member cash balance account means an account equal to the sum
21 of the employee cash balance account and, if vested, the employer cash
22 balance account and dividend amounts credited in accordance with
23 subdivision (4)(c) of section 84-1319;

24 (21) One-year break in service means a plan year during which the
25 member has not completed more than five hundred hours of service;

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

28 (23) Part-time employee means an employee who is employed to work
29 less than one-half of the regularly scheduled hours during each pay
30 period;

31 (24) Plan year means the twelve-month period beginning on January 1

1 and ending on December 31;

2 (25) Prior service means service before January 1, 1964;

3 (26) Regular interest means the rate of interest earned each
4 calendar year commencing January 1, 1975, as determined by the retirement
5 board in conformity with actual and expected earnings on the investments
6 through December 31, 1984;

7 (27) Required contribution means the deduction to be made from the
8 compensation of employees as provided in section 84-1308;

9 (28) Retirement means qualifying for and accepting the retirement
10 benefit granted under the State Employees Retirement Act after
11 terminating employment;

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

15 (30) Retirement board or board means the Public Employees Retirement
16 Board;

17 (31) Retirement date means (a) the first day of the month following
18 the date upon which a member's request for retirement is received on a
19 retirement application if the member is eligible for retirement and has
20 terminated employment or (b) the first day of the month following
21 termination of employment if the member is eligible for retirement and
22 has filed an application but has not yet terminated employment;

23 (32) Retirement system means the State Employees Retirement System
24 of the State of Nebraska;

25 (33) Service means the actual total length of employment as an
26 employee and shall not be deemed to be interrupted by (a) temporary or
27 seasonal suspension of service that does not terminate the employee's
28 employment, (b) leave of absence authorized by the employer for a period
29 not exceeding twelve months, (c) leave of absence because of disability,
30 or (d) military service, when properly authorized by the retirement
31 board. Service does not include any period of disability for which

1 disability retirement benefits are received under section 84-1317;

2 (34) State department means any department, bureau, commission, or
3 other division of state government not otherwise specifically defined or
4 exempted in the act, the employees and officers of which are not already
5 covered by a retirement plan;

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

17 (36) Termination of employment occurs on the date on which the
18 agency which employs the member determines that the member's employer-
19 employee relationship with the State of Nebraska is dissolved. The agency
20 which employs the member shall notify the board of the date on which such
21 a termination has occurred. Termination of employment does not occur if
22 an employee whose employer-employee relationship with the State of
23 Nebraska is dissolved enters into an employer-employee relationship with
24 the same or another agency of the State of Nebraska and there are less
25 than one hundred twenty days between the date when the employee's
26 employer-employee relationship ceased with the state and the date when
27 the employer-employee relationship commenced with the same or another
28 agency. It is the responsibility of the employer that is involved in the
29 termination of employment to notify the board of such change in
30 employment and provide the board with such information as the board deems
31 necessary. If the board determines that termination of employment has not

1 occurred and a retirement benefit has been paid to a member of the
2 retirement system pursuant to section 84-1321, the board shall require
3 the member who has received such benefit to repay the benefit to the
4 retirement system; and

5 (37) Vesting credit means credit for years, or a fraction of a year,
6 of participation in another Nebraska governmental plan for purposes of
7 determining vesting of the employer account.

8 Sec. 4. Original sections 79-902, 81-2014, and 84-1301, Revised
9 Statutes Supplement, 2017, are repealed.

10 Sec. 5. Since an emergency exists, this act takes effect when
11 passed and approved according to law.