

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 144**

Introduced by Kolterman, 24.

Read first time January 08, 2021

Committee:

- 1 A BILL FOR AN ACT relating to the Class V School Employees Retirement
- 2 Act; to amend section 79-978, Revised Statutes Cumulative
- 3 Supplement, 2020; to define terms; to harmonize provisions; and to
- 4 repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-978, Revised Statutes Cumulative Supplement,  
2 2020, is amended to read:

3 79-978 For purposes of the Class V School Employees Retirement Act,  
4 unless the context otherwise requires:

5 (1) Accumulated contributions means the sum of amounts contributed  
6 by a member of the system together with regular interest credited  
7 thereon;

8 (2) Actuarial equivalent means the equality in value of the  
9 retirement allowance for early retirement or the retirement allowance for  
10 an optional form of annuity, or both, with the normal form of the annuity  
11 to be paid, as determined by the application of the appropriate actuarial  
12 table, except that use of such actuarial tables shall not effect a  
13 reduction in benefits accrued prior to September 1, 1985, as determined  
14 by the actuarial tables in use prior to such date;

15 (3) Actuarial tables means:

16 (a) For determining the actuarial equivalent of any annuities other  
17 than joint and survivorship annuities:

18 (i) For members hired before July 1, 2018, a unisex mortality table  
19 using twenty-five percent of the male mortality and seventy-five percent  
20 of the female mortality from the 1994 Group Annuity Mortality Table with  
21 a One Year Setback and using an interest rate of eight percent compounded  
22 annually; and

23 (ii) For members hired on or after July 1, 2018, or rehired on or  
24 after July 1, 2018, after termination of employment and being paid a  
25 retirement benefit, the determinations shall be based on a unisex  
26 mortality table and an interest rate specified by the board of trustees.  
27 Both the mortality table and the interest rate shall be recommended by  
28 the actuary retained by the board of trustees and approved by the board  
29 of trustees following an actuarial experience study, a benefit adequacy  
30 study, or a plan valuation. The mortality table, interest rate, and  
31 actuarial factors in effect on the member's retirement date shall be used

1 to calculate the actuarial equivalency of any retirement benefit. Such  
2 interest rate may be, but is not required to be, equal to the assumed  
3 rate; and

4 (b) For joint and survivorship annuities:

5 (i) For members hired before July 1, 2018, a unisex retiree  
6 mortality table using sixty-five percent of the male mortality and  
7 thirty-five percent of the female mortality from the 1994 Group Annuity  
8 Mortality Table with a One Year Setback and using an interest rate of  
9 eight percent compounded annually and a unisex joint annuitant mortality  
10 table using thirty-five percent of the male mortality and sixty-five  
11 percent of the female mortality from the 1994 Group Annuity Mortality  
12 Table with a One Year Setback and using an interest rate of eight percent  
13 compounded annually; and

14 (ii) For members hired on or after July 1, 2018, or rehired on or  
15 after July 1, 2018, after termination of employment and being paid a  
16 retirement benefit, the determinations shall be based on a unisex  
17 mortality table and an interest rate specified by the board of trustees.  
18 Both the mortality table and the interest rate shall be recommended by  
19 the actuary retained by the board of trustees and approved by the board  
20 of trustees following an actuarial experience study, a benefit adequacy  
21 study, or a plan valuation. The mortality table, interest rate, and  
22 actuarial factors in effect on the member's retirement date shall be used  
23 to calculate the actuarial equivalency of any retirement benefit. Such  
24 interest rate may be, but is not required to be, equal to the assumed  
25 rate;

26 (4) Administrator of the retirement system or administrator means  
27 the person administering the retirement system who is (a) until September  
28 1, XXXX, appointed by the board of trustees or (b) beginning on and after  
29 September 1, XXXX, appointed by the retirement board pursuant to section  
30 84-1503;

31 (5) ~~(4)~~ Annuitant means any member receiving an allowance;

1           ~~(6)~~ ~~(5)~~ Annuity means annual payments, for both prior service and  
2 membership service, for life as provided in the Class V School Employees  
3 Retirement Act;

4           ~~(7)~~ ~~(6)~~ Audit year means the period beginning January 1 in any year  
5 and ending on December 31 of that same year except for the initial audit  
6 year which will begin September 1, 2016, and end on December 31, 2016.  
7 Beginning September 1, 2016, the audit year will be the period of time  
8 used in the preparation of the annual actuarial analysis and valuation  
9 and a financial audit of the investments of the retirement system;

10          ~~(8)~~ ~~(7)~~ Beneficiary means any person entitled to receive or  
11 receiving a benefit by reason of the death of a member;

12          ~~(9)~~ ~~(8)~~ Board of education means the board of education of the  
13 school district;

14          ~~(10)~~ Board of trustees means:

15           ~~(a)~~ From July 1, 2016, until September 1, XXXX, the entity  
16 established pursuant to section 79-980;

17           ~~(b)~~ On and after September 1, XXXX, the Public Employees Retirement  
18 Board established pursuant to section 84-1501; and

19           ~~(c)~~ The board of education:

20           ~~(i)~~ For all plan matters and liability prior to July 1, 2016; and

21           ~~(ii)~~ As the successor in interest for all plan matters and liability  
22 associated with the actions or inactions from July 1, 2016, to September  
23 1, XXXX, of the entity identified under subdivision ~~(10)~~(a) of this  
24 section;

25          ~~(11)(a)~~ ~~(9)(a)~~ Compensation means gross wages or salaries payable to  
26 the member during a fiscal year and includes (i) overtime pay, (ii)  
27 member contributions to the retirement system that are picked up under  
28 section 414(h) of the Internal Revenue Code, as defined in section  
29 49-801.01, (iii) retroactive salary payments paid pursuant to court  
30 order, arbitration, or litigation and grievance settlements, and (iv)  
31 amounts contributed by the member to plans under sections 125, 403(b),

1 and 457 of the Internal Revenue Code, as defined in section 49-801.01, or  
2 any other section of the code which defers or excludes such amounts from  
3 income.

4 (b) Compensation does not include (i) fraudulently obtained amounts  
5 as determined by the board, (ii) amounts for accrued unused sick leave or  
6 accrued 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, (viii) early retirement  
10 inducements, (ix) cash awards, (x) severance pay, or (xi) employer  
11 contributions made for the purposes of separation payments made at  
12 retirement and early retirement inducements.

13 (c) Compensation in excess of the limitations set forth in section  
14 401(a)(17) of the Internal Revenue Code, as defined in section 49-801.01,  
15 shall be disregarded;

16 (12) ~~(10)~~ Council means the Nebraska Investment Council created and  
17 acting pursuant to section 72-1237;

18 (13) ~~(11)~~ Creditable service means the sum of the membership service  
19 and the prior service, measured in one-tenth-year increments;

20 (14) ~~(12)~~ Early retirement date means, for members hired prior to  
21 July 1, 2016, who have attained age fifty-five, that month and year  
22 selected by a member having at least ten years of creditable service  
23 which includes a minimum of five years of membership service. Early  
24 retirement date means, for members hired on or after July 1, 2016, that  
25 month and year selected by a member having at least five years of  
26 creditable service and who has attained age sixty;

27 (15) ~~(13)~~ Early retirement inducement means, but is not limited to:

28 (a) A benefit, bonus, or payment to a member in exchange for an  
29 agreement by the member to retire with a reduced retirement benefit;

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

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

3 (d) An additional salary or wage component of any kind that is being  
4 paid as an incentive to leave employment and not for personal services  
5 performed for which creditable service is granted;

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

12 (f) Any other form of separation payments made by an employer to a  
13 member at termination, including, but not limited to, purchasing  
14 retirement contracts for the member pursuant to section 79-514, or  
15 depositing money for the member in an account established under section  
16 403(b) of the Internal Revenue Code except for payments for accrued  
17 unused leave;

18 (16) ~~(14)~~ Employee means the following enumerated persons receiving  
19 compensation from the school district: (a) Regular teachers and  
20 administrators employed on a written contract basis; and (b) regular  
21 employees, not included in subdivision (16)(a) ~~(14)(a)~~ of this section,  
22 hired upon a full-time basis, which basis shall contemplate a workweek of  
23 not less than thirty hours;

24 (17) ~~(15)~~ Employer means a school district participating in a  
25 retirement system established pursuant to the Class V School Employees  
26 Retirement Act;

27 (18) ~~(16)~~ Fiscal year means the period beginning September 1 in any  
28 year and ending on August 31 of the next succeeding year;

29 (19) ~~(17)~~ Hire date or date of hire means the first day of  
30 compensated service subject to retirement contributions;

31 (20) ~~(18)~~ Interest means, for the purchase of service credit, the

1 purchase of prior service credit, restored refunds, and delayed payments,  
2 the investment return assumption used in the most recent actuarial  
3 valuation;

4 (21) ~~(19)~~ Member means any employee included in the membership of  
5 the retirement system or any former employee who has made contributions  
6 to the system and has not received a refund;

7 (22) ~~(20)~~ Membership service means service on or after September 1,  
8 1951, as an employee of the school district and a member of the system  
9 for which compensation is paid by the school district. Credit for more  
10 than one year of membership service shall not be allowed for service  
11 rendered in any fiscal year. Beginning September 1, 2005, a member shall  
12 be credited with a year of membership service for each fiscal year in  
13 which the member performs one thousand or more hours of compensated  
14 service as an employee of the school district. For an employee who  
15 becomes a member prior to July 1, 2018, an hour of compensated service  
16 shall include any hour for which the member is compensated by the school  
17 district during periods when no service is performed due to vacation or  
18 approved leave. For an employee who becomes a member on or after July 1,  
19 2018, an hour of compensated service shall include any hour for which the  
20 member is compensated by the school district during periods when no  
21 service is performed due to used accrued sick days, used accrued vacation  
22 days, federal and state holidays, and jury duty leave for which the  
23 member is paid full compensation by the employer. If a member performs  
24 less than one thousand hours of compensated service during a fiscal year,  
25 one-tenth of a year of membership service shall be credited for each one  
26 hundred hours of compensated service by the member in such fiscal year.  
27 In determining a member's total membership service, all periods of  
28 membership service, including fractional years of membership service in  
29 one-tenth-year increments, shall be aggregated;

30 (23) ~~(21)~~ Military service means service in the uniformed services  
31 as defined in 38 U.S.C. 4301 et seq., as such provision existed on March

1 27, 1997;

2 ~~(24)~~ (22) Normal retirement date means the end of the month during  
3 which the member attains age sixty-five and has completed at least five  
4 years of membership service;

5 ~~(25)~~ (23) Primary beneficiary means the person or persons entitled  
6 to receive or receiving a benefit by reason of the death of a member;

7 ~~(26)~~ (24) Prior service means service rendered prior to September 1,  
8 1951, for which credit is allowed under section 79-999, service rendered  
9 by retired employees receiving benefits under preexisting systems, and  
10 service for which credit is allowed under sections 79-990, 79-991,  
11 79-994, 79-995, and 79-997;

12 ~~(27)~~ (25) Regular interest means interest (a) on the total  
13 contributions of the member prior to the close of the last preceding  
14 fiscal year, (b) compounded annually, and (c)(i) beginning September 1,  
15 2016, at a rate equal to the daily treasury yield curve for one-year  
16 treasury securities, as published by the Secretary of the Treasury of the  
17 United States, that applies on September 1 of each year and (ii) prior to  
18 September 1, 2016, at rates to be determined annually by the board, which  
19 shall have the sole, absolute, and final discretionary authority to make  
20 such determination, except that the rate for any given year in no event  
21 shall exceed the actual percentage of net earnings of the system during  
22 the last preceding fiscal year;

23 ~~(28)~~ (26) Retirement allowance means the total annual retirement  
24 benefit payable to a member for service or disability;

25 (29) Retirement board means the Public Employees Retirement Board  
26 created and established in section 84-1501;

27 ~~(30)~~ (27) Retirement date means the date of retirement of a member  
28 for service or disability as fixed by the board of trustees described in  
29 section 79-980;

30 ~~(31)~~ (28) Retirement system or system means the School Employees'  
31 Retirement System of (corporate name of the school district as described



1 in section 79-405) as provided for by the act;

2 (32) ~~(29)~~ Secondary beneficiary means the person or persons entitled  
3 to receive or receiving a benefit by reason of the death of all primary  
4 beneficiaries prior to the death of the member. If no primary beneficiary  
5 survives the member, secondary beneficiaries shall be treated in the same  
6 manner as primary beneficiaries;

7 (33) ~~(30)~~ Solvency means the rate of all contributions required  
8 pursuant to the Class V School Employees Retirement Act is equal to or  
9 greater than the actuarially required contribution rate as annotated in  
10 the most recent valuation report prepared by the actuary retained by the  
11 board of trustees as provided in section 79-984;

12 (34) ~~(31)~~ State investment officer means the state investment  
13 officer appointed pursuant to section 72-1240 and acting pursuant to the  
14 Nebraska State Funds Investment Act;

15 (35) ~~(32)~~ Substitute employee means a person hired by an employer as  
16 a temporary employee to assume the duties of an employee due to a  
17 temporary absence of any employee. Substitute employee does not mean a  
18 person hired as an employee on an ongoing basis to assume the duties of  
19 other employees who are temporarily absent;

20 (36) ~~(33)~~ Temporary employee means a person hired by an employer who  
21 is not an employee and who is hired to provide service for a limited  
22 period of time to accomplish a specific purpose or task. When such  
23 specific purpose or task is complete, the employment of such temporary  
24 employee shall terminate and in no case shall the temporary employment  
25 period exceed one year in duration;

26 (37) ~~(34)~~ Trustee means a trustee provided for in section 79-980;  
27 and

28 (38) ~~(35)~~ Voluntary service or volunteer means providing bona fide  
29 unpaid service to an employer.

30 Sec. 2. Original section 79-978, Revised Statutes Cumulative  
31 Supplement, 2020, is repealed.