

## LEGISLATIVE BILL 1054

Approved by the Governor July 24, 2020

Introduced by Kolterman, 24.

A BILL FOR AN ACT relating to retirement; to amend sections 79-932, 84-1317, 84-1320, and 84-1321, Reissue Revised Statutes of Nebraska, sections 23-2301, 23-2315, 23-2319, 24-701, 24-708, 81-2014, 81-2025, and 84-1301, Revised Statutes Cumulative Supplement, 2018, and sections 23-2317, 79-902, and 84-1319, Revised Statutes Supplement, 2019; to define required beginning date and change deferment of payment provisions under the County Employees Retirement Act, Judges Retirement Act, School Employees Retirement Act, Nebraska State Patrol Retirement Act, and State Employees Retirement Act; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 23-2301, Revised Statutes Cumulative Supplement, 2018, is amended to read:

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

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

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

(c) For a member hired on or after January 1, 2018, or rehired on or after January 1, 2018, after termination of employment and being paid a retirement benefit or taking a refund of contributions, the mortality assumption used for purposes of converting the member cash balance account shall be a unisex mortality table that is recommended by the actuary and approved by the board following an actuarial experience study, a benefit adequacy study, or a plan valuation. The mortality table and actuarial factors in effect on the member's retirement date will be used to calculate the actuarial equivalency of any retirement benefit;

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

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

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

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

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

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

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

(8) Defined contribution benefit means a member's retirement benefit from

a money purchase plan in which member benefits equal annual contributions and earnings pursuant to section 23-2309 and, if vested, employer contributions and earnings pursuant to section 23-2310;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(26) Prior service means service prior to the date of adoption of the retirement system;

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

(28) Required beginning date means, for purposes of the deferral of

distributions, April 1 of the year following the calendar year in which a member has:

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

(ii)(A) Attained at least seventy and one-half years of age for a member who attained seventy and one-half years of age on or before December 31, 2019;  
or

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

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

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

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

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

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

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

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

(34) (33) Retirement system means the Retirement System for Nebraska Counties;

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

(36) (35) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits;

(37) (36) Termination of employment occurs on the date on which a county which is a member of the retirement system determines that its employer-employee relationship with an employee is dissolved. The county shall notify the board of the date on which such a termination has occurred. Termination of employment does not occur if an employee whose employer-employee relationship with a county is dissolved enters into an employer-employee relationship with the same or another county which participates in the Retirement System for Nebraska Counties and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased with the county and the date when the employer-employee relationship commenced with the same or another county which qualifies the employee for participation in the plan. It is the responsibility of the employer that is involved in the termination of employment to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a retirement benefit has been paid to a member of the retirement system pursuant to section 23-2319, the board shall require the member who has received such benefit to repay the benefit to the retirement system; and

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

Sec. 2. Section 23-2315, Revised Statutes Cumulative Supplement, 2018, is amended to read:

23-2315 (1) Upon filing an application for benefits with the board, an employee may elect to retire at any time after attaining the age of fifty-five or an employee may retire as a result of disability at any age.

(2) The member shall specify in the application for benefits the manner in which he or she wishes to receive the retirement benefit under the options provided by the County Employees Retirement Act. Payment under the application for benefits shall be made (a) for annuities, no sooner than the annuity start date, and (b) for other distributions, no sooner than the date of final account value.

(3) Payment of any benefit provided under the retirement system shall ~~may~~ not be deferred later than the required beginning date April 1 of the year following the year in which the employee has both attained at least age seventy

~~and one-half years and terminated his or her employment with the county.~~

(4) The board shall make reasonable efforts to locate the member or the member's beneficiary and distribute benefits by the required beginning date ~~as specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder.~~ If the board is unable to make such a distribution, the benefit shall be distributed pursuant to the Uniform Disposition of Unclaimed Property Act and no amounts may be applied to increase the benefits any member would otherwise receive under the County Employees Retirement Act.

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

Sec. 3. Section 23-2317, Revised Statutes Supplement, 2019, is amended to read:

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

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

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

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

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

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

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

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

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

(4)(a) The normal form of payment shall be a single life annuity with five-year certain, which is an annuity payable monthly during the remainder of the member's life with the provision that, in the event of the member's death before sixty monthly payments have been made, the monthly payments will continue until sixty monthly payments have been made in total pursuant to section 23-2327.

Such annuity shall be equal to the actuarial equivalent of the member cash balance account or the sum of the employee and employer accounts, whichever is applicable, as of the date of final account value. As a part of the annuity, the normal form of payment may include a two and one-half percent cost-of-living adjustment purchased by the member, if the member elects such a payment option.

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

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

a benefit adequacy study, or a plan valuation. The interest rate and actuarial factors in effect on the member's retirement date will be used to calculate actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate of return.

For an employee who is a member prior to January 1, 2003, who has elected not to participate in the cash balance benefit pursuant to section 23-2308.01, and who, at the time of retirement, chooses the annuity option rather than the lump-sum option, his or her employee and employer accounts as of the date of final account value shall be converted to an annuity using an interest rate that is equal to the lesser of (i) the Pension Benefit Guaranty Corporation initial interest rate for valuing annuities for terminating plans as of the beginning of the year during which payment begins plus three-fourths of one percent or (ii) the interest rate used to calculate the retirement benefits for cash balance plan members.

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

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

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

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

Sec. 4. Section 23-2319, Revised Statutes Cumulative Supplement, 2018, is amended to read:

23-2319 (1) Except as provided in section 42-1107, upon termination of employment, except for retirement or disability, and after filing an application with the board, a member may receive:

(a) If not vested, a termination benefit equal to the amount of his or her employee account or member cash balance account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than the required beginning date April 1 of the year following the year in which the member attains the age of seventy and one-half years; or

(b) If vested, a termination benefit equal to (i) the amount of his or her

member cash balance account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than ~~the required beginning date April 1 of the year following the year in which the member attains the age of seventy and one-half years~~ or (ii)(A) the amount of his or her employee account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than ~~the required beginning date April 1 of the year following the year in which the member attains the age of seventy and one-half years~~ plus (B) the amount of his or her employer account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than ~~the required beginning date April 1 of the year following the year in which the member attains the age of seventy and one-half years~~.

(c) The member cash balance account or employer and employee accounts of a terminating member shall be retained by the board, and the termination benefit shall be deferred until a valid application for benefits has been received.

(2) At the option of the terminating member, any lump sum of the employer account or member cash balance account or any annuity payment provided under subsection (1) of this section shall commence as of the first of the month at any time after such member has terminated his or her employment with the county and no later than ~~the required beginning date April 1 of the year following the year in which the member attains the age of seventy and one-half years~~. Such election by the terminating member shall be made at any time prior to the commencement of the lump-sum or annuity payments.

(3) Members of the retirement system shall be vested after a total of three years of participation in the system as a member pursuant to section 23-2306, including vesting credit. If an employee retires pursuant to section 23-2315, such employee shall be fully vested in the retirement system.

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

Sec. 5. Section 24-701, Revised Statutes Cumulative Supplement, 2018, is amended to read:

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

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

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

(c) For a judge hired on or after July 1, 2017, or rehired on or after July 1, 2017, after termination of employment and being paid a retirement benefit, the determinations shall be based on a unisex mortality table and an interest rate specified by the board. Both the mortality table and the interest rate shall be recommended by the actuary and approved by the board following an actuarial experience study, a benefit adequacy study, or a plan valuation. The mortality table, interest rate, and actuarial factors in effect on the judge's retirement date will be used to calculate actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate of return;

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

(3) Board means the Public Employees Retirement Board;

(4)(a) Compensation means the statutory salary of a judge or the salary being received by such judge pursuant to law. Compensation does not include compensation for unused sick leave or unused vacation leave converted to cash payments, insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, per diems, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125 and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on

compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(5) Creditable service means the total number of years served as a judge, including prior service, military service, and current service, computed to the nearest one-twelfth year. For current service prior to the time that the member has contributed the required percentage of salary until the maximum benefit as limited by section 24-710 has been earned, creditable service does not include current service for which member contributions are not made or are withdrawn and not repaid;

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

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

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

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

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

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

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

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

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

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

(15) Military service means active service of (a) any judge of the Supreme Court or judge of the district court in any of the armed forces of the United States during a war or national emergency prior or subsequent to September 18, 1955, if such service commenced while such judge was holding the office of judge, (b) any judge of the Nebraska Workmen's Compensation Court or the Nebraska Workers' Compensation Court in any of the armed forces of the United States during a war or national emergency prior or subsequent to September 20, 1957, if such service commenced while such judge was holding the office of judge, (c) any judge of the municipal court in any of the armed forces of the United States during a war or national emergency prior or subsequent to October 23, 1967, and prior to July 1, 1985, if such service commenced while such judge was holding the office of judge, (d) any judge of the county court or associate county judge in any of the armed forces of the United States during a war or national emergency prior or subsequent to January 4, 1973, if such service commenced while such judge was holding the office of judge, (e) any clerk

magistrate, who was an associate county judge and a member of the fund at the time of appointment as a clerk magistrate, in any of the armed forces of the United States during a war or national emergency on or after July 1, 1986, if such service commenced while such clerk magistrate was holding the office of clerk magistrate, and (f) any judge of the Court of Appeals in any of the armed forces of the United States during a war or national emergency on or after September 6, 1991, if such service commenced while such judge was holding the office of judge. The board shall have the power to determine when a national emergency exists or has existed for the purpose of applying this definition and provision;

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

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

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

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

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

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

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

(a)(i) Terminated employment with the State of Nebraska; and  
(ii)(A) Attained at least seventy and one-half years of age for a member who attained seventy and one-half years of age on or before December 31, 2019;  
or

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

(b)(i) Terminated employment with the State of Nebraska; and  
(ii) Otherwise reached the date specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder;

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

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

(25) ~~(24)~~ Retirement system or system means the Nebraska Judges Retirement System as provided in the Judges Retirement Act;

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

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



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

Sec. 6. Section 24-708, Revised Statutes Cumulative Supplement, 2018, is amended to read:

24-708 (1) Except as provided in section 24-721, a judge may retire upon reaching the age of sixty-five years and upon making application to the board. Upon retiring each such judge shall receive retirement annuities as provided in section 24-710.

(2) Except as provided in section 24-721, a judge may retire upon reaching the age of fifty-five years and elect to receive a reduced monthly retirement income in lieu of a deferred vested annuity. The judge may request that the reduced monthly retirement income commence at any date, beginning on the first day of the month following the actual retirement date and ending on the normal retirement date. The amount of the reduced monthly retirement income shall be calculated based on the length of creditable service and average compensation at the actual retirement date. When a judge has elected to receive a reduced monthly retirement income to commence at the age of sixty-four years, the monthly payments shall be reduced by three percent. When a judge has elected to receive a reduced monthly retirement income to commence at the age of sixty-three years, the monthly payments shall be reduced by six percent. When a judge has elected to receive a reduced monthly retirement income to commence at the age of sixty-two years, the monthly payments shall be reduced by nine percent. When a judge has elected to receive a reduced monthly retirement income to commence prior to the age of sixty-two years, the monthly payments shall be further reduced to an amount that is actuarially equivalent to the amount payable at the age of sixty-two years.

(3) Payment of any benefit provided under the Judges Retirement Act shall ~~may not be deferred later than the required beginning date April 1 of the year following the year in which the judge has both attained at least age seventy and one-half years and terminated his or her employment as a judge.~~

(4) The effective date of retirement payments shall be the first day of the month following (a) the date a member qualifies for retirement as provided in this section or (b) the date upon which a member's request for retirement is received on an application form provided by the retirement system, whichever is later. An application may be filed no more than one hundred twenty days in advance of qualifying for retirement.

(5) The board shall make reasonable efforts to locate the member or the member's beneficiary and distribute benefits by the required beginning date ~~as specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder.~~ If the board is unable to make such a distribution, the benefit shall be distributed pursuant to the Uniform Disposition of Unclaimed Property Act and no amounts may be applied to increase the benefits any member would otherwise receive under the Judges Retirement Act.

Sec. 7. Section 79-902, Revised Statutes Supplement, 2019, is amended to read:

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

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

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

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

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

(d) If the lump-sum settlement is made to an estate, the interest rate will be determined by the AAA-rated segment of the Bloomberg Barclays Long U.S. Corporate Bond Index as of the prior June 30, rounded to the next lower quarter percent. If the AAA-rated segment of the Bloomberg Barclays Long U.S. Corporate Bond Index is discontinued or replaced, a substitute index shall be selected by the board which shall be a reasonably representative index;

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

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

settlements, and (iv) amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) Emeritus member means a person (a) who has entered retirement under the provisions of the act, including those persons who have retired since July

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

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

(15)(a) Final average compensation means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii)(A) Attained at least seventy and one-half years of age for a member who attained seventy and one-half years of age on or before December 31, 2019;  
or

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

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

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

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

~~(29) (28)~~ Retirement means qualifying for and accepting a school or disability retirement allowance granted under the School Employees Retirement Act;

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

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

~~(32) (31)~~ Retirement date means (a) if the member has terminated employment, the first day of the month following the date upon which a member's request for retirement is received on a retirement application provided by the retirement system or (b) if the member has filed a retirement application but has not yet terminated employment, the first day of the month following the date on which the member terminates employment. An application may be filed no more than one hundred twenty days prior to the effective date of the member's initial benefit;

~~(33) (32)~~ Retirement system means the School Employees Retirement System of the State of Nebraska;

~~(34) (33)~~ Savings annuity means payments for life, made in equal monthly payments, derived from the accumulated contributions of a member;

~~(35) (34)~~ School employee means a contributing member who earns service credit pursuant to section 79-927. For purposes of this section, contributing member means the following persons who receive compensation from a public school: (a) Regular employees; (b) regular employees having retired pursuant to the School Employees Retirement Act who subsequently provide compensated service on a regular basis in any capacity; and (c) regular employees hired by a public school on an ongoing basis to assume the duties of other regular employees who are temporarily absent. Substitute employees, temporary employees, and employees who have not attained the age of eighteen years shall not be considered school employees;

~~(36) (35)~~ School year means one fiscal year which includes not less than one thousand instructional hours or, in the case of service in the State of Nebraska prior to July 1, 1945, not less than seventy-five percent of the then legal school year;

~~(37) (36)~~ School retirement allowance means the total of the savings annuity and the service annuity or formula annuity paid a person who has retired under sections 79-931 to 79-935. The monthly payments shall be payable at the end of each calendar month during the life of a retired member. The first payment shall include all amounts accrued since the effective date of the award of annuity. The last payment shall be at the end of the calendar month in which such member dies or in accordance with the payment option chosen by the member;

~~(38) (37)~~ Service means employment as a school employee and shall not be deemed interrupted by (a) termination at the end of the school year of the contract of employment of an employee in a public school if the employee enters into a contract of employment in any public school, except a school in a Class V school district, for the following school year, (b) temporary or seasonal suspension of service that does not terminate the employee's employment, (c) leave of absence authorized by the employer for a period not exceeding twelve months, (d) leave of absence because of disability, or (e) military service when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under sections 79-951 to 79-953;

~~(39) (38)~~ Service annuity means payments for life, made in equal monthly installments, derived from appropriations made by the State of Nebraska to the retirement system;

~~(40) (39)~~ State deposit means the deposit by the state in the retirement system on behalf of any member;

~~(41) (40)~~ State school official means the Commissioner of Education and his or her professional staff who are required by law or by the State Department of Education to hold a certificate as such term is defined in section 79-807;

~~(42) (41)~~ Substitute employee means a person hired by a public school as a temporary employee to assume the duties of regular employees due to a temporary absence of any regular employees. Substitute employee does not mean a person hired as a regular employee on an ongoing basis to assume the duties of other regular employees who are temporarily absent;

~~(43) (42)~~ Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic

relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits;

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

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

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

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

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

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

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

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

Sec. 8. Section 79-932, Reissue Revised Statutes of Nebraska, is amended to read:

79-932 (1) Payment of any benefit provided under the retirement system shall ~~may~~ not be deferred later than ~~the required beginning date April 1 of the year following the year in which the member has both attained at least age seventy and one-half years and terminated his or her employment with the school system.~~

(2) The board shall make reasonable efforts to locate the member or the member's beneficiary and distribute benefits by the required beginning date ~~as specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder.~~ If the board is unable to make such a distribution, the benefit shall be distributed pursuant to the Uniform Disposition of Unclaimed Property Act and no amounts may be applied to increase the benefits any member would otherwise receive under the School Employees Retirement Act.

Sec. 9. Section 81-2014, Revised Statutes Cumulative Supplement, 2018, is amended to read:

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

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

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

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

(2) Board means the Public Employees Retirement Board;

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) Officer means law enforcement officer as defined in section 81-1401 and as provided for in sections 81-2001 to 81-2009, but does not include a law enforcement officer who has been granted an appointment conditioned on satisfactory completion of a training program approved by the Nebraska Police Standards Advisory Council;

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

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

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

(a)(i) Terminated employment with the State of Nebraska; and

(ii)(A) Attained at least seventy and one-half years of age for a member who attained seventy and one-half years of age on or before December 31, 2019; or

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

(b)(i) Terminated employment with the State of Nebraska; and

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

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

~~(17)~~ Retirement date means (a) the first day of the month following the date upon which a member's request for retirement is received on a retirement application if the member is eligible for retirement and has terminated employment or (b) the first day of the month following termination of employment if the member is eligible for retirement and has filed an application but has not yet terminated employment;

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

~~(19)~~ Service means employment as a member of the Nebraska State Patrol and shall not be deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the board. Service does not include any period of

disability for which disability retirement benefits are received under subsection (1) of section 81-2025;

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

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

Sec. 10. Section 81-2025, Revised Statutes Cumulative Supplement, 2018, is amended to read:

81-2025 (1) Every officer who has been in the employ of the state as such and who becomes disabled and physically unfit to perform the duties of an officer shall be entitled to retire and receive an annuity as provided by law.

(2) Every officer who has been in the employ of the state as such for ten years or more, as calculated in section 81-2033, and has attained the age of fifty years or more shall be entitled to retire and receive an annuity as provided by law. The right to retire at the age of fifty years shall be at the option of the officer but such retirement shall be mandatory upon the officer attaining the age of sixty years.

(3) Any officer who has attained the age of sixty years upon his or her separation from state service but who has not been in the employ of the state for ten years as such shall be entitled to the annuity as provided for in the Nebraska State Patrol Retirement Act.

(4) Every officer who has been in the employ of the state as such for twenty-five years or more, as calculated in section 81-2033, and has attained the age of fifty years shall be entitled to retire and receive an annuity as provided by law. The right to retire at the age of fifty years with twenty-five years or more of creditable service shall be at the option of the officer but such retirement shall be mandatory upon the officer attaining the age of sixty years.

(5) Every officer who has been in the employ of the state as such for thirty years or more, as calculated in section 81-2033, shall be entitled to retire and receive an annuity as provided by law. The right to retire with thirty years or more of creditable service shall be at the option of the officer but such retirement shall be mandatory upon the officer attaining the age of sixty years.

(6) Payment of any benefit provided under the act shall ~~may~~ not be deferred later than ~~the required beginning date April 1 of the year following the year in which the officer has both attained at least age seventy and one-half years and terminated his or her employment with the Nebraska State Patrol.~~

(7) The effective date of retirement payments shall be the first day of the month following (a) the date a member qualifies for retirement as provided in this section or (b) the date upon which a member's request for retirement is received on an application form provided by the system, whichever is later. An application may be filed no more than one hundred twenty days in advance of qualifying for retirement.

(8) The board shall make reasonable efforts to locate the officer or the officer's beneficiary and distribute benefits by the required beginning date ~~as specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder.~~ If the board is unable to make such a distribution, the account shall be distributed pursuant to the Uniform Disposition of Unclaimed Property Act and no amounts may be applied to increase the benefits any officer would otherwise receive under the Nebraska State Patrol Retirement Act.

Sec. 11. Section 84-1301, Revised Statutes Cumulative Supplement, 2018, is amended to read:

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

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

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

(c) For an employee hired on or after January 1, 2018, or rehired on or after January 1, 2018, after termination of employment and being paid a retirement benefit or taking a refund of contributions, the mortality assumption used for purposes of converting the member cash balance account shall be a unisex mortality table that is recommended by the actuary and approved by the board following an actuarial experience study, a benefit adequacy study, or a plan valuation. The mortality table and actuarial factors in effect on the member's retirement date will be used to calculate the actuarial equivalency of any retirement benefit;

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

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

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

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

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

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

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

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

(9) Employee means any employee of the State Board of Agriculture who is a member of the state retirement system on July 1, 1982, and any person or officer employed by the State of Nebraska whose compensation is paid out of state funds or funds controlled or administered by a state department through any of its executive or administrative officers when acting exclusively in their respective official, executive, or administrative capacities. Employee does not include (a) judges as defined in section 24-701, (b) members of the Nebraska State Patrol, except for those members of the Nebraska State Patrol who elected pursuant to section 60-1304 to remain members of the State Employees Retirement System of the State of Nebraska, (c) employees of the University of Nebraska, (d) employees of the state colleges, (e) employees of community colleges, (f) employees of the Department of Labor employed prior to July 1, 1984, and paid from funds provided pursuant to Title III of the federal Social Security Act or funds from other federal sources, except that if the contributory retirement plan or contract let pursuant to section 48-609, as such section existed prior to January 1, 2018, is terminated, such employees shall become employees for purposes of the State Employees Retirement Act on the first day of the first pay period following the termination of such contributory retirement plan or contract, (g) employees of the State Board of Agriculture who are not members of the state retirement system on July 1, 1982, (h) the Nebraska National Guard air and army technicians, (i) persons eligible for membership under the School Employees Retirement System of the State of Nebraska who have not elected to become members of the retirement system



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(25) Prior service means service before January 1, 1964;

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

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

(a)(i) Terminated employment with the State of Nebraska; and

(ii)(A) Attained at least seventy and one-half years of age for a member who attained seventy and one-half years of age on or before December 31, 2019;  
or

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

(b)(i) Terminated employment with the State of Nebraska; and

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

(28) (27) Required contribution means the deduction to be made from the

compensation of employees as provided in section 84-1308;

~~(29)~~ ~~(28)~~ Retirement means qualifying for and accepting the retirement benefit granted under the State Employees Retirement Act after terminating employment;

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

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

~~(32)~~ ~~(31)~~ Retirement date means (a) the first day of the month following the date upon which a member's request for retirement is received on a retirement application if the member is eligible for retirement and has terminated employment or (b) the first day of the month following termination of employment if the member is eligible for retirement and has filed an application but has not yet terminated employment;

~~(33)~~ ~~(32)~~ Retirement system means the State Employees Retirement System of the State of Nebraska;

~~(34)~~ ~~(33)~~ Service means the actual total length of employment as an employee and shall not be deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under section 84-1317;

~~(35)~~ ~~(34)~~ State department means any department, bureau, commission, or other division of state government not otherwise specifically defined or exempted in the act, the employees and officers of which are not already covered by a retirement plan;

~~(36)~~ ~~(35)~~ Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits;

~~(37)~~ ~~(36)~~ Termination of employment occurs on the date on which the agency which employs the member determines that the member's employer-employee relationship with the State of Nebraska is dissolved. The agency which employs the member shall notify the board of the date on which such a termination has occurred. Termination of employment does not occur if an employee whose employer-employee relationship with the State of Nebraska is dissolved enters into an employer-employee relationship with the same or another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased with the state and the date when the employer-employee relationship commenced with the same or another agency. It is the responsibility of the employer that is involved in the termination of employment to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a retirement benefit has been paid to a member of the retirement system pursuant to section 84-1321, the board shall require the member who has received such benefit to repay the benefit to the retirement system; and

~~(38)~~ ~~(37)~~ Vesting credit means credit for years, or a fraction of a year, of participation in another Nebraska governmental plan for purposes of determining vesting of the employer account.

Sec. 12. Section 84-1317, Reissue Revised Statutes of Nebraska, is amended to read:

84-1317 (1) Upon filing an application for benefits with the board, an employee may elect to retire after the attainment of age fifty-five or an employee may retire as a result of disability at any age.

(2) The member shall specify in the application for benefits the manner in which he or she wishes to receive the retirement benefit under the options provided by the State Employees Retirement Act. Payment under the application for benefits shall be made (a) for annuities, no sooner than the annuity start date, and (b) for other distributions, no sooner than the date of final account value.

(3) Payment of any benefit provided under the retirement system ~~shall~~ may not be deferred later than ~~the required beginning date April 1 of the year following the year in which the employee has both attained at least age seventy and one-half years and terminated his or her employment with the state.~~

(4) The board shall make reasonable efforts to locate the member or the member's beneficiary and distribute benefits by the required beginning date ~~as specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder.~~ If the board is unable to make such a distribution, the benefit shall be distributed pursuant to the Uniform Disposition of Unclaimed Property Act and no amounts may be applied to increase the benefits any member would otherwise receive under the State Employees Retirement Act.

(5) A participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of section 401(a)

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

Sec. 13. Section 84-1319, Revised Statutes Supplement, 2019, is amended to read:

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

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

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

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

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

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

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

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

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

(4)(a) The normal form of payment shall be a single life annuity with five-year certain, which is an annuity payable monthly during the remainder of the member's life with the provision that, in the event of the member's death before sixty monthly payments have been made, the monthly payments will continue until sixty monthly payments have been made in total pursuant to section 84-1323.02.

Such annuity shall be equal to the actuarial equivalent of the member cash balance account or the sum of the employee and employer accounts, whichever is applicable, as of the date of final account value. As a part of the annuity, the normal form of payment may include a two and one-half percent cost-of-living adjustment purchased by the member, if the member elects such a payment option.

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

For a member employed and participating in the retirement system prior to January 1, 2003, who has elected to participate in the cash balance benefit pursuant to section 84-1309.02, or for a member employed and participating in the retirement system beginning on and after January 1, 2003, the balance of his or her member cash balance account as of the date of final account value shall be converted to an annuity using an interest rate that is recommended by the actuary and approved by the board following an actuarial experience study, a benefit adequacy study, or a plan valuation. The interest rate and actuarial factors in effect on the member's retirement date will be used to calculate actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate of return.

For an employee who is a member prior to January 1, 2003, who has elected not to participate in the cash balance benefit pursuant to section 84-1309.02, and who, at the time of retirement, chooses the annuity option rather than the lump-sum option, his or her employee and employer accounts as of the date of final account value shall be converted to an annuity using an interest rate that is equal to the lesser of (i) the Pension Benefit Guaranty Corporation

initial interest rate for valuing annuities for terminating plans as of the beginning of the year during which payment begins plus three-fourths of one percent or (ii) the interest rate to calculate the retirement benefits for the cash balance plan members.

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

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

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

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

Sec. 14. Section 84-1320, Reissue Revised Statutes of Nebraska, is amended to read:

84-1320 The prior service retirement benefit shall be a straight life annuity, payable monthly with the first payment made as of the annuity start date, in an amount determined in accordance with the State Employees Retirement Act, except that the payments may be made less often than monthly if the monthly payment would be less than fifteen dollars. At the option of the member, the first payment may be deferred to commence at any time, except that no benefit shall be deferred later than the required beginning date April 1 of the year following the year in which the employee has both attained at least seventy and one-half years of age and has terminated his or her employment with the state. Such deferred benefit shall be the actuarial equivalent, based on factors designated by the board, of the prior service benefit. In the event of retirement before age sixty-five under section 84-1317, the amount of the prior service annuity shall be reduced in accordance with the principles of actuarial equivalence based on factors designated by the board. Any member of the retirement system who ceases to be an employee before becoming eligible for retirement under section 84-1317, who has accrued a prior service retirement benefit as defined in the act, and who has been continuously employed by the state for ten or more years immediately prior to termination shall receive the prior service retirement benefit determined in accordance with the act upon attaining age sixty-five. At the option of the terminating member, such annuity

may commence as of the first of the month at any time after such member attains the age of fifty-five or may be deferred, except that no benefit shall be deferred later than the ~~required beginning date April 1 of the year following the year in which the employee has both attained at least seventy and one-half years of age and has terminated his or her employment with the state.~~ Such election by the terminating member may be made at any time prior to the commencement of the annuity payments. Any terminating employee who forfeits a vested future service retirement benefit by withdrawing his or her employee account shall also forfeit any vested prior service retirement benefit to which he or she would otherwise be entitled.

Sec. 15. Section 84-1321, Reissue Revised Statutes of Nebraska, is amended to read:

84-1321 (1) Except as provided in section 42-1107, upon termination of employment before becoming eligible for retirement under section 84-1317, a member may, upon application to the board, receive:

(a) If not vested, a termination benefit equal to the amount in his or her employee account or member cash balance account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than the required beginning date April 1 of the year following the year in which the member attains the age of seventy and one-half years; or

(b) If vested, a termination benefit equal to (i) the amount of his or her member cash balance account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than the required beginning date April 1 of the year following the year in which the member attains the age of seventy and one-half years or (ii)(A) the amount in his or her employee account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than the required beginning date April 1 of the year following the year in which the member attains the age of seventy and one-half years plus (B) the amount of his or her employer account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than the required beginning date April 1 of the year following the year in which the member attains the age of seventy and one-half years.

(c) The member cash balance account or employer and employee accounts of a terminating member shall be retained by the board, and the termination benefit shall be deferred until a valid application for benefits has been received.

(2) At the option of the terminating member, any lump sum of the vested portion of the employer account or member cash balance account or any annuity provided under subsection (1) of this section shall commence as of the first of the month at any time after such member has terminated his or her employment with the state or may be deferred, except that no benefit shall be deferred later than the required beginning date April 1 of the year following the year in which the employee has both attained at least seventy and one-half years of age and has terminated his or her employment with the state. Such election by the terminating member shall be made at any time prior to the commencement of the lump-sum or annuity payments.

(3) Members of the retirement system shall be vested after a total of three years of participation in the system as a member pursuant to section 84-1307, including vesting credit. If an employee retires pursuant to section 84-1317, such an employee shall be fully vested in the retirement system.

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

Sec. 16. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 17. Original sections 79-932, 84-1317, 84-1320, and 84-1321, Reissue Revised Statutes of Nebraska, sections 23-2301, 23-2315, 23-2319, 24-701, 24-708, 81-2014, 81-2025, and 84-1301, Revised Statutes Cumulative Supplement, 2018, and sections 23-2317, 79-902, and 84-1319, Revised Statutes Supplement, 2019, are repealed.

Sec. 18. Since an emergency exists, this act takes effect when passed and approved according to law.