

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 219

Introduced by Nebraska Retirement Systems Committee: Kolterman, 24,
Chairperson; Bolz, 29; Groene, 42; Kolowski, 31; Lindstrom,
18; Stinner, 48.

Read first time January 10, 2017

Committee:

- 1 A BILL FOR AN ACT relating to retirement; to amend sections 24-701,
- 2 84-1301, and 84-1319, Reissue Revised Statutes of Nebraska, and
- 3 sections 23-2301, 23-2317, 79-902, and 81-2014, Revised Statutes
- 4 Cumulative Supplement, 2016; to redefine terms; to change provisions
- 5 relating to authorized benefit elections; to change provisions
- 6 relating to actuarial assumptions; to repeal the original sections;
- 7 and to declare an emergency.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-2301, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

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

5 (1)(a) (1) 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 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 mortality table using a unisex rate that is fifty
20 percent male and fifty percent female that is recommended by the actuary
21 and approved by the board following an actuarial experience study, a
22 benefit adequacy study, or a plan valuation;

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

31 (3) Annuity start date means the date upon which a member's annuity

1 is first effective and shall be the first day of the month following the
2 member's termination or following the date the application is received by
3 the board, whichever is later;

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

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

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

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

31 (7) Date of disability means the date on which a member is

1 determined by the board to be disabled;

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

6 (9) Disability means an inability to engage in a substantially
7 gainful activity by reason of any medically determinable physical or
8 mental impairment which can be expected to result in death or be of a
9 long and indefinite duration;

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

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

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

27 (13) Final account value means the value of a member's account on
28 the date the account is either distributed to the member or used to
29 purchase an annuity from the plan, which date shall occur as soon as
30 administratively practicable after receipt of a valid application for
31 benefits, but no sooner than forty-five days after the member's

1 termination;

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

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

6 (16) Future service means service following the date of adoption of
7 the retirement system;

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

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

24 (19) Interest credits means the amounts credited to the employee
25 cash balance account and the employer cash balance account at the end of
26 each day. Such interest credit for each account shall be determined by
27 applying the daily portion of the interest credit rate to the account
28 balance at the end of the previous day. Such interest credits shall
29 continue to be credited to the employee cash balance account and the
30 employer cash balance account after a member ceases to be an employee,
31 except that no such credit shall be made with respect to the employee

1 cash balance account and the employer cash balance account for any day
2 beginning on or after the member's date of final account value. If
3 benefits payable to the member's surviving spouse or beneficiary are
4 delayed after the member's death, interest credits shall continue to be
5 credited to the employee cash balance account and the employer cash
6 balance account until such surviving spouse or beneficiary commences
7 receipt of a distribution from the plan;

8 (20) Member cash balance account means an account equal to the sum
9 of the employee cash balance account and, if vested, the employer cash
10 balance account and dividend amounts credited in accordance with
11 subdivision (4)(c) of section 23-2317;

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

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

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

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

21 (25) Prior service means service prior to the date of adoption of
22 the retirement system;

23 (26) Regular interest means the rate of interest earned each
24 calendar year as determined by the retirement board in conformity with
25 actual and expected earnings on the investments through December 31,
26 1985;

27 (27) Required contribution means the deduction to be made from the
28 compensation of employees as provided in the act;

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

31 (29) 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 (30) Retirement board or board means the Public Employees Retirement
4 Board;

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

11 (32) Retirement system means the Retirement System for Nebraska
12 Counties;

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

21 (34) 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 (35) Termination of employment occurs on the date on which a county
2 which is a member of the retirement system determines that its employer-
3 employee relationship with an employee is dissolved. The county shall
4 notify the board of the date on which such a termination has occurred.
5 Termination of employment does not occur if an employee whose employer-
6 employee relationship with a county is dissolved enters into an employer-
7 employee relationship with the same or another county which participates
8 in the Retirement System for Nebraska Counties and there are less than
9 one hundred twenty days between the date when the employee's employer-
10 employee relationship ceased with the county and the date when the
11 employer-employee relationship commenced with the same or another county
12 which qualifies the employee for participation in the plan. It is the
13 responsibility of the employer that is involved in the termination of
14 employment to notify the board of such change in employment and provide
15 the board with such information as the board deems necessary. If the
16 board determines that termination of employment has not occurred and a
17 retirement benefit has been paid to a member of the retirement system
18 pursuant to section 23-2319, the board shall require the member who has
19 received such benefit to repay the benefit to the retirement system; and
20 (36) 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. 2. Section 23-2317, Revised Statutes Cumulative Supplement,
24 2016, is amended to read:

25 23-2317 (1) The future service retirement benefit shall be an
26 annuity, payable monthly with the first payment made no earlier than the
27 annuity start date, which shall be the actuarial equivalent of the
28 retirement value as specified in section 23-2316 based on factors
29 determined by the board, except that gender shall not be a factor when
30 determining the amount of such payments pursuant to subsection (2) of
31 this section.

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

5 Except as provided in section 42-1107, in lieu of the future service
6 retirement annuity, a retiring employee may receive a benefit not to
7 exceed the amount in his or her employer and employee accounts as of the
8 date of final account value payable in a lump sum and, if the employee
9 chooses not to receive the entire amount in such accounts, an annuity
10 equal to the actuarial equivalent of the remainder of the retirement
11 value, and the employee may choose any form of such annuity as provided
12 for by the board.

13 In any case, the amount of the monthly payment shall be such that
14 the annuity chosen shall be the actuarial equivalent of the retirement
15 value as specified in section 23-2316 except as provided in this section.

16 The board shall provide to any county employee who is eligible for
17 retirement, prior to his or her selecting any of the retirement options
18 provided by this section, information on the federal and state income tax
19 consequences of the various annuity or retirement benefit options.

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

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

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

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

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

8 (4)(a) The normal form of payment shall be a single life annuity
9 with five-year certain, which is an annuity payable monthly during the
10 remainder of the member's life with the provision that, in the event of
11 his or her death before sixty monthly payments have been made, the
12 monthly payments will be continued to his or her estate or to the
13 beneficiary he or she has designated until sixty monthly payments have
14 been made in total. Such annuity shall be equal to the actuarial
15 equivalent of the member cash balance account or the sum of the employee
16 and employer accounts, whichever is applicable, as of the date of final
17 account value. As a part of the annuity, the normal form of payment may
18 include a two and one-half percent cost-of-living adjustment purchased by
19 the member, if the member elects such a payment option.

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

23 For a member employed and participating in the retirement system
24 prior to January 1, 2003, who has elected to participate in the cash
25 balance benefit pursuant to section 23-2308.01, or for a member employed
26 and participating in the retirement system beginning on and after January
27 1, 2003, the balance of his or her member cash balance account as of the
28 date of final account value shall be converted to an annuity using an
29 annuity interest rate that is recommended by the actuary and approved by
30 the board following an actuarial experience study, a benefit adequacy
31 study, or a plan valuation used in the actuarial valuation as recommended

1 ~~by the actuary and approved by the board.~~

2 For an employee who is a member prior to January 1, 2003, who has
3 elected not to participate in the cash balance benefit pursuant to
4 section 23-2308.01, and who, at the time of retirement, chooses the
5 annuity option rather than the lump-sum option, his or her employee and
6 employer accounts as of the date of final account value shall be
7 converted to an annuity using an annuity interest rate that is equal to
8 ~~the lesser of (i) the Pension Benefit Guaranty Corporation initial~~
9 ~~interest rate for valuing annuities for terminating plans as of the~~
10 ~~beginning of the year during which payment begins plus three-fourths of~~
11 ~~one percent or (ii) the interest rate used in the actuarial valuation as~~
12 ~~recommended by the actuary and approved by the board.~~

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

1 amortized over a twenty-five-year period as of the actuarial valuation
2 date. If the actuarially required contribution rate exceeds the rate of
3 all contributions required pursuant to the County Employees Retirement
4 Act, there shall be a supplemental appropriation sufficient to pay for
5 the difference between the actuarially required contribution rate and the
6 rate of all contributions required pursuant to the act.

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

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

30 (6) A participant or beneficiary who would have been required to
31 receive required minimum distributions for 2009 but for the enactment of

1 section 401(a)(9)(H) of the Internal Revenue Code, and who would have
2 satisfied that requirement by receiving distributions that are either
3 equal to the 2009 required minimum distributions or one or more payments
4 in a series of substantially equal distributions, including the 2009
5 required minimum distribution, made at least annually and expected to
6 last for the life or life expectancy of the participant, the joint lives
7 or joint life expectancy of the participant and the participant's
8 designated beneficiary, or for a period of at least ten years, shall
9 receive those distributions for 2009 unless the participant or
10 beneficiary chooses not to receive such distributions. Participants and
11 beneficiaries shall be given the opportunity to elect to stop receiving
12 the distributions described in this subsection.

13 Sec. 3. Section 24-701, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 24-701 For purposes of the Judges Retirement Act, unless the context
16 otherwise requires:

17 (1)(a) ~~(1)~~ Actuarial equivalence means the equality in value of the
18 aggregate amounts expected to be received under different forms of
19 payment.

20 (b) For a judge hired prior to July 1, 2017, the The determinations
21 are to be based on the 1994 Group Annuity Mortality Table reflecting sex-
22 distinct factors blended using seventy-five percent of the male table and
23 twenty-five percent of the female table. An annuity interest rate of
24 eight percent per annum shall be reflected in making these
25 determinations. ÷

26 (c) For a judge hired on or after July 1, 2017, or rehired on or
27 after July 1, 2017, after termination of employment and being paid a
28 retirement benefit or taking a refund of contributions, the
29 determinations shall be based on a mortality table using seventy-five
30 percent of the male table and twenty-five percent of the female table and
31 an annuity rate specified by the board. Both the mortality table and the

1 annuity rate shall be recommended by the actuary and approved by the
2 board following an actuarial experience study, a benefit adequacy study,
3 or a plan valuation;

4 (2) Beneficiary means a person so designated by a judge in the last
5 designation of beneficiary on file with the board or, if no designated
6 person survives or if no designation is on file, the estate of such
7 judge;

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

9 (4)(a) Compensation means the statutory salary of a judge or the
10 salary being received by such judge pursuant to law. Compensation does
11 not include compensation for unused sick leave or unused vacation leave
12 converted to cash payments, insurance premiums converted into cash
13 payments, reimbursement for expenses incurred, fringe benefits, per
14 diems, or bonuses for services not actually rendered, including, but not
15 limited to, early retirement inducements, cash awards, and severance pay,
16 except 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 and 457 of the
20 Internal Revenue Code as defined in section 49-801.01 or any other
21 section of the code which defers 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 as defined in section 49-801.01
24 shall be disregarded. For an employee who was a member of the retirement
25 system before the first plan year beginning after December 31, 1995, the
26 limitation on compensation shall not be less than the amount which was
27 allowed to be taken into account under the retirement system as in effect
28 on July 1, 1993;

29 (5) Creditable service means the total number of years served as a
30 judge, including prior service, military service, and current service,
31 computed to the nearest one-twelfth year. For current service prior to

1 the time that the member has contributed the required percentage of
2 salary until the maximum benefit as limited by section 24-710 has been
3 earned, creditable service does not include current service for which
4 member contributions are not made or are withdrawn and not repaid;

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

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

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

30 (8) Final average compensation for a judge who becomes a member
31 prior to July 1, 2015, means the average monthly compensation for the

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

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

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

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

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

1 (g) judges of the Court of Appeals;

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

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

31 (15) Normal form annuity means a series of equal monthly payments

1 payable at the end of each calendar month during the life of a retired
2 judge as provided in sections 24-707 and 24-710, except as provided in
3 section 42-1107. The first payment shall include all amounts accrued
4 since the effective date of the award of the annuity. The last payment
5 shall be at the end of the calendar month in which such judge dies. If at
6 the time of death the amount of annuity payments such judge has received
7 is less than contributions to the fund made by such judge, plus regular
8 interest, the difference shall be paid to the beneficiary or estate;

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

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

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

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

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

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

31 (22) Retirement date means (a) the first day of the month following

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

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

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

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

1 board determines that termination of employment has not occurred and a
2 retirement benefit has been paid to a member of the retirement system
3 pursuant to section 24-710, the board shall require the member who has
4 received such benefit to repay the benefit to the retirement system.

5 Sec. 4. Section 79-902, Revised Statutes Cumulative Supplement,
6 2016, is amended to read:

7 79-902 For purposes of the School Employees Retirement Act, unless
8 the context otherwise requires:

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

13 (2)(a) ~~(2)~~ Actuarial equivalent means the equality in value of the
14 aggregate amounts expected to be received under different forms of
15 payment.

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

23 (c) For a school employee hired on or after July 1, 2017, or rehired
24 on or after July 1, 2017, after termination of employment and being paid
25 a retirement benefit or taking a refund of contributions, the
26 determinations shall be based on a mortality table using twenty-five
27 percent of the male table and seventy-five percent of the female table
28 and an annuity rate specified by the board. Both the mortality table and
29 the annuity rate shall be recommended by the actuary and approved by the
30 retirement board following an actuarial experience study, a benefit
31 adequacy study, or a plan valuation.

1 (d) If the lump-sum settlement is made to an estate, the interest
2 rate will be determined by the Moody's Triple A Bond Index as of the
3 prior June 30, rounded to the next lower quarter percent;

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

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

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

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

31 (5) County school official means (a) until July 1, 2000, the county

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

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

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

23 (8) Disability means an inability to engage in a substantially
24 gainful activity by reason of any medically determinable physical or
25 mental impairment which can be expected to result in death or be of a
26 long and indefinite duration;

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

29 (10) Disability retirement date means the first day of the month
30 following the date upon which a member's request for disability
31 retirement is received on a retirement application provided by the

1 retirement system if the member has terminated employment in the school
2 system and has complied with sections 79-951 to 79-954 as such sections
3 refer to disability retirement;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (33) School year means one fiscal year which includes not less than
30 one thousand instructional hours or, in the case of service in the State
31 of Nebraska prior to July 1, 1945, not less than seventy-five percent of

1 the then legal school year;

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

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

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

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

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

31 (39) Substitute employee means a person hired by a public school as

1 a temporary employee to assume the duties of regular employees due to a
2 temporary absence of any regular employees. Substitute employee does not
3 mean a person hired as a regular employee on an ongoing basis to assume
4 the duties of other regular employees who are temporarily absent;

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

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

22 (42) Termination of employment occurs on the date on which the
23 member experiences a bona fide separation from service of employment with
24 the member's employer, the date of which separation is determined by the
25 end of the member's contractual agreement or, if there is no contract or
26 only partial fulfillment of a contract, by the employer. A member shall
27 not be deemed to have terminated employment if the member subsequently
28 provides service to any employer participating in the retirement system
29 provided for in the School Employees Retirement Act within one hundred
30 eighty days after ceasing employment unless such service:

31 (a) Is bona fide unpaid voluntary service or substitute service,

1 provided on an intermittent basis; or

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

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

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

12 Sec. 5. Section 81-2014, Revised Statutes Cumulative Supplement,
13 2016, is amended to read:

14 81-2014 For purposes of the Nebraska State Patrol Retirement Act:

15 (1)(a) (1) Actuarial equivalent means the equality in value of the
16 aggregate amounts expected to be received under different forms of
17 payment or to be received at an earlier retirement age than the normal
18 retirement age.

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

25 (c) For an officer hired on or after July 1, 2017, or rehired on or
26 after July 1, 2017, after termination of employment and being paid a
27 retirement benefit or taking a refund of contributions, the
28 determinations shall be based on a mortality table using seventy-five
29 percent of the male table and twenty-five percent of the female table and
30 an annuity rate specified by the board. Both the mortality table and the
31 annuity rate shall be recommended by the actuary and approved by the

1 board following an actuarial experience study, a benefit adequacy study,
2 or a plan valuation;

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

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

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

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

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

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

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

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

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

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

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

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

30 (11) Officer means an officer provided for in sections 81-2001 to
31 81-2009;

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

3 (13) 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 (14) Retirement application means the form approved and provided by
9 the retirement system for acceptance of a member's request for either
10 regular or disability retirement;

11 (15) Retirement date means (a) the first day of the month following
12 the date upon which a member's request for retirement is received on a
13 retirement application if the member is eligible for retirement and has
14 terminated employment or (b) the first day of the month following
15 termination of employment if the member is eligible for retirement and
16 has filed an application but has not yet terminated employment;

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

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

27 (18) Surviving spouse means (a) the spouse married to the member on
28 the date of the member's death if married for at least one year prior to
29 death or if married on the date of the member's retirement or (b) the
30 spouse or former spouse of the member if survivorship rights are provided
31 under a qualified domestic relations order filed with the board pursuant

1 to the Spousal Pension Rights Act. The spouse or former spouse shall
2 supersede the spouse married to the member on the date of the member's
3 death as provided under a qualified domestic relations order. If the
4 benefits payable to the spouse or former spouse under a qualified
5 domestic relations order are less than the value of benefits entitled to
6 the surviving spouse, the spouse married to the member on the date of the
7 member's death shall be the surviving spouse for the balance of the
8 benefits; and

9 (19) Termination of employment occurs on the date on which the
10 Nebraska State Patrol determines that the officer's employer-employee
11 relationship with the patrol is dissolved. The Nebraska State Patrol
12 shall notify the board of the date on which such a termination has
13 occurred. Termination of employment does not include ceasing employment
14 with the Nebraska State Patrol if the officer returns to regular
15 employment with the Nebraska State Patrol or another agency of the State
16 of Nebraska and there are less than one hundred twenty days between the
17 date when the employee's employer-employee relationship ceased and the
18 date when the employer-employee relationship commenced with the Nebraska
19 State Patrol or another state agency. Termination of employment does not
20 occur upon an officer's participation in DROP pursuant to section
21 81-2041. It is the responsibility of the employer that is involved in the
22 termination of employment to notify the board of such change in
23 employment and provide the board with such information as the board deems
24 necessary. If the board determines that termination of employment has not
25 occurred and a retirement benefit has been paid to a member of the
26 retirement system pursuant to section 81-2026, the board shall require
27 the member who has received such benefit to repay the benefit to the
28 retirement system.

29 Sec. 6. Section 84-1301, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 84-1301 For purposes of the State Employees Retirement Act, unless

1 the context otherwise requires:

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

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

13 (c) For an employee hired on or after January 1, 2018, or rehired on
14 or after January 1, 2018, after termination of employment and being paid
15 a retirement benefit or taking a refund of contributions, the mortality
16 assumption used for purposes of converting the member cash balance
17 account shall be a mortality table using a unisex rate that is fifty
18 percent male and fifty percent female that is recommended by the actuary
19 and approved by the board following an actuarial experience study, a
20 benefit adequacy study, or a plan valuation;

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

29 (3) Annuity start date means the date upon which a member's annuity
30 is first effective and shall be the first day of the month following the
31 member's termination or following the date the application is received by

1 the board, whichever is later;

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

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

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

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

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

31 (8) Disability means an inability to engage in a substantially

1 gainful activity by reason of any medically determinable physical or
2 mental impairment which can be expected to result in death or to be of
3 long-continued and indefinite duration;

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

1 Nebraska shall continue as members of such system, or (j) employees of
2 the Coordinating Commission for Postsecondary Education who are eligible
3 for and have elected to become members of a qualified retirement program
4 approved by the commission which is commensurate with retirement programs
5 at the University of Nebraska. Any individual appointed by the Governor
6 may elect not to become a member of the State Employees Retirement System
7 of the State of Nebraska;

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

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

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

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

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

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

24 (16) Guaranteed investment contract means an investment contract or
25 account offering a return of principal invested plus interest at a
26 specified rate. For investments made after July 19, 1996, guaranteed
27 investment contract does not include direct obligations of the United
28 States or its instrumentalities, bonds, participation certificates or
29 other obligations of the Federal National Mortgage Association, the
30 Federal Home Loan Mortgage Corporation, or the Government National
31 Mortgage Association, or collateralized mortgage obligations and other

1 derivative securities. This subdivision shall not be construed to require
2 the liquidation of investment contracts or accounts entered into prior to
3 July 19, 1996;

4 (17) Interest credit rate means the greater of (a) five percent or
5 (b) the applicable federal mid-term rate, as published by the Internal
6 Revenue Service as of the first day of the calendar quarter for which
7 interest credits are credited, plus one and one-half percent, such rate
8 to be compounded annually;

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

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

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

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

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

4 (23) Plan year means the twelve-month period beginning on January 1
5 and ending on December 31;

6 (24) Prior service means service before January 1, 1964;

7 (25) Regular interest means the rate of interest earned each
8 calendar year commencing January 1, 1975, as determined by the retirement
9 board in conformity with actual and expected earnings on the investments
10 through December 31, 1984;

11 (26) Required contribution means the deduction to be made from the
12 compensation of employees as provided in section 84-1308;

13 (27) Retirement means qualifying for and accepting the retirement
14 benefit granted under the State Employees Retirement Act after
15 terminating employment;

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

19 (29) Retirement board or board means the Public Employees Retirement
20 Board;

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

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

29 (32) Service means the actual total length of employment as an
30 employee and shall not be deemed to be interrupted by (a) temporary or
31 seasonal suspension of service that does not terminate the employee's

1 employment, (b) leave of absence authorized by the employer for a period
2 not exceeding twelve months, (c) leave of absence because of disability,
3 or (d) military service, when properly authorized by the retirement
4 board. Service does not include any period of disability for which
5 disability retirement benefits are received under section 84-1317;

6 (33) State department means any department, bureau, commission, or
7 other division of state government not otherwise specifically defined or
8 exempted in the act, the employees and officers of which are not already
9 covered by a retirement plan;

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

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

1 agency. It is the responsibility of the employer that is involved in the
2 termination of employment to notify the board of such change in
3 employment and provide the board with such information as the board deems
4 necessary. If the board determines that termination of employment has not
5 occurred and a retirement benefit has been paid to a member of the
6 retirement system pursuant to section 84-1321, the board shall require
7 the member who has received such benefit to repay the benefit to the
8 retirement system; and

9 (36) Vesting credit means credit for years, or a fraction of a year,
10 of participation in another Nebraska governmental plan for purposes of
11 determining vesting of the employer account.

12 Sec. 7. Section 84-1319, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 84-1319 (1) The future service retirement benefit shall be an
15 annuity, payable monthly with the first payment made no earlier than the
16 annuity start date, which shall be the actuarial equivalent of the
17 retirement value as specified in section 84-1318 based on factors
18 determined by the board, except that gender shall not be a factor when
19 determining the amount of such payments except as provided in this
20 section.

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

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

1 value, and the employee may choose any form of such annuity as provided
2 for by the board.

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

6 The board shall provide to any state employee who is eligible for
7 retirement, prior to his or her selecting any of the retirement options
8 provided by this section, information on the federal and state income tax
9 consequences of the various annuity or retirement benefit options.

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

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

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

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

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

29 (4)(a) The normal form of payment shall be a single life annuity
30 with five-year certain, which is an annuity payable monthly during the
31 remainder of the member's life with the provision that, in the event of

1 his or her death before sixty monthly payments have been made, the
2 monthly payments will be continued to his or her estate or to the
3 beneficiary he or she has designated until sixty monthly payments have
4 been made in total. Such annuity shall be equal to the actuarial
5 equivalent of the member cash balance account or the sum of the employee
6 and employer accounts, whichever is applicable, as of the date of final
7 account value. As a part of the annuity, the normal form of payment may
8 include a two and one-half percent cost-of-living adjustment purchased by
9 the member, if the member elects such a payment option.

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

13 For a member employed and participating in the retirement system
14 prior to January 1, 2003, who has elected to participate in the cash
15 balance benefit pursuant to section 84-1309.02, or for a member employed
16 and participating in the retirement system beginning on and after January
17 1, 2003, the balance of his or her member cash balance account as of the
18 date of final account value shall be converted to an annuity using an
19 annuity interest rate that is recommended by the actuary and approved by
20 the board following an actuarial experience study, a benefit adequacy
21 study, or a plan valuation used in the actuarial valuation as recommended
22 by the actuary and approved by the board.

23 For an employee who is a member prior to January 1, 2003, who has
24 elected not to participate in the cash balance benefit pursuant to
25 section 84-1309.02, and who, at the time of retirement, chooses the
26 annuity option rather than the lump-sum option, his or her employee and
27 employer accounts as of the date of final account value shall be
28 converted to an annuity using an annuity interest rate that is equal to
29 the lesser of (i) the Pension Benefit Guaranty Corporation initial
30 interest rate for valuing annuities for terminating plans as of the
31 beginning of the year during which payment begins plus three-fourths of

1 one percent or ~~(ii) the interest rate used in the actuarial valuation as~~
2 ~~recommended by the actuary and approved by the board.~~

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

28 (c) If the unfunded accrued actuarial liability under the entry age
29 actuarial cost method is less than zero on an actuarial valuation date,
30 and on the basis of all data in the possession of the retirement board,
31 including such mortality and other tables as are recommended by the

1 actuary engaged by the retirement board and adopted by the retirement
2 board, the retirement board may elect to pay a dividend to all members
3 participating in the cash balance option in an amount that would not
4 increase the actuarial contribution rate above ninety percent of the
5 actual contribution rate. Dividends shall be credited to the employee
6 cash balance account and the employer cash balance account based on the
7 account balances on the actuarial valuation date. In the event a dividend
8 is granted and paid after the actuarial valuation date, interest for the
9 period from the actuarial valuation date until the dividend is actually
10 paid shall be paid on the dividend amount. The interest rate shall be the
11 interest credit rate earned on regular contributions.

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

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

1 beneficiaries shall be given the opportunity to elect to stop receiving
2 the distributions described in this subsection.

3 Sec. 8. Original sections 24-701, 84-1301, and 84-1319, Reissue
4 Revised Statutes of Nebraska, and sections 23-2301, 23-2317, 79-902, and
5 81-2014, Revised Statutes Cumulative Supplement, 2016, are repealed.

6 Sec. 9. Since an emergency exists, this act takes effect when
7 passed and approved according to law.