

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 104**

Introduced by McDonnell, 5.

Read first time January 06, 2023

Committee:

1 A BILL FOR AN ACT relating to retirement; to amend section 23-2301,  
2 Reissue Revised Statutes of Nebraska, and sections 24-701, 79-902,  
3 81-2014, and 84-1301, Revised Statutes Cumulative Supplement, 2022;  
4 to redefine terms under the County Employees Retirement Act, the  
5 Judges Retirement Act, the School Employees Retirement Act, the  
6 Nebraska State Patrol Retirement Act, and the State Employees  
7 Retirement Act; to repeal the original sections; and to declare an  
8 emergency.  
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-2301, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 23-2301 For purposes of the County Employees Retirement Act, unless  
4 the context otherwise requires:

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

8 (b) For a member hired prior to January 1, 2018, the mortality  
9 assumption used for purposes of converting the member cash balance  
10 account shall be the 1994 Group Annuity Mortality Table using a unisex  
11 rate that is fifty percent male and fifty percent female. For purposes of  
12 converting the member cash balance account attributable to contributions  
13 made prior to January 1, 1984, that were transferred pursuant to the act,  
14 the 1994 Group Annuity Mortality Table for males shall be used.

15 (c) For a member hired on or after January 1, 2018, or rehired on or  
16 after January 1, 2018, after termination of employment and being paid a  
17 retirement benefit or taking a refund of contributions, the mortality  
18 assumption used for purposes of converting the member cash balance  
19 account shall be a unisex mortality table that is recommended by the  
20 actuary and approved by the board following an actuarial experience  
21 study, a benefit adequacy study, or a plan valuation. The mortality table  
22 and actuarial factors in effect on the member's retirement date will be  
23 used to calculate the actuarial equivalency of any retirement benefit;

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

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

5           (4) Cash balance benefit means a member's retirement benefit that is  
6 equal to an amount based on annual employee contribution credits plus  
7 interest credits and, if vested, employer contribution credits plus  
8 interest credits and dividend amounts credited in accordance with  
9 subdivision (4)(c) of section 23-2317;

10          (5)(a) Compensation means gross wages or salaries payable to the  
11 member for personal services performed during the plan year. Compensation  
12 does not include insurance premiums converted into cash payments,  
13 reimbursement for expenses incurred, fringe benefits, per diems, or  
14 bonuses for services not actually rendered, including, but not limited  
15 to, early retirement inducements, cash awards, and severance pay, except  
16 for retroactive salary payments paid pursuant to court order,  
17 arbitration, or litigation and grievance settlements. Compensation  
18 includes overtime pay, member retirement contributions, and amounts  
19 contributed by the member to plans under sections 125, 403(b), and 457 of  
20 the Internal Revenue Code or any other section of the code which defers  
21 or excludes such amounts from income.

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

28          (6) Date of adoption of the retirement system by each county means  
29 the first day of the month next following the date of approval of the  
30 retirement system by the county board or January 1, 1987, whichever is  
31 earlier;

1           (7) Date of disability means the date on which a member is  
2 determined by the board to be disabled;

3           (8) Defined contribution benefit means a member's retirement benefit  
4 from a money purchase plan in which member benefits equal annual  
5 contributions and earnings pursuant to section 23-2309 and, if vested,  
6 employer contributions and earnings pursuant to section 23-2310;

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

13           (10) Employee means all persons or officers who are employed by a  
14 county of the State of Nebraska on a permanent basis, persons or officers  
15 employed by or serving in a municipal county formed by at least one  
16 county participating in the retirement system, persons employed as  
17 provided in section 2-1608, all elected officers of a county, and such  
18 other persons or officers as are classified from time to time as  
19 permanent employees by the county board of the county by which they are  
20 employed, except that employee does not include judges, employees or  
21 officers of any county having a population in excess of two hundred fifty  
22 thousand inhabitants as determined by the most recent federal decennial  
23 census, or, except as provided in section 23-2306, persons making  
24 contributions to the School Employees Retirement System of the State of  
25 Nebraska;

26           (11) Employee contribution credit means an amount equal to the  
27 member contribution amount required by section 23-2307;

28           (12) Employer contribution credit means an amount equal to the  
29 employer contribution amount required by section 23-2308;

30           (13) Final account value means the value of a member's account on  
31 the date the account is either distributed to the member or used to

1 purchase an annuity from the plan, which date shall occur as soon as  
2 administratively practicable after receipt of a valid application for  
3 benefits, but no sooner than forty-five days after the member's  
4 termination;

5 (14) Five-year break in service means a period of five consecutive  
6 one-year breaks in service;

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

9 (16) Future service means service following the date of adoption of  
10 the retirement system;

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

22 (18) Hire date or date of hire means the first day of compensated  
23 service subject to retirement contributions;

24 (19) Interest credit rate means the greater of (a) five percent or  
25 (b) the applicable federal mid-term rate, as published by the Internal  
26 Revenue Service as of the first day of the calendar quarter for which  
27 interest credits are credited, plus one and one-half percent, such rate  
28 to be compounded annually;

29 (20) Interest credits means the amounts credited to the employee  
30 cash balance account and the employer cash balance account at the end of  
31 each day. Such interest credit for each account shall be determined by

1 applying the daily portion of the interest credit rate to the account  
2 balance at the end of the previous day. Such interest credits shall  
3 continue to be credited to the employee cash balance account and the  
4 employer cash balance account after a member ceases to be an employee,  
5 except that no such credit shall be made with respect to the employee  
6 cash balance account and the employer cash balance account for any day  
7 beginning on or after the member's date of final account value. If  
8 benefits payable to the member's surviving spouse or beneficiary are  
9 delayed after the member's death, interest credits shall continue to be  
10 credited to the employee cash balance account and the employer cash  
11 balance account until such surviving spouse or beneficiary commences  
12 receipt of a distribution from the plan;

13 (21) Member cash balance account means an account equal to the sum  
14 of the employee cash balance account and, if vested, the employer cash  
15 balance account and dividend amounts credited in accordance with  
16 subdivision (4)(c) of section 23-2317;

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

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

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

24 (25) Plan year means the twelve-month period beginning on January 1  
25 and ending on December 31;

26 (26) Prior service means service prior to the date of adoption of  
27 the retirement system;

28 (27) Regular interest means the rate of interest earned each  
29 calendar year as determined by the retirement board in conformity with  
30 actual and expected earnings on the investments through December 31,  
31 1985;

1 (28) Required beginning date means, for purposes of the deferral of  
2 distributions and the commencement of mandatory distributions pursuant to  
3 section 401(a)(9) of the Internal Revenue Code and the regulations issued  
4 thereunder, April 1 of the year following the calendar year in which a  
5 member ~~has~~:

6 (a)(i) Terminates ~~Terminated~~ employment with all employers  
7 participating in the plan; and

8 (ii)(A) Attains ~~Attained~~ at least seventy and one-half years of age  
9 for a member who attains ~~attained~~ seventy and one-half years of age on or  
10 before December 31, 2019; ~~or~~

11 (B) Attains ~~Attained~~ at least seventy-two years of age for a member  
12 who attains ~~attained~~ seventy and one-half years of age on or after  
13 January 1, 2020, and prior to January 1, 2023; ~~or~~

14 (C) Attains at least seventy-three years of age for a member who  
15 attains seventy-two years of age after December 31, 2022, and seventy-  
16 three years of age prior to January 1, 2033; or

17 (D) Attains at least seventy-five years of age for individuals who  
18 attain seventy-four years of age after December 31, 2032; or

19 (b)(i) ~~Terminated~~ employment with all employers participating in the  
20 plan; and

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

23 (29) Required contribution means the deduction to be made from the  
24 compensation of employees as provided in the act;

25 (30) Retirement means qualifying for and accepting the retirement  
26 benefit granted under the act after terminating employment;

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

30 (32) Retirement board or board means the Public Employees Retirement  
31 Board;

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

7           (34) Retirement system means the Retirement System for Nebraska  
8 Counties;

9           (35) Service means the actual total length of employment as an  
10 employee and is not deemed to be interrupted by (a) temporary or seasonal  
11 suspension of service that does not terminate the employee's employment,  
12 (b) leave of absence authorized by the employer for a period not  
13 exceeding twelve months, (c) leave of absence because of disability, or  
14 (d) military service, when properly authorized by the retirement board.  
15 Service does not include any period of disability for which disability  
16 retirement benefits are received under section 23-2315;

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

28           (37) Termination of employment occurs on the date on which a county  
29 which is a member of the retirement system determines that its employer-  
30 employee relationship with an employee is dissolved. The county shall  
31 notify the board of the date on which such a termination has occurred.



1 Termination of employment does not occur if an employee whose employer-  
2 employee relationship with a county is dissolved enters into an employer-  
3 employee relationship with the same or another county which participates  
4 in the Retirement System for Nebraska Counties and there are less than  
5 one hundred twenty days between the date when the employee's employer-  
6 employee relationship ceased with the county and the date when the  
7 employer-employee relationship commenced with the same or another county  
8 which qualifies the employee for participation in the plan. It is the  
9 responsibility of the employer that is involved in the termination of  
10 employment to notify the board of such change in employment and provide  
11 the board with such information as the board deems necessary. If the  
12 board determines that termination of employment has not occurred and a  
13 retirement benefit has been paid to a member of the retirement system  
14 pursuant to section 23-2319, the board shall require the member who has  
15 received such benefit to repay the benefit to the retirement system; and

16 (38) Vesting credit means credit for years, or a fraction of a year,  
17 of participation in another Nebraska governmental plan for purposes of  
18 determining vesting of the employer account.

19 Sec. 2. Section 24-701, Revised Statutes Cumulative Supplement,  
20 2022, is amended to read:

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

23 (1)(a) Actuarial equivalence means the equality in value of the  
24 aggregate amounts expected to be received under different forms of  
25 payment.

26 (b) For a judge hired prior to July 1, 2017, the determinations are  
27 to be based on the 1994 Group Annuity Mortality Table reflecting sex-  
28 distinct factors blended using seventy-five percent of the male table and  
29 twenty-five percent of the female table. An interest rate of eight  
30 percent per annum shall be reflected in making these determinations.

31 (c) For a judge hired on or after July 1, 2017, or rehired on or

1 after July 1, 2017, after termination of employment and being paid a  
2 retirement benefit, the determinations shall be based on a unisex  
3 mortality table and an interest rate specified by the board. Both the  
4 mortality table and the interest rate shall be recommended by the actuary  
5 and approved by the board following an actuarial experience study, a  
6 benefit adequacy study, or a plan valuation. The mortality table,  
7 interest rate, and actuarial factors in effect on the judge's retirement  
8 date will be used to calculate actuarial equivalency of any retirement  
9 benefit. Such interest rate may be, but is not required to be, equal to  
10 the assumed rate of return;

11 (2) Beneficiary means a person so designated by a judge in the last  
12 designation of beneficiary on file with the board or, if no designated  
13 person survives or if no designation is on file, the estate of such  
14 judge;

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

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

29 (b) Compensation in excess of the limitations set forth in section  
30 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01  
31 shall be disregarded. For an employee who was a member of the retirement

1 system before the first plan year beginning after December 31, 1995, the  
2 limitation on compensation shall not be less than the amount which was  
3 allowed to be taken into account under the retirement system as in effect  
4 on July 1, 1993;

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

12 (6) Current benefit means the initial benefit increased by all  
13 adjustments made pursuant to the Judges Retirement Act;

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

30 (b) Current service shall not be deemed to be interrupted by (i)  
31 temporary or seasonal suspension of service that does not terminate the

1 employee's employment, (ii) leave of absence authorized by the employer  
2 for a period not exceeding twelve months, (iii) leave of absence because  
3 of disability, or (iv) military service, when properly authorized by the  
4 board. Current service does not include any period of disability for  
5 which disability retirement benefits are received under section 24-709;

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

17 (9) Fund means the Nebraska Retirement Fund for Judges;

18 (10) Future member means a judge who first served as a judge on or  
19 after December 25, 1969, or means a judge who first served as a judge  
20 prior to December 25, 1969, who elects to become a future member on or  
21 before June 30, 1970, as provided in section 24-710.01;

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

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

26 (13) Judge means and includes (a) all duly elected or appointed  
27 Chief Justices or judges of the Supreme Court and judges of the district  
28 courts of Nebraska who serve in such capacity on and after January 3,  
29 1957, (b)(i) all duly appointed judges of the Nebraska Workmen's  
30 Compensation Court who served in such capacity on and after September 20,  
31 1957, and prior to July 17, 1986, and (ii) judges of the Nebraska

1 Workers' Compensation Court who serve in such capacity on and after July  
2 17, 1986, (c) judges of separate juvenile courts, (d) judges of the  
3 county courts of the respective counties who serve in such capacity on  
4 and after January 5, 1961, (e) judges of the county court and clerk  
5 magistrates who were associate county judges and members of the fund at  
6 the time of their appointment as clerk magistrates, (f) judges of  
7 municipal courts established by Chapter 26, article 1, who served in such  
8 capacity on and after October 23, 1967, and prior to July 1, 1985, and  
9 (g) judges of the Court of Appeals;

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

12 (15) Military service means active service of (a) any judge of the  
13 Supreme Court or judge of the district court in any of the armed forces  
14 of the United States during a war or national emergency prior or  
15 subsequent to September 18, 1955, if such service commenced while such  
16 judge was holding the office of judge, (b) any judge of the Nebraska  
17 Workmen's Compensation Court or the Nebraska Workers' Compensation Court  
18 in any of the armed forces of the United States during a war or national  
19 emergency prior or subsequent to September 20, 1957, if such service  
20 commenced while such judge was holding the office of judge, (c) any judge  
21 of the municipal court in any of the armed forces of the United States  
22 during a war or national emergency prior or subsequent to October 23,  
23 1967, and prior to July 1, 1985, if such service commenced while such  
24 judge was holding the office of judge, (d) any judge of the county court  
25 or associate county judge in any of the armed forces of the United States  
26 during a war or national emergency prior or subsequent to January 4,  
27 1973, if such service commenced while such judge was holding the office  
28 of judge, (e) any clerk magistrate, who was an associate county judge and  
29 a member of the fund at the time of appointment as a clerk magistrate, in  
30 any of the armed forces of the United States during a war or national  
31 emergency on or after July 1, 1986, if such service commenced while such

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

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

17 (17) Normal retirement date means the first day of the month  
18 following attainment of age sixty-five;

19 (18) Original member means a judge who first served as a judge prior  
20 to December 25, 1969, who does not elect to become a future member  
21 pursuant to section 24-710.01, and who was retired on or before December  
22 31, 1992;

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

25 (20) Prior service means all the periods of time any person has  
26 served as a (a) judge of the Supreme Court or judge of the district court  
27 prior to January 3, 1957, (b) judge of the county court prior to January  
28 5, 1961, (c) judge of the Nebraska Workmen's Compensation Court prior to  
29 September 20, 1957, (d) judge of the separate juvenile court, or (e)  
30 judge of the municipal court prior to October 23, 1967;

31 (21) Regular interest means interest fixed at a rate equal to the

1 daily treasury yield curve for one-year treasury securities, as published  
2 by the Secretary of the Treasury of the United States, that applies on  
3 July 1 of each year, which may be credited monthly, quarterly,  
4 semiannually, or annually as the board may direct;

5 (22) Required beginning date means, for purposes of the deferral of  
6 distributions, April 1 of the year following the calendar year in which a  
7 member ~~has~~:

8 (a)(i) Terminates ~~Terminated~~ employment with the State of Nebraska;  
9 and

10 (ii)(A) Attains ~~Attained~~ at least seventy and one-half years of age  
11 for a member who attains ~~attained~~ seventy and one-half years of age on or  
12 before December 31, 2019; ~~or~~

13 (B) Attains ~~Attained~~ at least seventy-two years of age for a member  
14 who attains ~~attained~~ seventy and one-half years of age on or after  
15 January 1, 2020, and prior to January 1, 2023; ~~or~~

16 (C) Attains at least seventy-three years of age for a member who  
17 attains seventy-two years of age after December 31, 2022, and seventy-  
18 three years of age prior to January 1, 2033; or

19 (D) Attains at least seventy-five years of age for individuals who  
20 attain seventy-four years of age after December 31, 2032; or

21 (b)(i) Terminated employment with the State of Nebraska; and

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

24 (23) Retirement application means the form approved and provided by  
25 the retirement system for acceptance of a member's request for either  
26 regular or disability retirement;

27 (24) Retirement date means (a) the first day of the month following  
28 the date upon which a member's request for retirement is received on a  
29 retirement application if the member is eligible for retirement and has  
30 terminated employment or (b) the first day of the month following  
31 termination of employment if the member is eligible for retirement and

1 has filed an application but has not yet terminated employment;

2 (25) Retirement system or system means the Nebraska Judges  
3 Retirement System as provided in the Judges Retirement Act;

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

15 (27) Termination of employment occurs on the date on which the State  
16 Court Administrator's office determines that the judge's employer-  
17 employee relationship with the State of Nebraska is dissolved. The State  
18 Court Administrator's office shall notify the board of the date on which  
19 such a termination has occurred. Termination of employment does not  
20 include ceasing employment as a judge if the judge returns to regular  
21 employment as a judge or is employed on a regular basis by another agency  
22 of the State of Nebraska and there are less than one hundred twenty days  
23 between the date when the judge's employer-employee relationship ceased  
24 and the date when the employer-employee relationship recommences. It is  
25 the responsibility of the employer that is involved in the termination of  
26 employment to notify the board of such change in employment and provide  
27 the board with such information as the board deems necessary. If the  
28 board determines that termination of employment has not occurred and a  
29 retirement benefit has been paid to a member of the retirement system  
30 pursuant to section 24-710, the board shall require the member who has  
31 received such benefit to repay the benefit to the retirement system.



1           Sec. 3. Section 79-902, Revised Statutes Cumulative Supplement,  
2 2022, 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 act, including those persons who have retired since July 1,  
8 1945, under any other regularly established retirement or pension system  
9 as contemplated by section 79-916, (b) who has thereafter been reemployed  
10 in any capacity by a public school, a Class V school district, or a  
11 school under the control and management of the Board of Trustees of the  
12 Nebraska State Colleges, the Board of Regents of the University of  
13 Nebraska, or a community college board of governors or has become a state  
14 school official or county school official subsequent to such retirement,  
15 and (c) who has applied to the board for emeritus membership in the  
16 retirement system. The school district or agency shall certify to the  
17 retirement board on forms prescribed by the retirement board that the  
18 annuitant was reemployed, rendered a service, and was paid by the  
19 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) Terminates ~~Terminated~~ employment with all employers  
29 participating in the plan; and

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

1 before December 31, 2019;~~or~~

2 (B) Attains ~~Attained~~ at least seventy-two years of age for a member  
3 who attains ~~attained~~ seventy and one-half years of age on or after  
4 January 1, 2020, and prior to January 1, 2023; ~~or~~

5 (C) Attains at least seventy-three years of age for a member who  
6 attains seventy-two years of age after December 31, 2022, and seventy-  
7 three years of age prior to January 1, 2033; or

8 (D) Attains at least seventy-five years of age for individuals who  
9 attain seventy-four years of age after December 31, 2032; or

10 (b)(i) Terminated employment with all employers participating in the  
11 plan; and

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

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

17 (29) Retirement means qualifying for and accepting a school or  
18 disability retirement allowance granted under the School Employees  
19 Retirement Act;

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

23 (31) Retirement board or board means the Public Employees Retirement  
24 Board;

25 (32) Retirement date means (a) if the member has terminated  
26 employment, the first day of the month following the date upon which a  
27 member's request for retirement is received on a retirement application  
28 provided by the retirement system or (b) if the member has filed a  
29 retirement application but has not yet terminated employment, the first  
30 day of the month following the date on which the member terminates  
31 employment. An application may be filed no more than one hundred twenty



1 days prior to the effective date of the member's initial benefit;

2 (33) Retirement system means the School Employees Retirement System  
3 of the State of Nebraska;

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

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

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

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

29 (38) Service means employment as a school employee and shall not be  
30 deemed interrupted by (a) termination at the end of the school year of  
31 the contract of employment of an employee in a public school if the

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

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

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

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

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

24 (43) Surviving spouse means (a) the spouse married to the member on  
25 the date of the member's death or (b) the spouse or former spouse of the  
26 member if survivorship rights are provided under a qualified domestic  
27 relations order filed with the board pursuant to the Spousal Pension  
28 Rights Act. The spouse or former spouse shall supersede the spouse  
29 married to the member on the date of the member's death as provided under  
30 a qualified domestic relations order. If the benefits payable to the  
31 spouse or former spouse under a qualified domestic relations order are

1 less than the value of benefits entitled to the surviving spouse, the  
2 spouse married to the member on the date of the member's death shall be  
3 the surviving spouse for the balance of the benefits;

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

10 (45)(a) Termination of employment occurs on the date on which the  
11 member experiences a bona fide separation from service of employment with  
12 the member's employer, the date of which separation is determined by the  
13 end of the member's contractual agreement or, if there is no contract or  
14 only partial fulfillment of a contract, by the employer.

15 (b) A member shall not be deemed to have terminated employment if  
16 the member subsequently provides service to any employer participating in  
17 the retirement system provided for in the School Employees Retirement Act  
18 within one hundred eighty days after ceasing employment unless such  
19 service is:

20 (i) Bona fide unpaid voluntary service or substitute service,  
21 provided on an intermittent basis. For purposes of this subdivision, (A)  
22 intermittent basis means service provided on a day-to-day basis that is  
23 not greater than eight days of service during a calendar month and (B)  
24 day of service means any length of substitute service or unpaid voluntary  
25 service provided during a single calendar day; or

26 (ii) As provided in section 79-920.

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

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

5 (46) Voluntary service or volunteer means providing bona fide unpaid  
6 service to any employer.

7 Sec. 4. Section 81-2014, Revised Statutes Cumulative Supplement,  
8 2022, is amended to read:

9 81-2014 For purposes of the Nebraska State Patrol Retirement Act:

10 (1)(a) Actuarial equivalent means the equality in value of the  
11 aggregate amounts expected to be received under different forms of  
12 payment or to be received at an earlier retirement age than the normal  
13 retirement age.

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

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

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

1           (3)(a)(i) Compensation means gross wages or salaries payable to the  
2 member for personal services performed during the plan year. Compensation  
3 does not include insurance premiums converted into cash payments,  
4 reimbursement for expenses incurred, fringe benefits, per diems, or  
5 bonuses for services not actually rendered, including, but not limited  
6 to, early retirement inducements, cash awards, and severance pay, except  
7 for retroactive salary payments paid pursuant to court order,  
8 arbitration, or litigation and grievance settlements. Compensation  
9 includes overtime pay, member retirement contributions, and amounts  
10 contributed by the member to plans under sections 125 and 457 of the  
11 Internal Revenue Code as defined in section 49-801.01 or any other  
12 section of the code which defers or excludes such amounts from income.

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

16           (iii) For any officer employed after January 4, 1979, and prior to  
17 July 1, 2016, compensation does not include compensation for unused sick  
18 leave or unused vacation leave converted to cash payments and includes  
19 compensation for unused holiday compensatory time and unused compensatory  
20 time converted to cash payments.

21           (iv) For any officer employed on or after July 1, 2016, compensation  
22 does not include compensation for unused sick leave, unused vacation  
23 leave, unused holiday compensatory time, unused compensatory time, or any  
24 other type of unused leave, compensatory time, or similar benefits,  
25 converted to cash payments.

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

1 on July 1, 1993;

2 (4) Creditable service means service granted pursuant to section  
3 81-2034 and all service rendered while a contributing member of the  
4 retirement system. Creditable service includes working days, sick days,  
5 vacation days, holidays, and any other leave days for which the officer  
6 is paid regular wages except as specifically provided in the Nebraska  
7 State Patrol Retirement Act. Creditable service does not include  
8 eligibility and vesting credit nor service years for which member  
9 contributions are withdrawn and not repaid;

10 (5) Current benefit means the initial benefit increased by all  
11 adjustments made pursuant to the Nebraska State Patrol Retirement Act;

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

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

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

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

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

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

29 (12) Officer means law enforcement officer as defined in section  
30 81-1401 and as provided for in sections 81-2001 to 81-2009, but does not  
31 include a noncertified conditional officer as defined in section 81-1401;

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

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

8 (15) Required beginning date means, for purposes of the deferral of  
9 distributions, April 1 of the year following the calendar year in which a  
10 member ~~has~~:

11 (a)(i) ~~Terminates~~ ~~Terminated~~ employment with the State of Nebraska;  
12 and

13 (ii)(A) ~~Attains~~ ~~Attained~~ at least seventy and one-half years of age  
14 for a member who ~~attains~~ ~~attained~~ seventy and one-half years of age on or  
15 before December 31, 2019; ~~or~~

16 (B) ~~Attains~~ ~~Attained~~ at least seventy-two years of age for a member  
17 who ~~attains~~ ~~attained~~ seventy and one-half years of age on or after  
18 January 1, 2020, and prior to January 1, 2023; ~~or~~

19 ~~(C) Attains at least seventy-three years of age for a member who~~  
20 ~~attains seventy-two years of age after December 31, 2022, and seventy-~~  
21 ~~three years of age prior to January 1, 2033; or~~

22 ~~(D) Attains at least seventy-five years of age for individuals who~~  
23 ~~attain seventy-four years of age after December 31, 2032; or~~

24 (b)(i) Terminated employment with the State of Nebraska; and

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

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

30 (17) Retirement date means (a) the first day of the month following  
31 the date upon which a member's request for retirement is received on a

1 retirement application if the member is eligible for retirement and has  
2 terminated employment or (b) the first day of the month following  
3 termination of employment if the member is eligible for retirement and  
4 has filed an application but has not yet terminated employment;

5 (18) Retirement system or system means the Nebraska State Patrol  
6 Retirement System as provided in the act;

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

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

28 (21) Termination of employment occurs on the date on which the  
29 Nebraska State Patrol determines that the officer's employer-employee  
30 relationship with the patrol is dissolved. The Nebraska State Patrol  
31 shall notify the board of the date on which such a termination has



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

17 Sec. 5. Section 84-1301, Revised Statutes Cumulative Supplement,  
18 2022, is amended to read:

19 84-1301 For purposes of the State Employees Retirement Act, unless  
20 the context otherwise requires:

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

24 (b) For an employee hired prior to January 1, 2018, the mortality  
25 assumption used for purposes of converting the member cash balance  
26 account shall be the 1994 Group Annuity Mortality Table using a unisex  
27 rate that is fifty percent male and fifty percent female. For purposes of  
28 converting the member cash balance account attributable to contributions  
29 made prior to January 1, 1984, that were transferred pursuant to the act,  
30 the 1994 Group Annuity Mortality Table for males shall be used.

31 (c) For an employee hired on or after January 1, 2018, or rehired on

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

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

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

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

26 (5)(a) Compensation means gross wages or salaries payable to the  
27 member for personal services performed during the plan year. Compensation  
28 does not include insurance premiums converted into cash payments,  
29 reimbursement for expenses incurred, fringe benefits, per diems, or  
30 bonuses for services not actually rendered, including, but not limited  
31 to, early retirement inducements, cash awards, and severance pay, except

1 for retroactive salary payments paid pursuant to court order,  
2 arbitration, or litigation and grievance settlements. Compensation  
3 includes overtime pay, member retirement contributions, and amounts  
4 contributed by the member to plans under sections 125, 403(b), and 457 of  
5 the Internal Revenue Code or any other section of the code which defers  
6 or excludes such amounts from income.

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

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

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

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

25 (9) Employee means any person or officer employed by the State of  
26 Nebraska whose compensation is paid out of state funds or funds  
27 controlled or administered by a state department through any of its  
28 executive or administrative officers when acting exclusively in their  
29 respective official, executive, or administrative capacities and any  
30 employee of the State Board of Agriculture who is a member of the state  
31 retirement system on July 1, 1982. Employee does not include (a) judges

1 as defined in section 24-701, (b) members of the Nebraska State Patrol,  
2 except for those members of the Nebraska State Patrol who elected  
3 pursuant to section 60-1304 to remain members of the State Employees  
4 Retirement System of the State of Nebraska, (c) employees of the  
5 University of Nebraska, (d) employees of the state colleges, (e)  
6 employees of community colleges, (f) employees of the Department of Labor  
7 employed prior to July 1, 1984, and paid from funds provided pursuant to  
8 Title III of the federal Social Security Act or funds from other federal  
9 sources, except that if the contributory retirement plan or contract let  
10 pursuant to section 48-609, as such section existed prior to January 1,  
11 2018, is terminated, such employees shall become employees for purposes  
12 of the State Employees Retirement Act on the first day of the first pay  
13 period following the termination of such contributory retirement plan or  
14 contract, (g) employees of the State Board of Agriculture who are not  
15 members of the state retirement system on July 1, 1982, (h) the Nebraska  
16 National Guard air and army technicians, (i) persons who are required to  
17 participate in the School Employees Retirement System of the State of  
18 Nebraska pursuant to section 79-920, except that those persons so  
19 required and actively contributing to the State Employees Retirement  
20 System of the State of Nebraska as of July 1, 2022, shall continue as  
21 members of the State Employees Retirement System of the State of  
22 Nebraska, or (j) employees of the Coordinating Commission for  
23 Postsecondary Education who are eligible for and have elected to become  
24 members of a qualified retirement program approved by the commission  
25 which is commensurate with retirement programs at the University of  
26 Nebraska. Any individual appointed by the Governor may elect not to  
27 become a member of the State Employees Retirement System of the State of  
28 Nebraska;

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

31 (11) Employer contribution credit means an amount equal to the

1 employer contribution amount required by section 84-1309;

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

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

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

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

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

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

27 (18) Interest credit rate means the greater of (a) five percent or  
28 (b) the applicable federal mid-term rate, as published by the Internal  
29 Revenue Service as of the first day of the calendar quarter for which  
30 interest credits are credited, plus one and one-half percent, such rate  
31 to be compounded annually;

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

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

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

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

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

27           (24) Plan year means the twelve-month period beginning on January 1  
28 and ending on December 31;

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

30           (26) Regular interest means the rate of interest earned each  
31 calendar year commencing January 1, 1975, as determined by the retirement

1 board in conformity with actual and expected earnings on the investments  
2 through December 31, 1984;

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

6 (a)(i) Terminates ~~Terminated~~ employment with the State of Nebraska;  
7 and

8 (ii)(A) Attains ~~Attained~~ at least seventy and one-half years of age  
9 for a member who attains ~~attained~~ seventy and one-half years of age on or  
10 before December 31, 2019; ~~or~~

11 (B) Attains ~~Attained~~ at least seventy-two years of age for a member  
12 who attains ~~attained~~ seventy and one-half years of age on or after  
13 January 1, 2020, and prior to January 1, 2023; ~~or~~

14 (C) Attains at least seventy-three years of age for a member who  
15 attains seventy-two years of age after December 31, 2022, and seventy-  
16 three years of age prior to January 1, 2033; or

17 (D) Attains at least seventy-five years of age for individuals who  
18 attain seventy-four years of age after December 31, 2032; or

19 (b)(i) Terminated employment with the State of Nebraska; and

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

22 (28) Required contribution means the deduction to be made from the  
23 compensation of employees as provided in section 84-1308;

24 (29) Retirement means qualifying for and accepting the retirement  
25 benefit granted under the State Employees Retirement Act after  
26 terminating employment;

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

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

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

7           (33) Retirement system means the State Employees Retirement System  
8 of the State of Nebraska;

9           (34) Service means the actual total length of employment as an  
10 employee and shall not be deemed to be interrupted by (a) temporary or  
11 seasonal suspension of service that does not terminate the employee's  
12 employment, (b) leave of absence authorized by the employer for a period  
13 not exceeding twelve months, (c) leave of absence because of disability,  
14 or (d) military service, when properly authorized by the retirement  
15 board. Service does not include any period of disability for which  
16 disability retirement benefits are received under section 84-1317;

17           (35) State department means any department, bureau, commission, or  
18 other division of state government not otherwise specifically defined or  
19 exempted in the act, the employees and officers of which are not already  
20 covered by a retirement plan;

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



1           (37) Termination of employment occurs on the date on which the  
2 agency which employs the member determines that the member's employer-  
3 employee relationship with the State of Nebraska is dissolved. The agency  
4 which employs the member shall notify the board of the date on which such  
5 a termination has occurred. Termination of employment does not occur if  
6 an employee whose employer-employee relationship with the State of  
7 Nebraska is dissolved enters into an employer-employee relationship with  
8 the same or another agency of the State of Nebraska and there are less  
9 than one hundred twenty days between the date when the employee's  
10 employer-employee relationship ceased with the state and the date when  
11 the employer-employee relationship commenced with the same or another  
12 agency. It is the responsibility of the employer that is involved in the  
13 termination of employment to notify the board of such change in  
14 employment and provide the board with such information as the board deems  
15 necessary. If the board determines that termination of employment has not  
16 occurred and a retirement benefit has been paid to a member of the  
17 retirement system pursuant to section 84-1321, the board shall require  
18 the member who has received such benefit to repay the benefit to the  
19 retirement system; and

20           (38) Vesting credit means credit for years, or a fraction of a year,  
21 of participation in another Nebraska governmental plan for purposes of  
22 determining vesting of the employer account.

23           Sec. 6. Original section 23-2301, Reissue Revised Statutes of  
24 Nebraska, and sections 24-701, 79-902, 81-2014, and 84-1301, Revised  
25 Statutes Cumulative Supplement, 2022, are repealed.

26           Sec. 7. Since an emergency exists, this act takes effect when  
27 passed and approved according to law.