

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 415**

Introduced by Kolterman, 24.

Read first time January 13, 2017

Committee:

1 A BILL FOR AN ACT relating to retirement; to amend sections 23-2320,  
2 79-805, 79-901, 79-921, 79-933, 79-951, 79-955, 79-958, 81-2031.05,  
3 84-1301, and 84-1322, Reissue Revised Statutes of Nebraska, and  
4 sections 23-2301, 79-902, 79-904.01, 79-931, 79-934, 79-978,  
5 79-978.01, 79-992, 79-9,100.01, 79-9,105, and 81-2014, Revised  
6 Statutes Cumulative Supplement, 2016; to provide and change  
7 notification requirements as prescribed; to define and redefine  
8 terms; to provide and change duties and benefits for retirement  
9 system members who are employed after retirement as prescribed; to  
10 change annuity and disability benefit provisions under the Class V  
11 School Employees Retirement Act; to provide duties for school  
12 districts and the Public Employees Retirement Board; to eliminate  
13 obsolete provisions; to harmonize provisions; to repeal the original  
14 sections; to outright repeal section 79-923, Reissue Revised  
15 Statutes of Nebraska; and to declare an emergency.  
16 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 a substantially  
29 gainful activity by reason of any medically determinable physical or  
30 mental impairment which can be expected to result in death or be of a  
31 long and indefinite duration;

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

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

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

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

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

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

28           (16) Future service means service following the date of adoption of  
29 the retirement system;

30           (17) Guaranteed investment contract means an investment contract or  
31 account offering a return of principal invested plus interest at a

1 specified rate. For investments made after July 19, 1996, guaranteed  
2 investment contract does not include direct obligations of the United  
3 States or its instrumentalities, bonds, participation certificates or  
4 other obligations of the Federal National Mortgage Association, the  
5 Federal Home Loan Mortgage Corporation, or the Government National  
6 Mortgage Association, or collateralized mortgage obligations and other  
7 derivative securities. This subdivision shall not be construed to require  
8 the liquidation of investment contracts or accounts entered into prior to  
9 July 19, 1996;

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

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

30 (20) Member cash balance account means an account equal to the sum  
31 of the employee cash balance account and, if vested, the employer cash

1 balance account and dividend amounts credited in accordance with  
2 subdivision (4)(c) of section 23-2317;

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

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

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

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

12 (25) Prior service means service prior to the date of adoption of  
13 the retirement system;

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

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

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

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

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

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

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

2 (32) Retirement system means the Retirement System for Nebraska  
3 Counties;

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

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

23 (35)(a) ~~(35)~~ Termination of employment occurs on the date on which a  
24 county which is a member of the retirement system determines that its  
25 employer-employee relationship with an employee is dissolved. The county  
26 shall notify the board of the date on which such a termination has  
27 occurred.

28 (b) Termination of employment does not occur if an employee whose  
29 employer-employee relationship with a county is dissolved (i) enters into  
30 an employer-employee relationship in any capacity with the same or  
31 another county which participates in the Retirement System for Nebraska

1 Counties and there are less than one hundred twenty days between the date  
2 when the employee's employer-employee relationship ceased with the county  
3 and the date when the employer-employee relationship commenced in any  
4 capacity with the same or another county which qualifies the employee for  
5 participation in the plan, (ii) provides service to an employer  
6 participating in a retirement system provided for in the Class V School  
7 Employees Retirement Act, the Nebraska State Patrol Retirement Act, the  
8 School Employees Retirement Act, or the State Employees Retirement Act  
9 and there are less than one hundred twenty days between the date when the  
10 employee's employer-employee relationship ceased with the county and the  
11 date when the service commenced with the other employer which qualifies  
12 for participation in the other retirement system, or (iii) if the member  
13 accepted an early retirement incentive and, within three years after  
14 accepting such incentive and ceasing such employment, subsequently  
15 provides service in any capacity to an employer participating in a  
16 retirement system provided for in the Class V School Employees Retirement  
17 Act, the County Employees Retirement Act, the Nebraska State Patrol  
18 Retirement Act, the School Employees Retirement Act, or the State  
19 Employees Retirement Act.

20 (c) It is the responsibility of the employer that is involved in the  
21 termination of employment to notify the board of such change in  
22 employment and provide the board with such information as the board deems  
23 necessary.

24 (d) 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 23-2319, the board shall require  
27 the member who has received such benefit to repay the benefit to the  
28 retirement system; and

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



1           Sec. 2. Section 23-2320, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           23-2320 (1) Except as otherwise provided in this section, a member  
4 of the retirement system who has a five-year break in service shall upon  
5 reemployment be considered a new employee with respect to the County  
6 Employees Retirement Act and shall not receive credit for service prior  
7 to his or her reemployment date.

8           (2)(a) A member who ceases to be an employee before becoming  
9 eligible for retirement under section 23-2315 and again becomes a  
10 permanent full-time or permanent part-time county employee prior to  
11 having a five-year break in service shall immediately be reenrolled in  
12 the retirement system and resume making contributions. For purposes of  
13 vesting employer contributions made prior to and after the reentry into  
14 the retirement system under subsection (3) of section 23-2319, years of  
15 participation include years of participation prior to such employee's  
16 original termination. For a member who is not vested and has received a  
17 termination benefit pursuant to section 23-2319, the years of  
18 participation prior to such employee's original termination shall be  
19 limited in a ratio equal to the amount that the member repays divided by  
20 the termination benefit withdrawn pursuant to section 23-2319.

21           (b) The reemployed member may repay the value of, or a portion of  
22 the value of, the termination benefit withdrawn pursuant to section  
23 23-2319. A reemployed member who elects to repay all or a portion of the  
24 value of the termination benefit withdrawn pursuant to section 23-2319  
25 shall repay the actual earnings on such value. Repayment of the  
26 termination benefit shall commence within three years of reemployment and  
27 shall be completed within five years of reemployment or prior to  
28 termination of employment, whichever occurs first, through (i) direct  
29 payments to the retirement system, (ii) installment payments made  
30 pursuant to a binding irrevocable payroll deduction authorization made by  
31 the member, (iii) an eligible rollover distribution as provided under the

1 Internal Revenue Code, or (iv) a direct rollover distribution made in  
2 accordance with section 401(a)(31) of the Internal Revenue Code.

3 (c) The value of the member's forfeited employer account or employer  
4 cash balance account, as of the date of forfeiture, shall be restored in  
5 a ratio equal to the amount of the benefit that the member has repaid  
6 divided by the termination benefit received. The employer account or  
7 employer cash balance account shall be restored first out of the current  
8 forfeiture amounts and then by additional employer contributions.

9 (3) Except as provided in subsection (4) of this section, for ~~For~~ a  
10 member who retired pursuant to section 23-2315 and becomes a permanent  
11 full-time employee or permanent part-time employee with a county under  
12 the County Employees Retirement Act more than one hundred twenty days  
13 after his or her retirement date, the member shall continue receiving  
14 retirement benefits. Such a retired member or a retired member who  
15 received a lump-sum distribution of his or her benefit shall be  
16 considered a new employee as of the date of reemployment and shall not  
17 receive credit for any service prior to the member's retirement for  
18 purposes of the act.

19 (4)(a) On or after July 1, 2017, a retired member of the retirement  
20 system who is hired or rehired in any capacity by an employer  
21 participating in a retirement system provided for in the Class V School  
22 Employees Retirement Act, the County Employees Retirement Act, the  
23 Nebraska State Patrol Retirement Act, the School Employees Retirement  
24 Act, or the State Employees Retirement Act:

25 (i) Shall certify under oath or affirmation that, prior to  
26 retirement, he or she did not have a prearranged agreement to work after  
27 retirement with any such employer; and

28 (ii) Shall meet the requirements for termination of employment as  
29 defined in section 23-2301 in order to commence such employment or  
30 reemployment after retirement.

31 (b) A retired member who complies with subdivision (a) of this

1 subsection and returns to employment shall participate in the retirement  
2 system as a new member and shall make contributions to the retirement  
3 system commencing upon reemployment. The retirement benefit of a retired  
4 member who returns to employment shall continue to be paid by the  
5 retirement system. A retired member who returns to employment as an  
6 employee shall receive vesting credit only for service performed after  
7 his or her return to employment. In no event shall vesting credit which  
8 accrues or the compensation paid to the member after such return to  
9 employment after retirement increase the amount of the member's original  
10 retirement benefit.

11 (c) Upon termination of employment of a retired member described in  
12 subdivision (b) of this subsection, the member shall receive in addition  
13 to the retirement benefit which commenced at the time of the previous  
14 retirement:

15 (i) If the member has accrued ten years or more of vesting credit  
16 after his or her return to employment, excluding years of vesting credit  
17 acquired, a retirement benefit as provided in section 23-2315, 23-2317,  
18 or 23-2319, as applicable, shall be calculated solely on the basis of  
19 vesting credit accrued and earned after the member's return to employment  
20 described in subdivision (b) of this subsection and as adjusted to  
21 reflect any payment in other than the normal form; or

22 (ii) If the member has not accrued ten years or more of vesting  
23 credit after his or her return to employment, a refund equal to the  
24 member's accumulated contributions which were credited to the member  
25 after the member's return to employment described in subdivision (b) of  
26 this subsection. In no event shall the member's vesting credit which  
27 accrued prior to a previous retirement be considered as part of the  
28 member's vesting credit after his or her return to employment for any  
29 purpose of the County Employees Retirement Act.

30 (d) A member shall not be eligible to subsequently retire on account  
31 of disability pursuant to section 23-2315.01.

1           (5) ~~(4)~~ A member who is reinstated as an employee pursuant to a  
2 grievance or appeal of his or her termination by the county shall be a  
3 member upon reemployment and shall not be considered to have a break in  
4 service for such period of time that the grievance or appeal was pending.  
5 Following reinstatement, the member shall repay the value of the amount  
6 received from his or her employee account or member cash balance account  
7 under subdivision (2)(b) of section 23-2319.01.

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

10           Sec. 3. Section 79-805, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12           79-805   (1) The school board or board of education shall be  
13 personally liable for all public money paid to teachers or administrators  
14 who are not qualified under sections 79-806 to 79-815 or not reported as  
15 required under subsection (2) of this section. A teacher or administrator  
16 violating such sections 79-806 to 79-815 shall not recover any money for  
17 services while teaching during the time that such contract and  
18 certificate are invalid. Any person having knowledge of the employment by  
19 a school district of an uncertified teacher or administrator may prefer  
20 charges against the board.

21           (2)(a) The employer as defined in section 79-902 or board of  
22 education as defined in section 79-978 shall notify the State Department  
23 of Education:

24           (i) Within fifteen calendar days after the date upon which a  
25 termination of employment as defined in section 79-902 or 79-978, as  
26 applicable, has occurred; and

27           (ii) Within fifteen calendar days after the date upon which a  
28 retired member of a retirement system provided for in either the Class V  
29 School Employees Retirement Act or the School Employees Retirement Act  
30 has been hired or rehired following such retirement.

31           (b) The department shall forward such information to the Public

1 Employees Retirement Board or its designee within fifteen calendar days  
2 after receipt of the information from the employer.

3 Sec. 4. Section 79-901, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5 79-901 Sections 79-901 to 79-977.03 and section 8 of this act shall  
6 be known and may be cited as the School Employees Retirement Act.

7 Sec. 5. Section 79-902, Revised Statutes Cumulative Supplement,  
8 2016, is amended to read:

9 79-902 For purposes of the School Employees Retirement Act, unless  
10 the context otherwise requires:

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

15 (2) Actuarial equivalent means the equality in value of the  
16 aggregate amounts expected to be received under different forms of  
17 payment. The determinations shall be based on the 1994 Group Annuity  
18 Mortality Table reflecting sex-distinct factors blended using twenty-five  
19 percent of the male table and seventy-five percent of the female table.  
20 An 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. If the lump-sum settlement is made to an estate, the interest  
23 rate will be determined by the Moody's Triple A Bond Index as of the  
24 prior June 30, rounded to the next lower quarter percent;

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

27 (4)(a) Compensation means gross wages or salaries payable to the  
28 member for personal services performed during the plan year and includes  
29 (i) overtime pay, (ii) member retirement contributions, (iii) retroactive  
30 salary payments paid pursuant to court order, arbitration, or litigation  
31 and grievance settlements, and (iv) amounts contributed by the member to

1 plans under sections 125, 403(b), and 457 of the Internal Revenue Code as  
2 defined in section 49-801.01 or any other section of the code which  
3 defers or excludes such amounts from income.

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

14 (c) Compensation in excess of the limitations set forth in section  
15 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01  
16 shall be disregarded. For an employee who was a member of the retirement  
17 system before the first plan year beginning after December 31, 1995, the  
18 limitation on compensation shall not be less than the amount which was  
19 allowed to be taken into account under the retirement system as in effect  
20 on July 1, 1993;

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

27 (6) Creditable service means prior service for which credit is  
28 granted under sections 79-926 to 79-929, service credit purchased under  
29 sections 79-933.03 to 79-933.06 and 79-933.08, and all service rendered  
30 while a contributing member of the retirement system. Creditable service  
31 includes working days, sick days, vacation days, holidays, and any other

1 leave days for which the employee is paid regular wages as part of the  
2 employee's agreement with the employer. Creditable service does not  
3 include lump-sum payments to the employee upon termination or retirement  
4 in lieu of accrued benefits for such days, eligibility and vesting  
5 credit, nor service years for which member contributions are withdrawn  
6 and not repaid. Creditable service also does not include service rendered  
7 by a member for which the retirement board determines that the member was  
8 paid less in compensation than the minimum wage as provided in the Wage  
9 and Hour Act or service which the board determines was rendered with the  
10 intent to defraud the retirement system;

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

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

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

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

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

30 (12) Emeritus member means a person (a) who has entered retirement  
31 under the provisions of the act, including those persons who have retired

1 since July 1, 1945, under any other regularly established retirement or  
2 pension system as contemplated by section 79-916, (b) who has thereafter  
3 been reemployed in any capacity by a public school, a Class V school  
4 district, or a school under the control and management of the Board of  
5 Trustees of the Nebraska State Colleges, the Board of Regents of the  
6 University of Nebraska, or a community college board of governors or has  
7 become a state school official or county school official subsequent to  
8 such retirement, and (c) who has applied to the board for emeritus  
9 membership in the retirement system. The school district or agency shall  
10 certify to the retirement board on forms prescribed by the retirement  
11 board that the annuitant was reemployed, rendered a service, and was paid  
12 by the district or agency for such services;

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

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

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

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

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

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

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

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



1 (b) Payments under the Retirement Incentive Plan pursuant to section  
2 79-855 and Staff Development Assistance pursuant to section 79-856 shall  
3 not be included in the determination of final average compensation;

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

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

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

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

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

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

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

28 (22) Regular employee means an employee hired by a public school or  
29 under contract in a regular full-time or part-time position who works a  
30 full-time or part-time schedule on an ongoing basis for twenty or more  
31 hours per week. An employee hired as described in this subdivision to

1 provide service for less than twenty hours per week but who provides  
2 service for an average of twenty hours or more per week in each calendar  
3 month of any three calendar months of a plan year shall, beginning with  
4 the next full payroll period, commence contributions and shall be deemed  
5 a regular employee for all future employment with the same employer;

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

11 (24) Relinquished creditable service means, with respect to a member  
12 who has withdrawn his or her accumulated contributions under section  
13 79-955, the total amount of creditable service which such member has  
14 given up as a result of his or her election not to remain a member of the  
15 retirement system;

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

19 (26) Retirement means qualifying for and accepting a school or  
20 disability retirement allowance granted under the School Employees  
21 Retirement Act;

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

25 (28) Retirement board or board means the Public Employees Retirement  
26 Board;

27 (29) Retirement date means (a) if the member has terminated  
28 employment, the first day of the month following the date upon which a  
29 member's request for retirement is received on a retirement application  
30 provided by the retirement system or (b) if the member has filed a  
31 retirement application but has not yet terminated employment, the first

1 day of the month following the date on which the member terminates  
2 employment. An application may be filed no more than one hundred twenty  
3 days prior to the effective date of the member's initial benefit;

4 (30) Retirement system means the School Employees Retirement System  
5 of the State of Nebraska;

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

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

19 (33) School year means one fiscal year which includes not less than  
20 one thousand instructional hours or, in the case of service in the State  
21 of Nebraska prior to July 1, 1945, not less than seventy-five percent of  
22 the then legal school year;

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

31 (35) Service means employment as a school employee and shall not be

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

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

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

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

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

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

1 a qualified domestic relations order. If the benefits payable to the  
2 spouse or former spouse under a qualified domestic relations order are  
3 less than the value of benefits entitled to the surviving spouse, the  
4 spouse married to the member on the date of the member's death shall be  
5 the surviving spouse for the balance of the benefits;

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

12 (42)(a) (42) Termination of employment occurs on the date on which  
13 the member experiences a bona fide separation from service of employment  
14 with the member's employer, the date of which separation is determined by  
15 the end of the member's contractual agreement or, if there is no contract  
16 or only partial fulfillment of a contract, by the employer.

17 (b) A member shall not be deemed to have terminated employment if  
18 the member subsequently provides service in any capacity within one  
19 hundred eighty days after ceasing employment (i) to any employer  
20 participating in the retirement system provided for in the School  
21 Employees Retirement Act or (ii) to an employer participating in a  
22 retirement system provided for in the Class V School Employees Retirement  
23 Act, the County Employees Retirement Act, the Nebraska State Patrol  
24 Retirement Act, or the State Employees Retirement Act. within one hundred  
25 eighty days after ceasing employment unless such service:

26 (c) A member who accepted an early retirement incentive pursuant to  
27 section 79-855 shall not be deemed to have terminated employment if the  
28 member subsequently provides service, within three years after accepting  
29 such incentive and ceasing such employment, to an employer participating  
30 in a retirement system provided for in the Class V School Employees  
31 Retirement Act, the County Employees Retirement Act, the Nebraska State

1 Patrol Retirement Act, the School Employees Retirement Act, or the State  
2 Employees Retirement Act.

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

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

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

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

15 Sec. 6. Section 79-904.01, Revised Statutes Cumulative Supplement,  
16 2016, is amended to read:

17 79-904.01 (1)(a) If the board determines that the retirement system  
18 has previously received contributions or distributed benefits which for  
19 any reason are not in accordance with the statutory provisions of the  
20 School Employees Retirement Act, the board may refund contributions,  
21 require additional contributions, adjust benefits, or require repayment  
22 of benefits paid. In the event of an overpayment of a benefit, the board  
23 may, in addition to other remedies, offset future benefit payments by the  
24 amount of the prior overpayment, together with regular interest thereon.  
25 In the event of a material underpayment of a benefit, the board shall  
26 immediately make payment equal to the deficit amount plus regular  
27 interest.

28 (b) The board shall have the power, through the director of the  
29 Nebraska Public Employees Retirement Systems or the director's designee,  
30 to make a thorough investigation of any overpayment of a benefit, when in  
31 the judgment of the retirement system such investigation is necessary,

1 including, but not limited to, circumstances in which benefit payments  
2 are made after the death of a member or beneficiary and the retirement  
3 system is not made aware of such member's or beneficiary's death. In  
4 connection with any such investigation, the board, through the director  
5 or the director's designee, shall have the power to compel the attendance  
6 of witnesses and the production of books, papers, records, and documents,  
7 whether in hardcopy, electronic form, or otherwise, and issue subpoenas  
8 for such purposes. Such subpoenas shall be served in the same manner and  
9 have the same effect as subpoenas from district courts.

10 (2) If the board determines that termination of employment has not  
11 occurred and a retirement benefit has been paid to a member of the  
12 retirement system pursuant to section 79-933, such member shall repay the  
13 benefit to the retirement system.

14 (3) The board shall adopt and promulgate rules and regulations  
15 implementing this section, which shall include, but not be limited to,  
16 the following: (a) The procedures for refunding contributions, adjusting  
17 future contributions or benefit payments, and requiring additional  
18 contributions or repayment of benefits; (b) the process for a member,  
19 member's beneficiary, employee, or employer to dispute an adjustment of  
20 contributions or benefits; and (c) notice provided to all affected  
21 persons. All notices shall be sent at the time of or prior to an  
22 adjustment and shall describe the process for disputing an adjustment of  
23 contributions or benefits.

24 (4) The board shall not refund contributions made on compensation in  
25 excess of the limitations imposed by subdivision (4) of section 79-902 or  
26 subsection (9) ~~(7)~~ of section 79-934.

27 Sec. 7. Section 79-921, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 79-921 (1) The membership of any person in the retirement system  
30 shall cease only if he or she (a) withdraws his or her accumulated  
31 contributions under section 79-955 or receives a refund of his or her

1 contributions under section 8 of this act, (b) retires on a school or  
2 formula or disability retirement allowance, (c) retires under section 8  
3 of this act, or (d) ~~(e)~~ dies.

4 (2) The employer shall notify the board and the State Department of  
5 Education of the date upon which a termination of employment has  
6 occurred. It is the responsibility of the employer that is involved in  
7 the termination of employment to notify the board of such change in  
8 employment and provide the board with such information as the board deems  
9 necessary which shall include, but not be limited to, certification by  
10 the employer and the member under penalty of prosecution pursuant to  
11 section 79-949 that, prior to the member's retirement, there was no  
12 prearranged agreement to return to work in any capacity, including, but  
13 not limited to, acceptance of employment under a personal services  
14 contract as an independent contractor, as a consultant, or with a private  
15 leasing company, a temporary staffing agency, or any other company. The  
16 member shall also certify that, prior to his or her retirement, there was  
17 no prearranged agreement to commence employment in any capacity, as  
18 described in this subsection, with an employer participating in a  
19 retirement system provided for in the Class V School Employees Retirement  
20 Act, the County Employees Retirement Act, the Nebraska State Patrol  
21 Retirement Act, or the State Employees Retirement Act.

22 (3)(a) A former member of the retirement system who has withdrawn  
23 his or her accumulated contributions under section 79-955 shall be  
24 reinstated to membership in the retirement system if such person again  
25 becomes a school employee.

26 (b) The date of such membership shall relate back to the beginning  
27 of his or her original membership in the retirement system only if such  
28 school employee has repaid all amounts required in accordance with  
29 subsection (4) of this section. Unless and until all such amounts are  
30 repaid, the school employee shall be considered a new member, effective  
31 as of the date he or she again becomes a school employee.



1           (4)(a) With respect to any person who is reinstated to membership in  
2 the retirement system pursuant to subdivision (3)(a) of this section  
3 prior to April 17, 2014, and who files a valid and complete one-time  
4 application with the retirement board for the restoration of part or all  
5 of his or her relinquished creditable service prior to six years after  
6 April 17, 2014, but prior to termination, the following shall apply:

7           (i) Such member shall pay to the retirement system an amount equal  
8 to the previously withdrawn contributions for the creditable service to  
9 be restored, plus an amount equal to the actuarial assumed rate of return  
10 on such amount to the date of repayment; and

11           (ii) Payment for restoration of such relinquished creditable service  
12 must be completed within six years of April 17, 2014, or prior to  
13 termination, whichever is earlier.

14           (b) With respect to any person who is reinstated to membership in  
15 the retirement system pursuant to subdivision (3)(a) of this section on  
16 and after April 17, 2014, and who files a valid and complete one-time  
17 application with the retirement board for the restoration of part or all  
18 of his or her relinquished creditable service within five years after the  
19 date of such member's reinstatement to membership in the retirement  
20 system but prior to termination, the following shall apply:

21           (i) Such member shall pay to the retirement system an amount equal  
22 to the previously withdrawn contributions for the creditable service to  
23 be restored, plus an amount equal to the actuarial assumed rate of return  
24 on such amount to the date of repayment; and

25           (ii) Payment for restoration of such relinquished creditable service  
26 must be completed within five years of the date of such member's  
27 reinstatement to membership in the retirement system or prior to  
28 termination, whichever is earlier.

29           (5) If less than full payment is made by the member, relinquished  
30 creditable service shall be restored in proportion to the amounts repaid.  
31 Repayment may be made through direct payment, installment payments, an

1 irrevocable payroll deduction authorization, cash rollover contributions  
2 pursuant to section 79-933.02, or trustee-to-trustee transfers pursuant  
3 to section 79-933.09.

4 Sec. 8. (1) On or after July 1, 2017, a retired member of the  
5 retirement system who is hired or rehired by an employer participating in  
6 a retirement system provided for in the Class V School Employees  
7 Retirement Act, the County Employees Retirement Act, the Nebraska State  
8 Patrol Retirement Act, or the State Employees Retirement Act:

9 (a) Shall certify under oath or affirmation as required in section  
10 79-921 that, prior to retirement, he or she did not have a prearranged  
11 agreement to work after retirement with any such employer; and

12 (b) Shall meet the requirements for termination of employment as  
13 defined in section 79-902 in order to commence such employment or  
14 reemployment after retirement.

15 (2) A retired member who complies with subsection (1) of this  
16 section and returns to employment shall participate in the retirement  
17 system as a new member and shall make contributions to the retirement  
18 system commencing upon reemployment. The retirement annuity of a retired  
19 member who returns to employment shall continue to be paid by the  
20 retirement system. A retired member who returns to employment as an  
21 employee shall receive creditable service only for service performed  
22 after his or her return to employment. In no event shall creditable  
23 service which accrues or the compensation paid to the member after such  
24 return to employment after retirement increase the amount of the member's  
25 original retirement annuity.

26 (3) Upon termination of employment of a retired member described in  
27 subsection (2) of this section, the member shall receive in addition to  
28 the retirement annuity which commenced at the time of the previous  
29 retirement:

30 (a) If the member has accrued ten years or more of creditable  
31 service after his or her return to employment, excluding years of prior

1 service acquired, a retirement annuity as provided in section 79-934, as  
2 applicable, shall be calculated solely on the basis of creditable service  
3 and final average compensation accrued and earned after the member's  
4 return to employment described in subsection (2) of this section and as  
5 adjusted to reflect any payment in other than the normal form; or

6 (b) If the member has not accrued ten years or more of creditable  
7 service after his or her return to employment, a refund equal to the  
8 member's accumulated contributions which were credited to the member  
9 after the member's return to employment described in subsection (2) of  
10 this section. In no event shall the member's creditable service which  
11 accrued prior to a previous retirement be considered as part of the  
12 member's creditable service after his or her return to employment for any  
13 purpose under the School Employees Retirement Act.

14 The member shall not be eligible to subsequently retire on account  
15 of disability pursuant to sections 79-951 to 79-954.

16 (4) The retirement board may adopt and promulgate rules and  
17 regulations and prescribe forms necessary to carry out this section.

18 Sec. 9. Section 79-931, Revised Statutes Cumulative Supplement,  
19 2016, is amended to read:

20 79-931 (1) A member hired prior to July 1, 2016, upon filing a  
21 retirement application with the retirement system, may retire (a) at any  
22 age if the member has completed thirty-five years of creditable service,  
23 (b) if the member has completed at least five years of creditable service  
24 plus eligibility and vesting credit and is at least sixty years of age,  
25 (c) if the member is at least sixty-five years of age upon termination,  
26 or (d) if the member is at least fifty-five years of age, has acquired  
27 the equivalent of one-half year of service as a public school employee  
28 under the retirement system following July 1, 1997, was a school employee  
29 on or after March 4, 1998, and the sum of the member's attained age and  
30 creditable service totals eighty-five.

31 (2) A member hired on or after July 1, 2016, or a member who has

1 taken a refund or retirement and is rehired or hired by a separate  
2 employer covered by the retirement system on or after July 1, 2016, upon  
3 filing a retirement application with the retirement system, may retire  
4 (a) at any age if the member has completed thirty-five years of  
5 creditable service, (b) if the member is at least fifty-five years of age  
6 and the sum of the member's attained age and creditable service totals  
7 eighty-five, or (c) if the member is at least sixty years of age and has  
8 completed at least five years of creditable service.

9 (3) A member hired on or after July 1, 2017, or a member who has  
10 taken a refund or retirement and is rehired or hired by any employer  
11 covered by the retirement system on or after July 1, 2017, upon filing a  
12 retirement application with the retirement system, may retire (a) if the  
13 member is at least sixty years of age and the sum of the member's  
14 attained age and creditable service totals ninety, or (b) if the member  
15 is at least sixty-five years of age and has completed at least five years  
16 of creditable service.

17 Sec. 10. Section 79-933, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19 79-933 (1) Upon retirement under section 79-931 and except as  
20 provided in section 8 of this act, a member or emeritus member shall  
21 receive a school retirement allowance which shall consist of the sum of:  
22 (a) A savings annuity which shall be the actuarial equivalent, as  
23 determined by the retirement board, of the member's accumulated  
24 contributions at the time of his or her retirement or, in the case of an  
25 emeritus member, the savings annuity fixed by the retirement board at the  
26 time of his or her original retirement; and (b) a service annuity to be  
27 paid by the State of Nebraska.

28 (2) The amount of any individual service annuity for (a) a full-time  
29 school employee hired on or before April 1, 1988, who retires with  
30 thirty-five or more years of service or who retires under the provisions  
31 of disability retirement, (b) a full-time school employee who provided

1 compensated service after April 1, 1988, but prior to July 19, 1996, if  
2 the service annuity commences on or after the member's sixty-fifth  
3 birthday, who retires with thirty-five or more years of service or who  
4 retires under the provisions of disability retirement, or (c) an emeritus  
5 member shall be three dollars and fifty cents per month for each year of  
6 creditable service commencing with his or her retirement on or after May  
7 19, 1981. For employees not enumerated in subdivision (a) or (b) of this  
8 subsection or for employees hired on or after July 19, 1996, if the  
9 service annuity commences prior to the member's sixty-fifth birthday, it  
10 shall be on an actuarially reduced basis. Each school employee or  
11 emeritus member who retired before July 1, 1973, and who is receiving a  
12 service annuity as of that date shall have such service annuity adjusted  
13 by the increase in the cost of living as determined by the difference  
14 between the Consumer Price Index for Urban Wage Earners and Clerical  
15 Workers from the date the service annuity commenced and July 1, 1973,  
16 except that such annuity shall not exceed three dollars and fifty cents  
17 monthly per year of service based on the same number of years of service  
18 that is currently being used to determine his or her service annuity.  
19 Such increased service annuity shall commence on July 1, 1973.

20 Sec. 11. Section 79-934, Revised Statutes Cumulative Supplement,  
21 2016, is amended to read:

22 79-934 (1) In lieu of the school retirement allowance provided by  
23 section 79-933, any member who is not an employee of a Class V school  
24 district and who becomes eligible to make application for and receive a  
25 school retirement allowance under section 79-931 may receive a formula  
26 annuity retirement allowance if it is greater than the school retirement  
27 allowance provided by section 79-933.

28 (2) Subject to the other provisions of this section, the monthly  
29 formula annuity in the normal form shall be determined by multiplying the  
30 number of years of creditable service for which such member would  
31 otherwise receive the service annuity provided by section 79-933 by (a)

1 one and one-quarter percent of his or her final average compensation for  
2 a member who has acquired the equivalent of one-half year of service or  
3 more as a school employee under the retirement system following August  
4 24, 1975, (b) one and one-half percent of his or her final average  
5 compensation for a member who has acquired the equivalent of one-half  
6 year of service or more as a school employee under the retirement system  
7 following July 17, 1982, (c) one and sixty-five hundredths percent of his  
8 or her final average compensation for a member who has acquired the  
9 equivalent of one-half year of service or more as a school employee under  
10 the retirement system following July 1, 1984, (d) one and seventy-three  
11 hundredths percent of his or her final average compensation for a member  
12 actively employed as a school employee under the retirement system or  
13 under contract with an employer on or after June 5, 1993, (e) one and  
14 eight-tenths percent of his or her final average compensation for a  
15 member who has acquired the equivalent of one-half year of service or  
16 more as a school employee under the retirement system following July 1,  
17 1995, and was employed as a school employee under the retirement system  
18 or under contract with an employer on or after April 10, 1996, (f) one  
19 and nine-tenths percent of his or her final average compensation for a  
20 member who has acquired the equivalent of one-half year of service or  
21 more as a school employee under the retirement system following July 1,  
22 1998, and was employed as a school employee under the retirement system  
23 or under contract with an employer on or after April 29, 1999, (g) two  
24 percent of his or her final average compensation for a member who has  
25 acquired the equivalent of one-half year of service or more as a school  
26 employee under the retirement system following July 1, 2000, who was  
27 employed as a school employee under the retirement system or under  
28 contract with an employer on or after May 2, 2001, and hired prior to  
29 July 1, 2016, and who has not retired prior to May 2, 2001, or (h) two  
30 percent of his or her final average compensation for a member initially  
31 hired on or after July 1, 2016, or a member who has taken a refund or

1 retirement and is rehired or hired by a separate employer covered by the  
2 retirement system on or after July 1, 2016, and has acquired the  
3 equivalent of five years of service or more as a school employee under  
4 the retirement system or under contract with an employer on or after July  
5 1, 2016. Subdivision (2)(f) of this section shall not apply to a member  
6 who is retired prior to April 29, 1999. Subdivision (2)(g) of this  
7 section shall not apply to a member who is retired prior to May 2, 2001.

8 (3) If the annuity begins on or after the sixty-fifth birthday of a  
9 member, the annuity shall not be reduced.

10 (4) For a member who is retired prior to March 4, 1998, and for  
11 retirement for a member hired on or after July 1, 2017, or for a member  
12 who has taken a refund or retirement and is rehired or hired by an  
13 employer covered by the retirement system on or after July 1, 2017, if If  
14 the annuity begins prior to the sixty-fifth birthday of the member and  
15 the member has completed thirty or more years of creditable service and  
16 is at least sixty years of age, the annuity shall not be reduced. ~~If the~~  
17 ~~annuity begins prior to the sixtieth birthday of the member and the~~  
18 ~~member has completed thirty-five or more years of creditable service, the~~  
19 ~~annuity shall be actuarially reduced on the basis of age sixty-five.~~

20 (5) If the annuity begins on or after the sixtieth birthday of the  
21 member and the member has completed at least a total of five years of (a)  
22 creditable service plus (b) eligibility and vesting credit but less than  
23 thirty years of creditable service, the annuity shall be reduced by three  
24 percent for each year by which the member's age is less than the age at  
25 which the member's age plus years of creditable service would have  
26 totaled ninety or three percent for each year after the member's sixtieth  
27 birthday and prior to his or her sixty-fifth birthday, whichever provides  
28 the greater annuity.

29 (6)(a) ~~(4)(a)~~ For retirements on or after March 4, 1998, for a  
30 member hired prior to July 1, 2016, if the annuity begins at a time when  
31 the sum of the member's attained age and creditable service totals

1 eighty-five and the member is at least fifty-five years of age, the  
2 annuity shall not be reduced. This subdivision shall only apply to a  
3 member who has acquired the equivalent of one-half year of service or  
4 more as a public school employee under the retirement system following  
5 July 1, 1997, and who was a school employee on or after March 4, 1998.  
6 This subdivision shall not apply to a member who is retired prior to  
7 March 4, 1998.

8 (b) For retirements for a member hired on or after July 1, 2016, and  
9 prior to July 1, 2017, or for a member who has taken a refund or  
10 retirement and is rehired or hired by a separate employer covered by the  
11 retirement system on or after July 1, 2016, and prior to July 1, 2017, if  
12 the annuity begins at a time when the sum of the member's attained age  
13 and creditable service totals eighty-five and the member is at least  
14 fifty-five years of age, the annuity shall not be reduced. This  
15 subdivision shall only apply to a member who has acquired the equivalent  
16 of five years of service or more as a school employee under the  
17 retirement system.

18 (c) For retirements for a member hired on or after July 1, 2017, or  
19 for a member who has taken a refund or retirement and is rehired or hired  
20 by any employer covered by the retirement system on or after July 1,  
21 2017, if the annuity begins at a time when the sum of the member's  
22 attained age and creditable service totals ninety and the member is at  
23 least sixty years of age, the annuity shall not be reduced. This  
24 subdivision shall only apply to a member who has acquired the equivalent  
25 of five years of service or more as a school employee under the  
26 retirement system.

27 (7) ~~(5)~~ Except as provided in section 42-1107, the normal form of  
28 the formula annuity shall be an annuity payable monthly during the  
29 remainder of the member's life with the provision that in the event of  
30 his or her death before sixty monthly payments have been made the monthly  
31 payments will be continued to his or her estate or to the beneficiary he



1 or she has designated until sixty monthly payments have been made. Except  
2 as provided in section 42-1107, a member may elect to receive in lieu of  
3 the normal form of annuity an actuarially equivalent annuity in any  
4 optional form provided by section 79-938.

5 (8) ~~(6)~~ All formula annuities shall be paid from the School  
6 Retirement Fund.

7 (9)(a)(i) ~~(7)(a)(i)~~ For purposes of this section, in the  
8 determination of compensation for members on or after July 1, 2005, that  
9 part of a member's compensation for the plan year which exceeds the  
10 member's compensation with the same employer for the preceding plan year  
11 by more than seven percent of the compensation base during the sixty  
12 months preceding the member's retirement shall be excluded unless (A) the  
13 member experienced a substantial change in employment position, (B) as  
14 verified by the school board, the excess compensation above seven percent  
15 occurred as the result of a collective-bargaining agreement between the  
16 employer and a recognized collective-bargaining unit or category of  
17 school employee, and the percentage increase in compensation above seven  
18 percent shall not be excluded for employees outside of a collective-  
19 bargaining unit or within the same category of school employee, or (C)  
20 the excess compensation occurred as the result of a districtwide  
21 permanent benefit change made by the employer for a category of school  
22 employee in accordance with subdivision (4)(a)(iv) of section 79-902.

23 (ii) For purposes of subdivision (9)(a) ~~(7)(a)~~ of this section:

24 (A) Category of school employee means either all employees of the  
25 employer who are administrators or certificated teachers, or all  
26 employees of the employer who are not administrators or certificated  
27 teachers, or both;

28 (B) Compensation base means (I) for current members, employed with  
29 the same employer, the member's compensation for the plan year ending  
30 June 30, 2005, or (II) for members newly hired or hired by a separate  
31 employer on or after July 1, 2005, the member's compensation for the

1 first full plan year following the member's date of hiring. Thereafter,  
2 the member's compensation base shall be increased each plan year by the  
3 lesser of seven percent of the member's preceding plan year's  
4 compensation base or the member's actual annual compensation increase  
5 during the preceding plan year; and

6 (C) Recognized collective-bargaining unit means a group of employees  
7 similarly situated with a similar community of interest appropriate for  
8 bargaining recognized as such by a school board.

9 (b)(i) In the determination of compensation for members whose  
10 retirement date is on or after July 1, 2012, through June 30, 2013, that  
11 part of a member's compensation for the plan year which exceeds the  
12 member's compensation with the same employer for the preceding plan year  
13 by more than nine percent of the compensation base shall be excluded.

14 (ii) For purposes of subdivision (9)(b) ~~(7)(b)~~ of this section,  
15 compensation base means (A) for current members employed with the same  
16 employer, the member's compensation for the plan year ending June 30,  
17 2012, or (B) for members newly hired or hired by a separate employer on  
18 or after July 1, 2012, the member's compensation for the first full plan  
19 year following the member's date of hiring.

20 (c)(i) In the determination of compensation for members whose  
21 retirement date is on or after July 1, 2013, that part of a member's  
22 compensation for the plan year which exceeds the member's compensation  
23 for the preceding plan year by more than eight percent during the capping  
24 period shall be excluded. Such member's compensation for the first plan  
25 year of the capping period shall be compared to the member's compensation  
26 received for the plan year immediately preceding the capping period.

27 (ii) For purposes of subdivision (9)(c) ~~(7)(c)~~ of this section:

28 (A) Capping period means the five plan years preceding the later of  
29 (I) such member's retirement date or (II) such member's final  
30 compensation date; and

31 (B) Final compensation date means the later of (I) the date on which

1 a retiring member's final compensation is actually paid or (II) if a  
2 retiring member's final compensation is paid in advance as a lump sum,  
3 the date on which such final compensation would have been paid to the  
4 member in the absence of such advance payment.

5 Sec. 12. Section 79-951, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 79-951 (1) Except as provided in section 8 of this act, a A member  
8 shall be retired on account of disability, either upon his or her own  
9 application or the application of his or her employer or a person acting  
10 in his or her behalf, if a medical examination, made at the expense of  
11 the retirement system and conducted by a competent disinterested  
12 physician legally authorized to practice medicine under the laws of the  
13 state in which he or she practices, selected by the retirement board,  
14 shows and the physician certifies to the retirement board that the member  
15 is unable to engage in a substantially gainful activity by reason of any  
16 medically determinable physical or mental impairment which began while  
17 the member was a participant in the plan and which can be expected to  
18 result in death or be of a long and indefinite duration. The medical  
19 examination may be waived if, in the judgment of the retirement board,  
20 extraordinary circumstances exist which preclude substantial gainful  
21 activity by the member. Such circumstances shall include hospice  
22 placement or similar confinement for a terminal illness or injury.

23 (2) The member shall have five years from the date he or she  
24 terminates employment in a public school located in Nebraska in which to  
25 make application for disability retirement benefits if the disability is  
26 related to employment in a public school located in Nebraska. If the  
27 disability is not related to a public school located in Nebraska, the  
28 member shall have one year from the date he or she terminates employment  
29 in which to make application for disability retirement benefits. Any  
30 application for retirement on account of disability shall be made on a  
31 retirement application provided by the retirement system. Upon approval

1 by the board, benefits shall begin on the disability retirement date.

2 Sec. 13. Section 79-955, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4 79-955 Upon termination of employment for any cause, other than  
5 death, ~~or~~ retirement, or retirement after retirement pursuant to section  
6 8 of this act, the retirement board shall, upon the member's demand,  
7 terminate his or her membership in the retirement system and cause to be  
8 paid to such member the accumulated contributions standing to the credit  
9 of his or her individual account in the School Retirement Fund. Any  
10 member who attains or has attained membership in another Nebraska state  
11 or school retirement system authorized by the Legislature and who elects  
12 not to be or remain a member of the School Employees Retirement System of  
13 the State of Nebraska shall have his or her accumulated contributions  
14 returned to him or her forthwith.

15 Sec. 14. Section 79-958, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17 79-958 (1) Beginning on September 1, 2012, for the purpose of  
18 providing the funds to pay for formula annuities, every employee shall be  
19 required to deposit in the School Retirement Fund nine and seventy-eight  
20 hundredths percent of compensation. Such deposits shall be transmitted at  
21 the same time and in the same manner as required employer contributions.

22 (2) For the purpose of providing the funds to pay for formula  
23 annuities, every employer shall be required to deposit in the School  
24 Retirement Fund one hundred one percent of the required contributions of  
25 the school employees of each employer. Such deposits shall be transmitted  
26 to the retirement board at the same time and in the same manner as such  
27 required employee contributions.

28 (3) The employer shall pick up the member contributions required by  
29 this section for all compensation paid on or after January 1, 1986, and  
30 the contributions so picked up shall be treated as employer contributions  
31 pursuant to section 414(h)(2) of the Internal Revenue Code in determining

1 federal tax treatment under the code and shall not be included as gross  
2 income of the member until such time as they are distributed or made  
3 available. The contributions, although designated as member  
4 contributions, shall be paid by the employer in lieu of member  
5 contributions. The employer shall pay these member contributions from the  
6 same source of funds which is used in paying earnings to the member. The  
7 employer shall pick up these contributions by a compensation deduction  
8 through a reduction in the cash compensation of the member. Member  
9 contributions picked up shall be treated for all purposes of the School  
10 Employees Retirement Act in the same manner and to the same extent as  
11 member contributions made prior to the date picked up.

12 (4) The employer shall pick up the member contributions made through  
13 irrevocable payroll deduction authorizations pursuant to sections 79-921,  
14 79-933.03 to 79-933.06, and 79-933.08 and section 8 of this act, and the  
15 contributions so picked up shall be treated as employer contributions in  
16 the same manner as contributions picked up under subsection (3) of this  
17 section.

18 Sec. 15. Section 79-978, Revised Statutes Cumulative Supplement,  
19 2016, is amended to read:

20 79-978 For purposes of the Class V School Employees Retirement Act,  
21 unless the context otherwise requires:

22 (1) Accumulated contributions means the sum of amounts contributed  
23 by a member of the system together with regular interest credited  
24 thereon;

25 (2) Actuarial equivalent means the equality in value of the  
26 retirement allowance for early retirement or the retirement allowance for  
27 an optional form of annuity, or both, with the normal form of the annuity  
28 to be paid, as determined by the application of the appropriate actuarial  
29 table, except that use of such actuarial tables shall not effect a  
30 reduction in benefits accrued prior to September 1, 1985, as determined  
31 by the actuarial tables in use prior to such date;

1 (3) Actuarial tables means:

2 (a) For determining the actuarial equivalent of any annuities other  
3 than joint and survivorship annuities, a unisex mortality table using  
4 twenty-five percent of the male mortality and seventy-five percent of the  
5 female mortality from the 1994 Group Annuity Mortality Table with a One  
6 Year Setback and using an interest rate of eight percent compounded  
7 annually; and

8 (b) For joint and survivorship annuities, a unisex retiree mortality  
9 table using sixty-five percent of the male mortality and thirty-five  
10 percent of the female mortality from the 1994 Group Annuity Mortality  
11 Table with a One Year Setback and using an interest rate of eight percent  
12 compounded annually and a unisex joint annuitant mortality table using  
13 thirty-five percent of the male mortality and sixty-five percent of the  
14 female mortality from the 1994 Group Annuity Mortality Table with a One  
15 Year Setback and using an interest rate of eight percent compounded  
16 annually;

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

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

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

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

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

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

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

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

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

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

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

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

1 attained age sixty;

2 (13) Employee means the following enumerated persons receiving  
3 compensation from the school district: (a) Regular teachers and  
4 administrators employed on a written contract basis; and (b) regular  
5 employees, not included in subdivision (13)(a) of this section, hired  
6 upon a full-time basis, which basis shall contemplate a workweek of not  
7 less than thirty hours;

8 (14) Employer means the school district;

9 (15) (14) Fiscal year means the period beginning September 1 in any  
10 year and ending on August 31 of the next succeeding year;

11 (16) (15) Interest means, for the purchase of service credit, the  
12 purchase of prior service credit, restored refunds, and delayed payments,  
13 the investment return assumption used in the most recent actuarial  
14 valuation;

15 (17) (16) Member means any employee included in the membership of  
16 the retirement system or any former employee who has made contributions  
17 to the system and has not received a refund;

18 (18) (17) Membership service means service on or after September 1,  
19 1951, as an employee of the school district and a member of the system  
20 for which compensation is paid by the school district. Credit for more  
21 than one year of membership service shall not be allowed for service  
22 rendered in any fiscal year. Beginning September 1, 2005, a member shall  
23 be credited with a year of membership service for each fiscal year in  
24 which the member performs one thousand or more hours of compensated  
25 service as an employee of the school district. An hour of compensated  
26 service shall include any hour for which the member is compensated by the  
27 school district during periods where no service is performed due to  
28 vacation or approved leave. If a member performs less than one thousand  
29 hours of compensated service during a fiscal year, one-tenth of a year of  
30 membership service shall be credited for each one hundred hours of  
31 compensated service by the member in such fiscal year. In determining a



1 member's total membership service, all periods of membership service,  
2 including fractional years of membership service in one-tenth-year  
3 increments, shall be aggregated;

4 (19) ~~(18)~~ Military service means service in the uniformed services  
5 as defined in 38 U.S.C. 4301 et seq., as such provision existed on March  
6 27, 1997;

7 (20) ~~(19)~~ Normal retirement date means the end of the month during  
8 which the member attains age sixty-five and has completed at least five  
9 years of membership service;

10 (21) ~~(20)~~ Primary beneficiary means the person or persons entitled  
11 to receive or receiving a benefit by reason of the death of a member;

12 (22) ~~(21)~~ Prior service means service rendered prior to September 1,  
13 1951, for which credit is allowed under section 79-999, service rendered  
14 by retired employees receiving benefits under preexisting systems, and  
15 service for which credit is allowed under sections 79-990, 79-991,  
16 79-994, 79-995, and 79-997;

17 (23) ~~(22)~~ Regular interest means interest (a) on the total  
18 contributions of the member prior to the close of the last preceding  
19 fiscal year, (b) compounded annually, and (c)(i) beginning September 1,  
20 2016, at a rate equal to the daily treasury yield curve for one-year  
21 treasury securities, as published by the Secretary of the Treasury of the  
22 United States, that applies on September 1 of each year and (ii) prior to  
23 September 1, 2016, at rates to be determined annually by the board, which  
24 shall have the sole, absolute, and final discretionary authority to make  
25 such determination, except that the rate for any given year in no event  
26 shall exceed the actual percentage of net earnings of the system during  
27 the last preceding fiscal year;

28 (24) ~~(23)~~ Retirement allowance means the total annual retirement  
29 benefit payable to a member for service or disability;

30 (25) ~~(24)~~ Retirement date means the date of retirement of a member  
31 for service or disability as fixed by the board of trustees;

1           (26) ~~(25)~~ Retirement system or system means the School Employees'  
2 Retirement System of (corporate name of the school district as described  
3 in section 79-405) as provided for by the act;

4           (27) ~~(26)~~ Secondary beneficiary means the person or persons entitled  
5 to receive or receiving a benefit by reason of the death of all primary  
6 beneficiaries prior to the death of the member. If no primary beneficiary  
7 survives the member, secondary beneficiaries shall be treated in the same  
8 manner as primary beneficiaries;

9           (28) ~~(27)~~ State investment officer means the state investment  
10 officer appointed pursuant to section 72-1240 and acting pursuant to the  
11 Nebraska State Funds Investment Act; ~~and~~

12           (29)(a) Termination of employment occurs on the date on which the  
13 member experiences a bona fide separation from service of employment with  
14 the employer, the date of which separation is determined by the end of  
15 the member's contractual agreement or, if there is no contract or only  
16 partial fulfillment of a contract, by the employer. A member shall not be  
17 deemed to have terminated employment if:

18           (i) The member subsequently provides service in any capacity to the  
19 same employer or to an employer participating in a retirement system  
20 provided for in the County Employees Retirement Act, the Nebraska State  
21 Patrol Retirement Act, the School Employees Retirement Act, or the State  
22 Employees Retirement Act within one hundred eighty days after he or she  
23 ceases such employment; or

24           (ii) The member accepted an early retirement incentive pursuant to  
25 section 79-855 and, within three years after accepting such incentive and  
26 ceasing such employment, subsequently provides service in any capacity to  
27 an employer participating in a retirement system provided for in the  
28 Class V School Employees Retirement Act, the County Employees Retirement  
29 Act, the Nebraska State Patrol Retirement Act, the School Employees  
30 Retirement Act, or the State Employees Retirement Act.

31           (b) If the board of trustees determines that termination of

1 employment has not occurred and a retirement benefit has been paid to a  
2 member of the retirement system pursuant to section 79-999, 79-9,100, or  
3 79-9,100.01, the board of trustees shall require the member who has  
4 received such benefit to repay the benefit to the retirement system; and

5 (30) (28) Trustee means a trustee provided for in section 79-980.

6 Sec. 16. Section 79-978.01, Revised Statutes Cumulative Supplement,  
7 2016, is amended to read:

8 79-978.01 Sections 79-978 to 79-9,118 and section 18 of this act  
9 shall be known and may be cited as the Class V School Employees  
10 Retirement Act.

11 Sec. 17. Section 79-992, Revised Statutes Cumulative Supplement,  
12 2016, is amended to read:

13 79-992 (1) A member who has five years or more of creditable  
14 service, excluding years of prior service acquired pursuant to section  
15 79-990, 79-991, 79-994, 79-995, or 79-997, and who terminates ~~severs~~ his  
16 or her employment may elect to leave his or her contributions in the  
17 retirement system, in which event he or she shall receive a retirement  
18 allowance at normal retirement age based on the annuity earned to the  
19 date of such termination of employment ~~severance~~. Such member may elect  
20 to receive a retirement allowance at early retirement age if such member  
21 retires at an early retirement date. Such annuity shall be adjusted in  
22 accordance with section 79-9,100. Upon termination ~~the severance~~ of  
23 employment, except on account of retirement, a member shall be entitled  
24 to receive refunds as follows: (a) An amount equal to the accumulated  
25 contributions to the retirement system by the member; and (b) any  
26 contributions made to a previously existing system which were refundable  
27 under the terms of that system. Any member receiving a refund of  
28 contributions shall thereby forfeit and relinquish all accrued rights in  
29 the retirement system including all accumulated creditable service,  
30 except that if any member who has withdrawn his or her contributions as  
31 provided in this section reenters the service of the district and again

1 becomes a member of the retirement system, he or she may restore any or  
2 all money previously received by him or her as a refund, including the  
3 interest on the amount of the restored refund for the period of his or  
4 her absence from the district's service as determined using the interest  
5 rate for interest on such restored refunds, and he or she shall then  
6 again receive credit for that portion of service which the restored money  
7 represents. Such restoration may be made as the board of trustees may  
8 direct through direct payments to the system or on an installment basis  
9 pursuant to a binding irrevocable payroll deduction authorized between  
10 the member and the school district over a period of not to exceed five  
11 years from the date of reemployment. Interest on delayed payments shall  
12 be at the rate of interest for determining interest on delayed payments  
13 by members to the retirement system. Creditable service may be purchased  
14 only in one-tenth-year increments, starting with the most recent years'  
15 salary.

16 (2) Except as provided in section 18 of this act:

17 (a) {2} A retired member who returns to employment as an employee of  
18 the school district shall again participate in the retirement system as a  
19 new member and shall make contributions to the retirement system  
20 commencing upon reemployment. The retirement annuity of a retired member  
21 who returns to employment with the school district shall continue to be  
22 paid by the retirement system. A retired member who returns to employment  
23 as an employee of the school district shall receive creditable service  
24 only for service performed after his or her return to employment and in  
25 no event shall creditable service which accrues or the compensation paid  
26 to the member after such return to employment after retirement increase  
27 the amount of the member's original retirement annuity; and -

28 (b) {3} Upon termination of employment of the reemployed member, the  
29 member shall receive in addition to the retirement annuity which  
30 commenced at the time of the previous retirement (i) {a} if the member  
31 has accrued five years or more of creditable service after his or her

1 return to employment, excluding years of prior service acquired pursuant  
2 to section 79-990, 79-991, 79-994, 79-995, or 79-997, a retirement  
3 annuity as provided in section 79-999 or 79-9,100, as applicable,  
4 calculated solely on the basis of creditable service and final average  
5 compensation accrued and earned after the member's return to employment  
6 after his or her original retirement, and as adjusted to reflect any  
7 payment in other than the normal form or (ii) ~~(b)~~ if the member has not  
8 accrued five years or more of creditable service after his or her return  
9 to employment, a refund equal to the member's accumulated contributions  
10 which were credited to the member after the member's return to  
11 employment. In no event shall the member's creditable service which  
12 accrued prior to a previous retirement be considered as part of the  
13 member's creditable service after his or her return to employment for any  
14 purpose of the Class V School Employees Retirement Act.

15 (3) ~~(4)~~ In the event a member is entitled to receive a refund of  
16 contributions pursuant to subsection (1) or subdivision (2)(b)(ii) ~~(3)(b)~~  
17 of this section in an amount greater than one thousand dollars, if the  
18 member does not elect to have the refund paid directly to himself or  
19 herself or transferred to an eligible retirement plan designated by the  
20 member as a direct rollover pursuant to section 79-998, then the refund  
21 of contributions shall be paid in a direct rollover to an individual  
22 retirement plan designated by the board of trustees.

23 Sec. 18. (1) On or after July 1, 2017, a retired member of the  
24 retirement system who is hired or rehired by an employer participating in  
25 a retirement system provided for in the Class V School Employees  
26 Retirement Act, the County Employees Retirement Act, the Nebraska State  
27 Patrol Retirement Act, the School Employees Retirement Act, or the State  
28 Employees Retirement Act:

29 (a) Shall certify under oath or affirmation that, prior to  
30 retirement, he or she did not have a prearranged agreement to work after  
31 retirement with any such employer; and

1       (b) Shall meet the requirements for termination of employment as  
2 defined in section 79-978 in order to commence such employment or  
3 reemployment after retirement.

4       (2) A retired member who complies with subsection (1) of this  
5 section and returns to employment shall participate in the retirement  
6 system as a new member and shall make contributions to the retirement  
7 system commencing upon reemployment. The retirement annuity of a retired  
8 member who returns to employment shall continue to be paid by the  
9 retirement system. A retired member who returns to employment as an  
10 employee shall receive creditable service only for service performed  
11 after his or her return to employment. In no event shall creditable  
12 service which accrues or the compensation paid to the member after such  
13 return to employment after retirement increase the amount of the member's  
14 original retirement annuity.

15       (3) Upon termination of employment of a retired member described in  
16 subsection (2) of this section, the member shall receive in addition to  
17 the retirement annuity which commenced at the time of the previous  
18 retirement:

19       (a) If the member has accrued ten years or more of creditable  
20 service after his or her return to employment, excluding years of prior  
21 service acquired prior to retirement, a retirement annuity as provided in  
22 section 79-999, 79-9,100, or 79-9,100.01, as applicable, shall be  
23 calculated solely on the basis of creditable service and final average  
24 compensation accrued and earned after the member's return to employment  
25 described in subsection (2) of this section and as adjusted to reflect  
26 any payment in other than the normal form; or

27       (b) If the member has not accrued ten years or more of creditable  
28 service after his or her return to employment, a refund equal to the  
29 member's accumulated contributions which were credited to the member  
30 after the member's return to employment described in subsection (2) of  
31 this section. In no event shall the member's creditable service which

1 accrued prior to a previous retirement be considered as part of the  
2 member's creditable service after his or her return to employment for any  
3 purpose under the Class V School Employees Retirement Act.

4 The member shall not be eligible to subsequently retire on account  
5 of disability pursuant to section 79-9,105.

6 (4) The employer shall notify the State Department of Education of  
7 the date upon which a member terminates employment.

8 (5) The employer and member shall certify under oath or affirmation  
9 that, prior to the member's retirement, there was no prearranged  
10 agreement to return to work in any capacity, including, but not limited  
11 to, acceptance of employment under a personal services contract as an  
12 independent contractor, as a consultant, or with a private leasing  
13 company, a temporary staffing agency, or any other company. The member  
14 shall also certify that, prior to his or her retirement, there was no  
15 prearranged agreement to commence employment in any capacity, as  
16 described in this subsection, with an employer participating in a  
17 retirement system provided for in the Class V School Employees Retirement  
18 Act, the County Employees Retirement Act, the Nebraska State Patrol  
19 Retirement Act, the School Employees Retirement Act, or the State  
20 Employees Retirement Act.

21 (6) The retirement board may adopt and promulgate rules and  
22 regulations and prescribe forms necessary to carry out this section.

23 Sec. 19. Section 79-9,100.01, Revised Statutes Cumulative  
24 Supplement, 2016, is amended to read:

25 79-9,100.01 Except as provided in subdivision (1)(b) of this  
26 section, for For employees who become members on or after July 1, 2016:

27 (1)(a) ~~(1)~~ If the annuity begins at a time when the sum of the  
28 member's attained age and creditable service totals eighty-five and the  
29 member is at least fifty-five years of age, the annuity shall not be  
30 reduced;

31 (b) For employees who become members on or after July 1, 2017, if

1 the annuity begins at a time when the sum of the member's attained age  
2 and creditable service totals ninety and the member is at least sixty  
3 years of age, the annuity shall not be reduced;

4 (2) If the annuity begins on or after the sixtieth birthday of the  
5 member and the member has completed at least a total of five years of  
6 creditable service, the annuity shall be reduced by twenty-five  
7 hundredths percent for each month or partial month between the date the  
8 annuity begins and the member's sixty-fifth birthday;

9 (3) A member's attained age shall be measured in one-half-year  
10 increments;

11 (4) Except as provided in section 42-1107, the normal form of the  
12 formula retirement annuity based on final average compensation shall be  
13 an annuity payable monthly during the remainder of the member's life with  
14 the provision that, in the event of his or her death before sixty monthly  
15 payments have been made, the monthly payments will be continued to his or  
16 her estate or to the beneficiary he or she has designated until a total  
17 of sixty monthly payments have been made. A member may elect to receive,  
18 in lieu of the normal form of annuity, an actuarially equivalent annuity  
19 in any optional form provided by section 79-9,101; and

20 (5) All formula annuities shall be paid from the Class V School  
21 Employees Retirement Fund.

22 Sec. 20. Section 79-9,105, Revised Statutes Cumulative Supplement,  
23 2016, is amended to read:

24 79-9,105 (1) Any member with five or more years of creditable  
25 service, excluding years of prior service acquired pursuant to section  
26 79-990, 79-991, 79-994, 79-995, or 79-997, who becomes totally disabled  
27 for further performance of duty on or after March 22, 2000, may be  
28 approved for deferred disability retirement by the board of trustees. In  
29 the case of such deferred disability retirement, the member, during the  
30 period specified in subsection (3) of this section, shall be credited  
31 with creditable service for each year or portion thereof, to be



1 determined in accordance with policies of the board of trustees governing  
2 creditable service, that the member defers retirement, up to a maximum of  
3 thirty-five years of total creditable service, including creditable  
4 service accrued before the member became totally disabled. The member  
5 approved for deferred disability retirement may at any time of the  
6 member's choosing request the deferral to end and retirement annuity  
7 payments to begin. The retirement annuity of such member shall be based  
8 on the total number of years of the member's creditable service,  
9 including the years credited to the member during his or her total  
10 disability under this section, and the member's final average salary as  
11 of the date that the member became totally disabled and as adjusted from  
12 such date by a percentage equal to the cumulative percentage cost-of-  
13 living adjustments that were made or declared for annuities in pay status  
14 pursuant to section 79-9,103 after the date of the approval of the board  
15 of trustees for deferred disability retirement and before the cessation  
16 of the accrual of additional creditable service pursuant to subsection  
17 (3) of this section. Except as provided in subsection (4) of this  
18 section, the retirement annuity so determined for the member shall be  
19 payable to the member without reduction due to any early commencement of  
20 benefits, except that the retirement annuity shall be reduced by the  
21 amount of any periodic payments to such employee as workers' compensation  
22 benefits. Additional creditable service acquired through deferred  
23 disability retirement shall apply to the service requirements specified  
24 in section 79-9,106. The board of trustees shall consider a member to be  
25 totally disabled when it has received an application by the member and a  
26 statement by at least two licensed and practicing physicians designated  
27 by the board of trustees certifying that the member is totally and  
28 presumably permanently disabled and unable to perform his or her duties  
29 as a consequence thereof.

30 (2) Notwithstanding the provisions of subsection (1) of this  
31 section, the payment of the retirement annuity of a member may not be

1 deferred later than the member's required beginning date as defined in  
2 section 401(a)(9) of the Internal Revenue Code, as defined in section  
3 49-801.01. If the payment of a disabled member's retirement annuity is  
4 required to commence before the member has elected to end his or her  
5 deferred disability retirement, the amount of benefit that would have  
6 accrued pursuant to subsection (1) of this section in the fiscal year of  
7 the member's required beginning date, and in each subsequent fiscal year  
8 through the year of the member's election to end the deferred disability  
9 retirement period, shall be reduced, but not below zero, by the actuarial  
10 equivalent of the payments which were paid to the member during each such  
11 fiscal year and after the member's required beginning date. The  
12 retirement annuity of any member that commences before the end of the  
13 member's deferred disability retirement shall be adjusted as of each  
14 September 1 pursuant to the requirements of this subsection.

15 (3) The accrual of creditable service and any adjustment of final  
16 average salary provided in subsection (1) of this section shall begin  
17 from the first day of the month following the date of the first of the  
18 two examinations by which the member is determined by the board of  
19 trustees to be totally disabled, shall continue only so long as the  
20 member does not receive any wages or compensation for services, and shall  
21 end at the earlier of (a) the time total disability ceases as determined  
22 by the board of trustees or (b) the date the member elects to end the  
23 deferred disability retirement and begin to receive his or her retirement  
24 annuity. The board of trustees may require periodic proof of disability  
25 but not more frequently than semiannually.

26 (4)(a) For an employee hired prior to July 1, 2017, the ~~(4)~~ The  
27 payment of any retirement annuity to a disabled member, which begins to  
28 be paid under this section (i) ~~(a)~~ before the member's sixty-second  
29 birthday or (ii) ~~(b)~~ at a time before the sum of the member's attained  
30 age and creditable service is eighty-five or more, shall be suspended if  
31 the board of trustees determines at any time before the member's sixty-

1 second birthday that the member's total disability has ceased.

2 (b) For an employee hired on or after July 1, 2017, the payment of  
3 any retirement annuity to a disabled member, which begins to be paid  
4 under this section (i) before the member's sixty-fifth birthday or (ii)  
5 at a time before the sum of the member's attained age and creditable  
6 service is ninety or more, shall be suspended if the board of trustees  
7 determines at any time before the member's sixty-fifth birthday that the  
8 member's total disability has ceased.

9 (c) Payment of the retirement annuity of such member as determined  
10 under this section shall recommence at the member's early retirement date  
11 or normal retirement date but shall be subject to reduction at such time  
12 as specified in section 79-9,100.

13 Sec. 21. Section 81-2014, Revised Statutes Cumulative Supplement,  
14 2016, is amended to read:

15 81-2014 For purposes of the Nebraska State Patrol Retirement Act:

16 (1) Actuarial equivalent means the equality in value of the  
17 aggregate amounts expected to be received under different forms of  
18 payment or to be received at an earlier retirement age than the normal  
19 retirement age. The determinations shall be based on the 1994 Group  
20 Annuity Mortality Table reflecting sex-distinct factors blended using  
21 seventy-five percent of the male table and twenty-five percent of the  
22 female table. An interest rate of eight percent per annum shall be  
23 reflected in making the determinations until such percent is amended by  
24 the Legislature;

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

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

1 for retroactive salary payments paid pursuant to court order,  
2 arbitration, or litigation and grievance settlements. Compensation  
3 includes overtime pay, member retirement contributions, and amounts  
4 contributed by the member to plans under sections 125 and 457 of the  
5 Internal Revenue Code as defined in section 49-801.01 or any other  
6 section of the code which defers or excludes such amounts from income.

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

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

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

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

27 (4) Creditable service means service granted pursuant to section  
28 81-2034 and all service rendered while a contributing member of the  
29 retirement system. Creditable service includes working days, sick days,  
30 vacation days, holidays, and any other leave days for which the officer  
31 is paid regular wages except as specifically provided in the Nebraska

1 State Patrol Retirement Act. Creditable service does not include  
2 eligibility and vesting credit nor service years for which member  
3 contributions are withdrawn and not repaid;

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

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

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

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

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

19 (10) Initial benefit means the retirement benefit calculated at the  
20 time of retirement;

21 (11) Officer means an officer provided for in sections 81-2001 to  
22 81-2009;

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

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

30 (14) Retirement application means the form approved and provided by  
31 the retirement system for acceptance of a member's request for either

1 regular or disability retirement;

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

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

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

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

31 (19)(a) ~~(19)~~ Termination of employment occurs on the date on which

1 the Nebraska State Patrol determines that the officer's employer-employee  
2 relationship with the patrol is dissolved. The Nebraska State Patrol  
3 shall notify the board of the date on which such a termination has  
4 occurred.

5 (b) Termination of employment does not include ceasing employment  
6 with the Nebraska State Patrol if the officer returns to regular  
7 employment in any capacity with the Nebraska State Patrol or another  
8 agency of the State of Nebraska or provides service in any capacity to  
9 any employer participating in a retirement system provided for in the  
10 Class V School Employees Retirement Act, the County Employees Retirement  
11 Act, or the School Employees Retirement Act and there are less than one  
12 hundred twenty days between the date when the employee's employer-  
13 employee relationship ceased and the date when the employer-employee  
14 relationship commenced with the Nebraska State Patrol or an employer  
15 participating in a retirement system provided for in the Class V School  
16 Employees Retirement Act, the County Employees Retirement Act, the School  
17 Employees Retirement Act, or the State Employees Retirement Act ~~or~~  
18 ~~another state agency.~~

19 (c) Termination does not occur if an officer accepted an early  
20 retirement incentive and, within three years after accepting such  
21 incentive and ceasing such employment, subsequently provides service in  
22 any capacity to an employer participating in a retirement system provided  
23 for in the Class V School Employees Retirement Act, the County Employees  
24 Retirement Act, the Nebraska State Patrol Retirement Act, the School  
25 Employees Retirement Act, or the State Employees Retirement Act.

26 (d) Termination of employment does not occur upon an officer's  
27 participation in DROP pursuant to section 81-2041.

28 (e) It is the responsibility of the employer that is involved in the  
29 termination of employment to notify the board of such change in  
30 employment and provide the board with such information as the board deems  
31 necessary, including, but not limited to, certification as required in

1 subdivision (f) of this subsection. If the board determines that  
2 termination of employment has not occurred and a retirement benefit has  
3 been paid to a member of the retirement system pursuant to section  
4 81-2026, the board shall require the member who has received such benefit  
5 to repay the benefit to the retirement system.

6 (f) The employer involved in the termination of employment and the  
7 officer shall certify under oath or affirmation that, prior to the  
8 officer's retirement, there was no prearranged agreement to return to  
9 work in any capacity, including, but not limited to, acceptance of  
10 employment under a personal services contract as an independent  
11 contractor, as a consultant, or with a private leasing company, a  
12 temporary staffing agency, or any other company. The officer shall also  
13 certify that, prior to his or her retirement, there was no prearranged  
14 agreement to commence employment in any capacity, as described in this  
15 subdivision, with an employer participating in a retirement system  
16 provided for in the Class V School Employees Retirement Act, the County  
17 Employees Retirement Act, the School Employees Retirement Act, or the  
18 State Employees Retirement Act.

19 Sec. 22. Section 81-2031.05, Reissue Revised Statutes of Nebraska,  
20 is amended to read:

21 81-2031.05 (1) Except as provided in this section, a A retired  
22 officer of the Nebraska State Patrol who becomes a member of the Nebraska  
23 State Patrol shall continue receiving retirement benefits and shall be  
24 treated for all purposes of the Nebraska State Patrol Retirement Act as a  
25 new member of the system.

26 (2) On or after July 1, 2017, a retired member of the Nebraska State  
27 Patrol who is hired or rehired in any capacity by the Nebraska State  
28 Patrol or by an employer participating in a retirement system provided  
29 for in the Class V School Employees Retirement Act, the County Employees  
30 Retirement Act, the School Employees Retirement Act, or the State  
31 Employees Retirement Act:



1       (a) Shall certify under oath or affirmation that, prior to  
2 retirement, he or she did not have a prearranged agreement to work after  
3 retirement in any capacity with the Nebraska State Patrol or any such  
4 employer; and

5       (b) Shall meet the requirements for termination of employment as  
6 defined in section 81-2014 in order to commence such employment or  
7 reemployment after retirement.

8       (3) A retired officer who complies with subsection (2) of this  
9 section and returns to employment as an officer shall again participate  
10 in the retirement system as a new member and shall make contributions to  
11 the retirement system commencing upon reemployment. The retirement  
12 annuity of a retired officer who returns to employment shall continue to  
13 be paid by the retirement system. A retired officer who returns to  
14 employment as an officer shall receive creditable service only for  
15 service performed after his or her return to employment. In no event  
16 shall creditable service which accrues or the compensation paid to the  
17 officer after such return to employment after retirement increase the  
18 amount of the officer's original retirement annuity.

19       (4) Upon termination of employment of a retired officer described in  
20 subsection (3) of this section, the officer shall receive in addition to  
21 the retirement annuity which commenced at the time of the previous  
22 retirement:

23       (a) If the officer has accrued ten years or more of creditable  
24 service after his or her return to employment, excluding years of prior  
25 service acquired prior to retirement, a retirement annuity as provided in  
26 section 81-2026, as applicable, shall be calculated solely on the basis  
27 of creditable service and final average compensation accrued and earned  
28 after the officer's return to employment described in subsection (3) of  
29 this section and as adjusted to reflect any payment in other than the  
30 normal form; or

31       (b) If the officer has not accrued ten years or more of creditable

1 service after his or her return to employment, a refund equal to the  
2 officer's accumulated contributions which were credited to the officer  
3 after the officer's return to employment described in subsection (3) of  
4 this section. In no event shall the officer's creditable service which  
5 accrued prior to a previous retirement be considered as part of the  
6 officer's creditable service after his or her return to employment for  
7 any purpose under the Nebraska State Patrol Retirement Act.

8 The member shall not be eligible to subsequently retire on account  
9 of disability pursuant to sections 81-2028 to 81-2030.

10 (5) The retirement board may adopt and promulgate rules and  
11 regulations and prescribe forms necessary to carry out this section.

12 Sec. 23. Section 84-1301, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

14 84-1301 For purposes of the State Employees Retirement Act, unless  
15 the context otherwise requires:

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

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

1 payment option chosen by the member;

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

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

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

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

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

31 (7) Defined contribution benefit means a member's retirement benefit

1 from a money purchase plan in which member benefits equal annual  
2 contributions and earnings pursuant to section 84-1310 and, if vested,  
3 employer contributions and earnings pursuant to section 84-1311;

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

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

1 to become members of the retirement system pursuant to section 79-920 or  
2 been made members of the system pursuant to such section, except that  
3 those persons so eligible and who as of September 2, 1973, are  
4 contributing to the State Employees Retirement System of the State of  
5 Nebraska shall continue as members of such system, or (j) employees of  
6 the Coordinating Commission for Postsecondary Education who are eligible  
7 for and have elected to become members of a qualified retirement program  
8 approved by the commission which is commensurate with retirement programs  
9 at the University of Nebraska. Any individual appointed by the Governor  
10 may elect not to become a member of the State Employees Retirement System  
11 of the State of Nebraska;

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

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

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

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

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

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

28 (16) Guaranteed investment contract means an investment contract or  
29 account offering a return of principal invested plus interest at a  
30 specified rate. For investments made after July 19, 1996, guaranteed  
31 investment contract does not include direct obligations of the United

1 States or its instrumentalities, bonds, participation certificates or  
2 other obligations of the Federal National Mortgage Association, the  
3 Federal Home Loan Mortgage Corporation, or the Government National  
4 Mortgage Association, or collateralized mortgage obligations and other  
5 derivative securities. This subdivision shall not be construed to require  
6 the liquidation of investment contracts or accounts entered into prior to  
7 July 19, 1996;

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

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

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

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

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

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

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

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

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

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

17          (27) Retirement means qualifying for and accepting the retirement  
18 benefit granted under the State Employees Retirement Act after  
19 terminating employment;

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

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

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

31          (31) Retirement system means the State Employees Retirement System

1 of the State of Nebraska;

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

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

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)(a) ~~(35)~~ Termination of employment occurs on the date on which  
26 the agency which employs the member determines that the member's  
27 employer-employee relationship with the State of Nebraska is dissolved.  
28 The agency which employs the member shall notify the board of the date on  
29 which such a termination has occurred.

30 (b) Termination of employment does not occur if an employee whose  
31 employer-employee relationship with the State of Nebraska is dissolved



1 (i) enters into an employer-employee relationship in any capacity with  
2 the same or another agency of the State of Nebraska and there are less  
3 than one hundred twenty days between the date when the employee's  
4 employer-employee relationship ceased with the state and the date when  
5 the employer-employee relationship commenced with the same or another  
6 agency, (ii) provides service in any capacity to an employer  
7 participating in a retirement system provided for in the Class V School  
8 Employees Retirement Act, the County Employees Retirement Act, the  
9 Nebraska State Patrol Retirement Act, or the School Employees Retirement  
10 Act and there are less than one hundred twenty days between the date when  
11 the employee's employer-employee relationship ceased with the state and  
12 the date when the service commenced with the other employer which  
13 qualified for participation in the other retirement system, or (iii) if  
14 the member accepted an early retirement incentive and within three years  
15 after accepting such incentive and ceasing such employment, subsequently  
16 provides service in any capacity to an employer participating in a  
17 retirement system provided for in the Class V School Employees Retirement  
18 Act, the County Employees Retirement Act, the Nebraska State Patrol  
19 Retirement Act, the School Employees Retirement Act, or the State  
20 Employees Retirement Act.

21 (c) 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.

25 (d) If the board determines that termination of employment has not  
26 occurred and a retirement benefit has been paid to a member of the  
27 retirement system pursuant to section 84-1321, the board shall require  
28 the member who has received such benefit to repay the benefit to the  
29 retirement system; and

30 (36) Vesting credit means credit for years, or a fraction of a year,  
31 of participation in another Nebraska governmental plan for purposes of

1 determining vesting of the employer account.

2 Sec. 24. Section 84-1322, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4 84-1322 (1) Except as otherwise provided in this section, a member  
5 of the retirement system who has a five-year break in service shall upon  
6 reemployment be considered a new employee with respect to the State  
7 Employees Retirement Act and shall not receive credit for service prior  
8 to his or her reemployment date.

9 (2)(a) A member who ceases to be an employee before becoming  
10 eligible for retirement under section 84-1317 and again becomes a  
11 permanent full-time or permanent part-time state employee prior to having  
12 a five-year break in service shall immediately be reenrolled in the  
13 retirement system and resume making contributions. For purposes of  
14 vesting employer contributions made prior to and after reentry into the  
15 retirement system under subsection (3) of section 84-1321, years of  
16 participation include years of participation prior to such employee's  
17 original termination. For a member who is not vested and has received a  
18 termination benefit pursuant to section 84-1321, the years of  
19 participation prior to such employee's original termination shall be  
20 limited in a ratio equal to the amount that the member repays divided by  
21 the termination benefit withdrawn pursuant to section 84-1321. This  
22 subsection shall apply whether or not the person was a state employee on  
23 April 20, 1986, or July 17, 1986.

24 (b) The reemployed member may repay the value of, or a portion of  
25 the value of, the termination benefit withdrawn pursuant to section  
26 84-1321. A reemployed member who elects to repay all or a portion of the  
27 value of the termination benefit withdrawn pursuant to section 84-1321  
28 shall repay the actual earnings on such value. Repayment of the  
29 termination benefit shall commence within three years after reemployment  
30 and shall be completed within five years after reemployment or prior to  
31 termination of employment, whichever occurs first, through (i) direct

1 payments to the retirement system, (ii) installment payments made  
2 pursuant to a binding irrevocable payroll deduction authorization made by  
3 the member, (iii) an eligible rollover distribution as provided under the  
4 Internal Revenue Code, or (iv) a direct rollover distribution made in  
5 accordance with section 401(a)(31) of the Internal Revenue Code.

6 (c) The value of the member's forfeited employer account or employer  
7 cash balance account, as of the date of forfeiture, shall be restored in  
8 a ratio equal to the amount of the benefit that the member has repaid  
9 divided by the termination benefit received. The employer account or  
10 employer cash balance account shall be restored first out of the current  
11 forfeiture amounts and then by additional employer contributions.

12 (3) Except as provided in subsection (4) of this section, for ~~For~~ a  
13 member who retired pursuant to section 84-1317 and becomes a permanent  
14 full-time employee or permanent part-time employee with the state more  
15 than one hundred twenty days after his or her retirement date, the member  
16 shall continue receiving retirement benefits. Such a retired member or a  
17 retired member who received a lump-sum distribution of his or her benefit  
18 shall be considered a new employee as of the date of reemployment and  
19 shall not receive credit for any service prior to the member's retirement  
20 for purposes of the act.

21 (4)(a) On or after July 1, 2017, a retired member of the retirement  
22 system who is hired or rehired in any capacity by an employer  
23 participating in a retirement system provided for in the Class V School  
24 Employees Retirement Act, the County Employees Retirement Act, the  
25 Nebraska State Patrol Retirement Act, the School Employees Retirement  
26 Act, or the State Employees Retirement Act:

27 (i) Shall certify under oath that, prior to retirement, he or she  
28 did not have a prearranged agreement to work after retirement in any  
29 capacity with any such employer; and

30 (ii) Shall meet the requirements for termination of employment as  
31 defined in section 84-1301 in order to commence such employment or

1 reemployment after retirement.

2 (b) A retired member who complies with subdivision (a) of this  
3 subsection and returns to employment in any capacity as an employee with  
4 an employer in the State Employees Retirement Act shall again participate  
5 in the retirement system as a new member and shall make contributions to  
6 the retirement system commencing upon reemployment. The retirement  
7 benefit of a retired member who returns to employment shall continue to  
8 be paid by the retirement system. A retired member who returns to  
9 employment as an employee shall receive vesting credit only for service  
10 performed after his or her return to employment. In no event shall  
11 vesting credit which accrues or the compensation paid to the member after  
12 such return to employment after retirement increase the amount of the  
13 member's original retirement benefit.

14 (c) Upon termination of employment of a retired member described in  
15 subdivision (b) of this subsection, the member shall receive in addition  
16 to the retirement benefit which commenced at the time of the previous  
17 retirement:

18 (i) If the member has accrued ten years or more of vesting credit  
19 after his or her return to employment, excluding years of vesting credit  
20 acquired prior to retirement, as applicable, shall be calculated solely  
21 on the basis of vesting credit accrued and earned after the member's  
22 return to employment described in subdivision (b) of this subsection and  
23 as adjusted to reflect any payment in other than the normal form; or

24 (ii) If the member has not accrued ten years or more of vesting  
25 credit after his or her return to employment, a refund equal to the  
26 member's accumulated contributions which were credited to the member  
27 after the member's return to employment described in subdivision (b) of  
28 this subsection. In no event shall the member's vesting credit which  
29 accrued prior to a previous retirement be considered as part of the  
30 member's vesting credit after his or her return to employment for any  
31 purpose of the State Employees Retirement Act.

1        The member shall not be eligible to subsequently retire on account  
2 of disability pursuant to section 84-1323.01.

3        (5) (4) A member who is reinstated as an employee pursuant to a  
4 grievance or appeal of his or her termination by the state shall be a  
5 member upon reemployment and shall not be considered to have a break in  
6 service for such period of time that the grievance or appeal was pending.  
7 Following reinstatement, the member shall repay the value of the amount  
8 received from his or her employee account or member cash balance account  
9 under subdivision (2)(b) of section 84-1321.01.

10       (6) The retirement board may adopt and promulgate rules and  
11 regulations and prescribe forms necessary to carry out this section.

12       Sec. 25. Original sections 23-2320, 79-805, 79-901, 79-921, 79-933,  
13 79-951, 79-955, 79-958, 81-2031.05, 84-1301, and 84-1322, Reissue Revised  
14 Statutes of Nebraska, and sections 23-2301, 79-902, 79-904.01, 79-931,  
15 79-934, 79-978, 79-978.01, 79-992, 79-9,100.01, 79-9,105, and 81-2014,  
16 Revised Statutes Cumulative Supplement, 2016, are repealed.

17       Sec. 26. The following section is outright repealed: Section  
18 79-923, Reissue Revised Statutes of Nebraska.

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