

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 278

Introduced by Kolterman, 24.

Read first time January 11, 2017

Committee:

1 A BILL FOR AN ACT relating to retirement; to amend sections 23-2315.01,
2 79-951, 84-1301, and 84-1323.01, Reissue Revised Statutes of
3 Nebraska, and sections 23-2301 and 79-902, Revised Statutes
4 Cumulative Supplement, 2016; to redefine disability and change
5 disability retirement application and medical examination provisions
6 under the County Employees Retirement Act, School Employees
7 Retirement Act, and State Employees Retirement Act; to provide
8 duties for the Public Employees Retirement Board; and to repeal the
9 original sections.
10 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) Actuarial equivalent means the equality in value of the
6 aggregate amounts expected to be received under different forms of an
7 annuity payment. The mortality assumption used for purposes of converting
8 the member cash balance account shall be the 1994 Group Annuity Mortality
9 Table using a unisex rate that is fifty percent male and fifty percent
10 female. For purposes of converting the member cash balance account
11 attributable to contributions made prior to January 1, 1984, that were
12 transferred pursuant to the act, the 1994 Group Annuity Mortality Table
13 for males shall be used;

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

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

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

31 (5)(a) Compensation means gross wages or salaries payable to the

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

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

18 (6) Date of adoption of the retirement system by each county means
19 the first day of the month next following the date of approval of the
20 retirement system by the county board or January 1, 1987, whichever is
21 earlier;

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

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

28 (9) Disability means an inability to engage in any a substantially
29 gainful activity by reason of any medically determinable physical or
30 mental impairment which was initially diagnosed or which became disabling
31 while the member was an active participant in the plan and can be

1 expected to result in death or be of a long-continued ~~long~~ and indefinite
2 duration;

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

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

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

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

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

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

30 (16) Future service means service following the date of adoption of
31 the retirement system;

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

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

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

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

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

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

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

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

14 (25) Prior service means service prior to the date of adoption of
15 the retirement system;

16 (26) Regular interest means the rate of interest earned each
17 calendar year as determined by the retirement board in conformity with
18 actual and expected earnings on the investments through December 31,
19 1985;

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

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

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

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

29 (31) Retirement date means (a) the first day of the month following
30 the date upon which a member's request for retirement is received on a
31 retirement application if the member is eligible for retirement and has

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

4 (32) Retirement system means the Retirement System for Nebraska
5 Counties;

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

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

25 (35) Termination of employment occurs on the date on which a county
26 which is a member of the retirement system determines that its employer-
27 employee relationship with an employee is dissolved. The county shall
28 notify the board of the date on which such a termination has occurred.
29 Termination of employment does not occur if an employee whose employer-
30 employee relationship with a county is dissolved enters into an employer-
31 employee relationship with the same or another county which participates

1 in the Retirement System for Nebraska Counties and there are less than
2 one hundred twenty days between the date when the employee's employer-
3 employee relationship ceased with the county and the date when the
4 employer-employee relationship commenced with the same or another county
5 which qualifies the employee for participation in the plan. It is the
6 responsibility of the employer that is involved in the termination of
7 employment to notify the board of such change in employment and provide
8 the board with such information as the board deems necessary. If the
9 board determines that termination of employment has not occurred and a
10 retirement benefit has been paid to a member of the retirement system
11 pursuant to section 23-2319, the board shall require the member who has
12 received such benefit to repay the benefit to the retirement system; and
13 (36) Vesting credit means credit for years, or a fraction of a year,
14 of participation in another Nebraska governmental plan for purposes of
15 determining vesting of the employer account.

16 Sec. 2. Section 23-2315.01, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 23-2315.01 (1) Any member, disregarding the length of service, may
19 be retired as a result of disability either upon his or her own
20 application or upon the application of his or her employer or any person
21 acting in his or her behalf. Before any member may be so retired, a
22 medical examination shall be made at the expense of the retirement
23 system, which examination shall be conducted by a disinterested physician
24 legally authorized to practice medicine under the laws of the state in
25 which he or she practices, such physician to be selected by the
26 retirement board, and the physician shall certify to the board that the
27 member should be retired because he or she suffers from an inability to
28 engage in any a substantially gainful activity by reason of any medically
29 determinable physical or mental impairment which began while the member
30 was a participant in the plan and which was initially diagnosed or which
31 became disabling while the member was an active participant in the plan

1 and can be expected to result in death or to be of long-continued and
2 indefinite duration. The medical examination may be waived if, in the
3 judgment of the retirement board, extraordinary circumstances exist which
4 preclude substantial gainful activity by the member. Such circumstances
5 shall include hospice placement or similar confinement for a terminal
6 illness or injury. The application for disability retirement shall be
7 made within one year of termination of employment.

8 (2) The retirement board may require any disability beneficiary who
9 has not attained the age of fifty-five to undergo a medical examination
10 at the expense of the board once each year. Should any disability
11 beneficiary refuse to undergo such an examination, his or her disability
12 retirement benefit may be discontinued by the board.

13 (3) The retirement board shall adopt and promulgate rules and
14 regulations and prescribe the necessary forms to carry out this section.

15 Sec. 3. Section 79-902, Revised Statutes Cumulative Supplement,
16 2016, is amended to read:

17 79-902 For purposes of the School Employees Retirement Act, unless
18 the context otherwise requires:

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

23 (2) Actuarial equivalent means the equality in value of the
24 aggregate amounts expected to be received under different forms of
25 payment. The determinations shall be based on the 1994 Group Annuity
26 Mortality Table reflecting sex-distinct factors blended using twenty-five
27 percent of the male table and seventy-five percent of the female table.
28 An interest rate of eight percent per annum shall be reflected in making
29 these determinations except when a lump-sum settlement is made to an
30 estate. If the lump-sum settlement is made to an estate, the interest
31 rate will be determined by the Moody's Triple A Bond Index as of the

1 prior June 30, rounded to the next lower quarter percent;

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

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

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

22 (c) 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) County school official means (a) until July 1, 2000, the county
30 superintendent or district superintendent and any person serving in his
31 or her office who is required by law to have a teacher's certificate and

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

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

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

21 (8) Disability means an inability to engage in any a substantially
22 gainful activity by reason of any medically determinable physical or
23 mental impairment which was initially diagnosed or which became disabling
24 while the member was an active participant in the plan and can be
25 expected to result in death or be of a long-continued long and indefinite
26 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. 4. Section 79-951, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 79-951 (1) Any member, disregarding the length of service, may be
15 retired as a result of disability either upon his or her own application
16 or upon the application of his or her employer or any person acting in
17 his or her behalf. Before any member may be so retired, a medical
18 examination shall be made at the expense of the retirement system, which
19 examination shall be conducted by a disinterested physician legally
20 authorized to practice medicine under the laws of the state in which he
21 or she practices, such physician to be selected by the retirement board,
22 and the physician shall certify to the board that the member should be
23 retired because he or she suffers from an inability to engage in any
24 substantially gainful activity by reason of any medically determinable
25 physical or mental impairment which began while the member was a
26 participant in the plan and which was initially diagnosed or which became
27 disabling while the member was an active participant in the plan and can
28 be expected to result in death or to be of long-continued and indefinite
29 duration. The medical examination may be waived if, in the judgment of
30 the retirement board, extraordinary circumstances exist which preclude
31 substantial gainful activity by the member. Such circumstances shall

1 include hospice placement or similar confinement for a terminal illness
2 or injury. The application for disability retirement shall be made within
3 one year of termination of employment A member shall be retired on
4 account of disability, either upon his or her own application or the
5 application of his or her employer or a person acting in his or her
6 behalf, if a medical examination, made at the expense of the retirement
7 system and conducted by a competent disinterested physician legally
8 authorized to practice medicine under the laws of the state in which he
9 or she practices, selected by the retirement board, shows and the
10 physician certifies to the retirement board that the member is unable to
11 engage in a substantially gainful activity by reason of any medically
12 determinable physical or mental impairment which began while the member
13 was a participant in the plan and which can be expected to result in
14 death or be of a long and indefinite duration. The medical examination
15 may be waived if, in the judgment of the retirement board, extraordinary
16 circumstances exist which preclude substantial gainful activity by the
17 member. Such circumstances shall include hospice placement or similar
18 confinement for a terminal illness or injury.

19 (2) The retirement board may require any disability beneficiary who
20 has not attained the age of fifty-five to undergo a medical examination
21 at the expense of the board once each year. If any disability beneficiary
22 refuses to undergo such an examination, the disability retirement benefit
23 may be discontinued by the board The member shall have five years from
24 the date he or she terminates employment in a public school located in
25 Nebraska in which to make application for disability retirement benefits
26 if the disability is related to employment in a public school located in
27 Nebraska. If the disability is not related to a public school located in
28 Nebraska, the member shall have one year from the date he or she
29 terminates employment in which to make application for disability
30 retirement benefits. Any application for retirement on account of
31 disability shall be made on a retirement application provided by the

1 ~~retirement system. Upon approval by the board, benefits shall begin on~~
2 ~~the disability retirement date.~~

3 (3) The retirement board shall adopt and promulgate rules and
4 regulations and prescribe the necessary forms to carry out this section.

5 Sec. 5. Section 84-1301, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 84-1301 For purposes of the State Employees Retirement Act, unless
8 the context otherwise requires:

9 (1) Actuarial equivalent means the equality in value of the
10 aggregate amounts expected to be received under different forms of an
11 annuity payment. The mortality assumption used for purposes of converting
12 the member cash balance account shall be the 1994 Group Annuity Mortality
13 Table using a unisex rate that is fifty percent male and fifty percent
14 female. For purposes of converting the member cash balance account
15 attributable to contributions made prior to January 1, 1984, that were
16 transferred pursuant to the act, the 1994 Group Annuity Mortality Table
17 for males shall be used;

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

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

30 (4) Cash balance benefit means a member's retirement benefit that is
31 equal to an amount based on annual employee contribution credits plus

1 interest credits and, if vested, employer contribution credits plus
2 interest credits and dividend amounts credited in accordance with
3 subdivision (4)(c) of section 84-1319;

4 (5)(a) 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, 403(b), and 457 of
14 the Internal Revenue Code or any other section of the code which defers
15 or excludes such amounts from income.

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

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

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

28 (8) Disability means an inability to engage in any a substantially
29 gainful activity by reason of any medically determinable physical or
30 mental impairment which was initially diagnosed or which became disabling
31 while the member was an active participant in the plan and can be

1 expected to result in death or to be of long-continued and indefinite
2 duration;

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

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

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

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

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

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

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

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

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

1 the liquidation of investment contracts or accounts entered into prior to
2 July 19, 1996;

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

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

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

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

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

31 (22) Part-time employee means an employee who is employed to work

1 less than one-half of the regularly scheduled hours during each pay
2 period;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 Sec. 6. Section 84-1323.01, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 84-1323.01 (1) Any member who is an employee, disregarding the
14 length of service, may be retired as a result of disability either upon
15 the member's own application or upon the application of the member's
16 employer or any person acting in the member's behalf. Before any member
17 may be so retired, a medical examination shall be made at the expense of
18 the retirement system, which examination shall be conducted by a
19 disinterested physician legally authorized to practice medicine under the
20 laws of the state in which he or she practices, such physician to be
21 selected by the retirement board, and the physician shall certify to the
22 board that the member suffers from an inability to engage in any a
23 substantially gainful activity by reason of any medically determinable
24 physical or mental impairment which was initially diagnosed or which
25 became disabling ~~began~~ while the member was an active a participant in
26 the plan and which can be expected to result in death or to be of long-
27 continued and indefinite duration. The medical examination may be waived
28 if, in the judgment of the retirement board, extraordinary circumstances
29 exist which preclude substantial gainful activity by the member. Such
30 circumstances shall include hospice placement or similar confinement for
31 a terminal illness or injury and should be retired. The application for

1 disability retirement shall be made within one year of termination of
2 employment.

3 (2) The retirement board may require any disability beneficiary who
4 has not attained the age of fifty-five to undergo a medical examination
5 at the expense of the board once each year. If any disability beneficiary
6 refuses to undergo such an examination, the disability retirement benefit
7 may be discontinued by the board.

8 (3) The retirement board shall adopt and promulgate rules and
9 regulations and prescribe the necessary forms to carry out this section.

10 Sec. 7. Original sections 23-2315.01, 79-951, 84-1301, and
11 84-1323.01, Reissue Revised Statutes of Nebraska, and sections 23-2301
12 and 79-902, Revised Statutes Cumulative Supplement, 2016, are repealed.