

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 146

Introduced by Kolterman, 24.

Read first time January 08, 2021

Committee:

- 1 A BILL FOR AN ACT relating to retirement; to amend sections 79-902 and
- 2 79-978, Revised Statutes Cumulative Supplement, 2020; to define and
- 3 redefine terms under the School Employees Retirement Act and Class V
- 4 School Employees Retirement Act; to harmonize provisions; to repeal
- 5 the original sections; and to declare an emergency.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-902, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 79-902 For purposes of the School Employees Retirement Act, unless
4 the context otherwise requires:

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

9 (2)(a) Actuarial equivalent means the equality in value of the
10 aggregate amounts expected to be received under different forms of
11 payment.

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

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

30 (d) If the lump-sum settlement is made to an estate, the interest
31 rate will be determined by the AAA-rated segment of the Bloomberg

1 Barclays Long U.S. Corporate Bond Index as of the prior June 30, rounded
2 to the next lower quarter percent. If the AAA-rated segment of the
3 Bloomberg Barclays Long U.S. Corporate Bond Index is discontinued or
4 replaced, a substitute index shall be selected by the board which shall
5 be a reasonably representative index;

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

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

16 (b) Compensation does not include (i) fraudulently obtained amounts
17 as determined by the retirement board, (ii) amounts for accrued unused
18 sick leave or accrued unused vacation leave converted to cash payments,
19 (iii) insurance premiums converted into cash payments, (iv) reimbursement
20 for expenses incurred, (v) fringe benefits, (vi) per diems paid as
21 expenses, (vii) bonuses for services not actually rendered, (viii) early
22 retirement inducements, (ix) cash awards, (x) severance pay, or (xi)
23 employer contributions made for the purposes of separation payments made
24 at retirement.

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

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

7 (6)(a) Creditable service means prior service for which credit is
8 granted under sections 79-926 to 79-929, service credit purchased under
9 sections 79-933.03 to 79-933.06 and 79-933.08, and all service rendered
10 while a contributing member of the retirement system; and

11 (b) Creditable service includes working days, sick days, vacation
12 days, holidays, and any other leave days for which the employee is paid
13 regular wages as part of the employee's agreement with the employer.
14 Creditable service does not include lump-sum payments to the employee
15 upon termination or retirement in lieu of accrued benefits for such days,
16 eligibility and vesting credit, service years for which member
17 contributions are withdrawn and not repaid by the member, service
18 rendered for which the retirement board determines that the member was
19 paid less in compensation than the minimum wage as provided in the Wage
20 and Hour Act, service which the board determines was rendered with the
21 intent to defraud the retirement system, or service provided to an
22 employer in a retirement system established pursuant to the Class V
23 School Employees Retirement Act;

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

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

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

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

9 (11) Early retirement inducement means, but is not limited to:

10 (a) A benefit, bonus, or payment to a member in exchange for an
11 agreement by the member to terminate from employment;

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

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

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

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

25 (f) Any other form of separation payments made by an employer to a
26 member at termination, including, but not limited to, purchasing
27 retirement annuity contracts for the member pursuant to section 79-514,
28 depositing money for the member in an account established under section
29 403(b) of the Internal Revenue Code except for payments for accrued
30 unused leave, or purchasing service credit for the member pursuant to
31 section 79-933.08;

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

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

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

23 (15)(a) Final average compensation means:

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

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

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

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

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

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

8 (b) Payments under the Retirement Incentive Plan pursuant to section
9 79-855 and Staff Development Assistance pursuant to section 79-856 shall
10 not be included in the determination of final average compensation;

11 (16) Fiscal year means any year beginning July 1 and ending June 30
12 next following;

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

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

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

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

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

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

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

1 educational institution wholly supported by public funds, except schools
2 under the control and management of the Board of Trustees of the Nebraska
3 State Colleges, the Board of Regents of the University of Nebraska, or
4 the community college boards of governors for any community college
5 areas;

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

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

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

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

28 (a)(i) Terminated employment with all employers participating in the
29 plan; and

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

1 December 31, 2019; or

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

5 (b)(i) Terminated employment with all employers participating in the
6 plan; and

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

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

12 (29) Retirement means qualifying for and accepting a school or
13 disability retirement allowance granted under the School Employees
14 Retirement Act;

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

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

20 (32) Retirement date means (a) if the member has terminated
21 employment, the first day of the month following the date upon which a
22 member's request for retirement is received on a retirement application
23 provided by the retirement system or (b) if the member has filed a
24 retirement application but has not yet terminated employment, the first
25 day of the month following the date on which the member terminates
26 employment. An application may be filed no more than one hundred twenty
27 days prior to the effective date of the member's initial benefit;

28 (33) Retirement system means the School Employees Retirement System
29 of the State of Nebraska;

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

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

12 (36) School year means one fiscal year which includes not less than
13 one thousand instructional hours or, in the case of service in the State
14 of Nebraska prior to July 1, 1945, not less than seventy-five percent of
15 the then legal school year;

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

24 (38) Service means employment as a school employee and shall not be
25 deemed interrupted by (a) termination at the end of the school year of
26 the contract of employment of an employee in a public school if the
27 employee enters into a contract of employment in any public school,
28 except a school in a Class V school district, for the following school
29 year, (b) temporary or seasonal suspension of service that does not
30 terminate the employee's employment, (c) leave of absence authorized by
31 the employer for a period not exceeding twelve months, (d) leave of

1 absence because of disability, or (e) military service when properly
2 authorized by the retirement board. Service does not include any period
3 of disability for which disability retirement benefits are received under
4 sections 79-951 to 79-953;

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

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

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

14 (42) Substitute employee means a person hired by a public school as
15 a temporary employee to assume the duties of regular employees due to a
16 temporary absence of any regular employees. Substitute employee does not
17 mean a person hired as a regular employee on an ongoing basis to assume
18 the duties of other regular employees who are temporarily absent;

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

30 (44) Temporary employee means an employee hired by a public school
31 who is not a regular employee and who is hired to provide service for a

1 limited period of time to accomplish a specific purpose or task. When
2 such specific purpose or task is complete, the employment of such
3 temporary employee shall terminate and in no case shall the temporary
4 employment period exceed one year in duration;

5 (45)(a) Termination of employment occurs on the date on which the
6 member experiences a bona fide separation from service of employment with
7 the member's employer, the date of which separation is determined by the
8 end of the member's contractual agreement or, if there is no contract or
9 only partial fulfillment of a contract, by the employer.

10 (b) A member shall not be deemed to have terminated employment if
11 the member subsequently provides service to any employer participating in
12 the retirement system provided for in the School Employees Retirement Act
13 within one hundred eighty days after ceasing employment unless such
14 service:

15 (i) Is bona fide unpaid voluntary service or substitute service,
16 provided on an intermittent basis. For purposes of this subdivision, (A)
17 intermittent basis means service provided on a day-to-day basis that is
18 not greater than eight days of service during a calendar month and (B)
19 day of service means any length of substitute service or unpaid voluntary
20 service provided during a single calendar day; or

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

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

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

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

1 ~~member experiences a bona fide separation from service of employment with~~
2 ~~the member's employer, the date of which separation is determined by the~~
3 ~~end of the member's contractual agreement or, if there is no contract or~~
4 ~~only partial fulfillment of a contract, by the employer.~~

5 ~~A member shall not be deemed to have terminated employment if the~~
6 ~~member subsequently provides service to any employer participating in the~~
7 ~~retirement system provided for in the School Employees Retirement Act~~
8 ~~within one hundred eighty days after ceasing employment unless such~~
9 ~~service:~~

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

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

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

17 ~~A member shall not be deemed to have terminated employment if the~~
18 ~~board determines that a claimed termination was not a bona fide~~
19 ~~separation from service with the employer or that a member was~~
20 ~~compensated for a full contractual period when the member terminated~~
21 ~~prior to the end date of the contract; and~~

22 ~~(46) Voluntary service or volunteer means providing bona fide unpaid~~
23 ~~service to any employer.~~

24 ~~Sec. 2. Section 79-978, Revised Statutes Cumulative Supplement,~~
25 ~~2020, is amended to read:~~

26 ~~79-978 For purposes of the Class V School Employees Retirement Act,~~
27 ~~unless the context otherwise requires:~~

28 ~~(1) Accumulated contributions means the sum of amounts contributed~~
29 ~~by a member of the system together with regular interest credited~~
30 ~~thereon;~~

31 ~~(2) Actuarial equivalent means the equality in value of the~~

1 retirement allowance for early retirement or the retirement allowance for
2 an optional form of annuity, or both, with the normal form of the annuity
3 to be paid, as determined by the application of the appropriate actuarial
4 table, except that use of such actuarial tables shall not effect a
5 reduction in benefits accrued prior to September 1, 1985, as determined
6 by the actuarial tables in use prior to such date;

7 (3) Actuarial tables means:

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

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

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

27 (b) For joint and survivorship annuities:

28 (i) For members hired before July 1, 2018, a unisex retiree
29 mortality table using sixty-five percent of the male mortality and
30 thirty-five percent of the female mortality from the 1994 Group Annuity
31 Mortality Table with a One Year Setback and using an interest rate of

1 eight percent compounded annually and a unisex joint annuitant mortality
2 table using thirty-five percent of the male mortality and sixty-five
3 percent of the female mortality from the 1994 Group Annuity Mortality
4 Table with a One Year Setback and using an interest rate of eight percent
5 compounded annually; and

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

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

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

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

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

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

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

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

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) Early retirement inducement means, but is not limited to:

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

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

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

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

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

18 (f) Any other form of separation payments made by an employer to a
19 member at termination, including, but not limited to, purchasing
20 retirement contracts for the member pursuant to section 79-514, or
21 depositing money for the member in an account established under section
22 403(b) of the Internal Revenue Code except for payments for accrued
23 unused leave;

24 (14) Employee means the following enumerated persons receiving
25 compensation from the school district: (a) Teachers, other than
26 substitutes, employed on a written contract basis; (b) administrators
27 employed on a written contract, agreement, or document basis; and (c)
28 regular employees ~~Regular teachers and administrators employed on a~~
29 ~~written contract basis; and (b) regular employees, not included in~~
30 ~~subdivision (14)(a) of this section, hired upon a full-time basis, which~~
31 ~~basis shall contemplate a workweek of not less than thirty hours;~~

1 (15) Employer means a school district participating in a retirement
2 system established pursuant to the Class V School Employees Retirement
3 Act;

4 (16) Fiscal year means the period beginning September 1 in any year
5 and ending on August 31 of the next succeeding year;

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

8 (18) Interest means, for the purchase of service credit, the
9 purchase of prior service credit, restored refunds, and delayed payments,
10 the investment return assumption used in the most recent actuarial
11 valuation;

12 (19) Member means any employee included in the membership of the
13 retirement system or any former employee who has made contributions to
14 the system and has not received a refund;

15 (20) Membership service means service on or after September 1, 1951,
16 as an employee of the school district and a member of the system for
17 which compensation is paid by the school district. Credit for more than
18 one year of membership service shall not be allowed for service rendered
19 in any fiscal year. Beginning September 1, 2005, a member shall be
20 credited with a year of membership service for each fiscal year in which
21 the member performs one thousand or more hours of compensated service as
22 an employee of the school district. For an employee who becomes a member
23 prior to July 1, 2018, an hour of compensated service shall include any
24 hour for which the member is compensated by the school district during
25 periods when no service is performed due to vacation or approved leave.
26 For an employee who becomes a member on or after July 1, 2018, an hour of
27 compensated service shall include any hour for which the member is
28 compensated by the school district during periods when no service is
29 performed due to used accrued sick days, used accrued vacation days,
30 federal and state holidays, and jury duty leave for which the member is
31 paid full compensation by the employer. If a member performs less than

1 one thousand hours of compensated service during a fiscal year, one-tenth
2 of a year of membership service shall be credited for each one hundred
3 hours of compensated service by the member in such fiscal year. In
4 determining a member's total membership service, all periods of
5 membership service, including fractional years of membership service in
6 one-tenth-year increments, shall be aggregated;

7 (21) Military service means service in the uniformed services as
8 defined in 38 U.S.C. 4301 et seq., as such provision existed on March 27,
9 1997;

10 (22) Normal retirement date means the end of the month during which
11 the member attains age sixty-five and has completed at least five years
12 of membership service;

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

15 (24) ~~(23)~~ Primary beneficiary means the person or persons entitled
16 to receive or receiving a benefit by reason of the death of a member;

17 (25) ~~(24)~~ Prior service means service rendered prior to September 1,
18 1951, for which credit is allowed under section 79-999, service rendered
19 by retired employees receiving benefits under preexisting systems, and
20 service for which credit is allowed under sections 79-990, 79-991,
21 79-994, 79-995, and 79-997;

22 (26)(a) Regular employee means a person hired on a full-time basis,
23 which basis shall contemplate a work week of not less than thirty hours,
24 and who is not (i) a teacher employed on a written contract basis or (ii)
25 an administrator employed on a written contract, agreement, or document
26 basis; and

27 (b) Effective xxxx, a person hired by an employer or under contract
28 to provide service for less than thirty hours per week but who provides
29 service for an average of thirty hours or more per week in each calendar
30 month of any three calendar months of a fiscal year shall, beginning with
31 the next full payroll period, commence contributions and shall be deemed

1 a regular employee for all future employment with the employer;

2 ~~(27)~~ ~~(25)~~ Regular interest means interest (a) on the total
3 contributions of the member prior to the close of the last preceding
4 fiscal year, (b) compounded annually, and (c)(i) beginning September 1,
5 2016, at a rate equal to the daily treasury yield curve for one-year
6 treasury securities, as published by the Secretary of the Treasury of the
7 United States, that applies on September 1 of each year and (ii) prior to
8 September 1, 2016, at rates to be determined annually by the board, which
9 shall have the sole, absolute, and final discretionary authority to make
10 such determination, except that the rate for any given year in no event
11 shall exceed the actual percentage of net earnings of the system during
12 the last preceding fiscal year;

13 ~~(28)~~ ~~(26)~~ Retirement allowance means the total annual retirement
14 benefit payable to a member for service or disability;

15 ~~(29)~~ ~~(27)~~ Retirement date means the date of retirement of a member
16 for service or disability as fixed by the board of trustees described in
17 section 79-980;

18 ~~(30)~~ ~~(28)~~ Retirement system or system means the School Employees'
19 Retirement System of (corporate name of the school district as described
20 in section 79-405) as provided for by the act;

21 ~~(31)~~ ~~(29)~~ Secondary beneficiary means the person or persons entitled
22 to receive or receiving a benefit by reason of the death of all primary
23 beneficiaries prior to the death of the member. If no primary beneficiary
24 survives the member, secondary beneficiaries shall be treated in the same
25 manner as primary beneficiaries;

26 ~~(32)~~ ~~(30)~~ Solvency means the rate of all contributions required
27 pursuant to the Class V School Employees Retirement Act is equal to or
28 greater than the actuarially required contribution rate as annotated in
29 the most recent valuation report prepared by the actuary retained by the
30 board of trustees as provided in section 79-984;

31 ~~(33)~~ ~~(31)~~ State investment officer means the state investment

1 officer appointed pursuant to section 72-1240 and acting pursuant to the
2 Nebraska State Funds Investment Act;

3 (34) (32) Substitute employee means a person hired by an employer as
4 a temporary employee to assume the duties of an employee due to a
5 temporary absence of any employee. Substitute employee does not mean a
6 person hired as an employee on an ongoing basis to assume the duties of
7 other employees who are temporarily absent;

8 (35)(a) Termination of employment occurs on the date on which the
9 member experiences a bona fide separation from service of employment with
10 the member's employer, the date of which separation is determined by the
11 end of the member's contractual agreement or, if there is no contract or
12 only partial fulfillment of a contract, by the employer. A member shall
13 not be deemed to have terminated employment if the member subsequently
14 provides service to the employer within one hundred eighty days after
15 ceasing employment unless such service is:

16 (i) Bona fide unpaid voluntary service;

17 (ii) Substitute service provided on an intermittent basis. For
18 purposes of this subdivision, (A) intermittent basis means service
19 provided on a day-to-day basis that is not greater than eight days of
20 service during a calendar month and (B) day of service means any length
21 of substitute service provided during a single calendar day; or

22 (iii) Temporary service following a bona fide separation of service
23 of not less than thirty calendar days and which is provided to accomplish
24 a specific purpose or task for a limited period not to exceed one year.

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

31 (c) Nothing in this subdivision precludes an employer from adopting

1 a policy which limits or denies employees who have terminated employment
2 from providing voluntary or substitute service within one hundred eighty
3 days after termination;

4 (36) (33) Temporary employee means a person hired by an employer who
5 is not an employee and who is hired to provide service for a limited
6 period of time to accomplish a specific purpose or task. When such
7 specific purpose or task is complete, the employment of such temporary
8 employee shall terminate and in no case shall the temporary employment
9 period exceed one year in duration;

10 (37) (34) Trustee means a trustee provided for in section 79-980;
11 and

12 (38) (35) Voluntary service or volunteer means providing bona fide
13 unpaid service to an employer.

14 Sec. 3. Original sections 79-902 and 79-978, Revised Statutes
15 Cumulative Supplement, 2020, are repealed.

16 Sec. 4. Since an emergency exists, this act takes effect when
17 passed and approved according to law.