

E AND R AMENDMENTS TO LB 198

Introduced by Ballard, 21, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. Section 4-108, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 4-108 (1) Notwithstanding any other provisions of law, unless
6 exempted from verification under section 4-110 or pursuant to federal
7 law, no state agency or political subdivision of the State of Nebraska
8 shall provide public benefits to a person not lawfully present in the
9 United States.

10 (2) Except as provided in section 4-110 or if exempted by federal
11 law, every agency or political subdivision of the State of Nebraska shall
12 verify the lawful presence in the United States of any person who has
13 applied for public benefits administered by an agency or a political
14 subdivision of the State of Nebraska. This section shall be enforced
15 without regard to race, religion, gender, ethnicity, or national origin.

16 (3) ~~No On and after October 1, 2009, no~~ employee of a state agency
17 or political subdivision of the State of Nebraska shall be authorized to
18 participate in any retirement system, including, but not limited to, the
19 systems provided for in the Class V School Employees Retirement Act, the
20 County Employees Retirement Act, the Judges Retirement Act, the Nebraska
21 State Patrol Retirement Act, the School Employees Retirement Act, and the
22 State Employees Retirement Act, unless the employee ~~(a)~~ is a United
23 States citizen or ~~(b) is a qualified alien under the federal Immigration~~
24 ~~and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on~~
25 January 1, 2009, and is lawfully present in the United States. The
26 employing state agency or political subdivision of the State of Nebraska
27 and the employee shall maintain at least one of the following documents

1 which shall be unexpired, if applicable to the particular document, to
2 demonstrate United States citizenship or lawful presence in the United
3 States as of the employee's date of hire and produce any such document so
4 maintained upon request of the Public Employees Retirement Board or the
5 Nebraska Public Employees Retirement Systems:

6 (a) A state-issued driver's license;

7 (b) A state-issued identification card;

8 (c) A certified copy of a birth certificate or delayed birth
9 certificate issued in any state, territory, or possession of the United
10 States;

11 (d) A Consular Report of Birth Abroad issued by the United States
12 Department of State;

13 (e) A United States passport;

14 (f) A foreign passport with a United States visa;

15 (g) A United States Certificate of Naturalization;

16 (h) A United States Certificate of Citizenship;

17 (i) A tribal certificate of Native American blood or similar
18 document;

19 (j) A United States Citizenship and Immigration Services Employment
20 Authorization Document, Form I-766;

21 (k) A United States Citizenship and Immigration Services Permanent
22 Resident Card, Form I-551; or

23 (l) Any other document issued by the United States Department of
24 Homeland Security or the United States Citizenship and Immigration
25 Services granting employment authorization in the United States and
26 approved by the Public Employees Retirement Board.

27 Sec. 2. Section 4-111, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 4-111 (1) Verification of lawful presence in the United States
30 pursuant to section 4-108 requires that the applicant for public benefits
31 attest in a format prescribed by the Department of Administrative

1 Services that such applicant ~~:(a) He or she is a United States citizen;~~
2 ~~or (b) He or she is a qualified alien under the federal Immigration and~~
3 ~~Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1,~~
4 ~~2009, and is lawfully present in the United States and maintains the~~
5 documentation required under subsection (3) of section 4-108.

6 (2) A state agency or political subdivision of the State of Nebraska
7 may adopt and promulgate rules and regulations or procedures for the
8 electronic filing of the attestation required under subsection (1) of
9 this section if such attestation is substantially similar to the format
10 prescribed by the Department of Administrative Services.

11 (3)(a) The Legislature finds that it is in the best interest of the
12 State of Nebraska to make full use of the skills and talents in the state
13 by ensuring that a person who is work-authorized is able to obtain a
14 professional or commercial license and practice his or her profession.

15 (b) For purposes of a professional or commercial license, the
16 Legislature finds that a person not described in subsection (1)
17 ~~subdivision (1)(a) or (1)(b)~~ of this section who submits (i) an unexpired
18 employment authorization document issued by the United States Department
19 of Homeland Security, Form I-766, and (ii) documentation issued by the
20 United States Department of Homeland Security, the United States
21 Citizenship and Immigration Services, or any other federal agency, such
22 as one of the types of Form I-797 used by the United States Citizenship
23 and Immigration Services, demonstrating that such person is described in
24 section 202(c)(2)(B)(i) through (x) of the federal REAL ID Act of 2005,
25 Public Law 109-13, has demonstrated lawful presence pursuant to section
26 4-108 and is eligible to obtain such license. Such license shall be valid
27 only for the period of time during which such person's employment
28 authorization document is valid. Nothing in this subsection shall affect
29 the requirements to obtain a professional or commercial license that are
30 unrelated to the lawful presence requirements demonstrated pursuant to
31 this subsection.

1 (c) Nothing in this subsection shall be construed to grant
2 eligibility for any public benefits other than obtaining a professional
3 or commercial license.

4 (d) Any person who has complied with the requirements of this
5 subsection shall have his or her employment authorization document
6 verified through the Systematic Alien Verification for Entitlements
7 Program operated by the United States Department of Homeland Security or
8 an equivalent program designated by the United States Department of
9 Homeland Security.

10 (e) The Legislature enacts this subsection pursuant to the authority
11 provided in 8 U.S.C. 1621(d), as such section existed on January 1, 2016.

12 Sec. 3. Section 23-2306, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 23-2306 (1) The membership of the retirement system shall be
15 composed of all persons who are or were employed by member counties and
16 who maintain an account balance with the retirement system.

17 (2) The following employees of member counties are authorized to
18 participate in the retirement system: (a) All permanent full-time
19 employees who have attained the age of eighteen years shall begin
20 participation in the retirement system upon employment and full-time
21 elected officials shall begin participation in the retirement system upon
22 taking office, (b) all permanent part-time employees who have attained
23 the age of eighteen years may exercise the option to begin participation
24 in the retirement system within the first thirty days of employment, and
25 (c) all part-time elected officials may exercise the option to begin
26 participation in the retirement system within thirty days after taking
27 office. An employee who exercises the option to begin participation in
28 the retirement system shall remain in the system until termination or
29 retirement, regardless of any change of status as a permanent or
30 temporary employee.

31 (3) ~~No On and after July 1, 2010, no~~ employee of a member county

1 shall be authorized to participate in the retirement system provided for
2 in the County Employees Retirement Act unless the employee (a) is a
3 United States citizen or (b) ~~is a qualified alien under the federal~~
4 ~~Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act~~
5 ~~existed on January 1, 2009, and is lawfully present in the United States.~~
6 The employing member county and the employee shall maintain at least one
7 of the following documents which shall be unexpired, if applicable to the
8 particular document, to demonstrate United States citizenship or lawful
9 presence in the United States as of the employee's date of hire and
10 produce any such document so maintained upon request of the retirement
11 board or the Nebraska Public Employees Retirement Systems:

12 (a) A state-issued driver's license;

13 (b) A state-issued identification card;

14 (c) A certified copy of a birth certificate or delayed birth
15 certificate issued in any state, territory, or possession of the United
16 States;

17 (d) A Consular Report of Birth Abroad issued by the United States
18 Department of State;

19 (e) A United States passport;

20 (f) A foreign passport with a United States visa;

21 (g) A United States Certificate of Naturalization;

22 (h) A United States Certificate of Citizenship;

23 (i) A tribal certificate of Native American blood or similar
24 document;

25 (j) A United States Citizenship and Immigration Services Employment
26 Authorization Document, Form I-766;

27 (k) A United States Citizenship and Immigration Services Permanent
28 Resident Card, Form I-551; or

29 (l) Any other document issued by the United States Department of
30 Homeland Security or the United States Citizenship and Immigration
31 Services granting employment authorization in the United States and

1 approved by the retirement board.

2 (4)(a) The board may determine that a governmental entity currently
3 participating in the retirement system no longer qualifies, in whole or
4 in part, under section 414(d) of the Internal Revenue Code as a
5 participating employer in a governmental plan.

6 (b)(i) To aid governmental entities in their business decisionmaking
7 process, any governmental entity currently participating in the
8 retirement system contemplating a business transaction that may result in
9 such entity no longer qualifying, in whole or in part, under section
10 414(d) of the Internal Revenue Code may notify the board in writing as
11 soon as reasonably practicable, but no later than one hundred eighty days
12 before the transaction is to occur.

13 (ii) The board when timely notified shall, as soon as is reasonably
14 practicable, obtain from its contracted actuary the cost of any actuarial
15 study necessary to determine the potential funding obligation. The board
16 shall notify the entity of such cost.

17 (iii) If such entity pays the board's contracted actuary pursuant to
18 subdivision (4)(c)(vi) of this section for any actuarial study necessary
19 to determine the potential funding obligation, the board shall, as soon
20 as reasonably practicable following its receipt of the actuarial study,
21 (A) determine whether the entity's contemplated business transaction will
22 cause the entity to no longer qualify under section 414(d) of the
23 Internal Revenue Code, (B) determine whether the contemplated business
24 transaction constitutes a plan termination by the entity, (C) determine
25 the potential funding obligation, (D) determine the administrative costs
26 that will be incurred by the board or the Nebraska Public Employees
27 Retirement Systems in connection with the entity's removal from the
28 retirement system, and (E) notify the entity of such determinations.

29 (iv) Failure to timely notify the board pursuant to subdivision (4)
30 (b)(i) of this section may result in the entity being treated as though
31 the board made a decision pursuant to subdivision (4)(a) of this section.

1 (c) If the board makes a determination pursuant to subdivision (4)
2 (a) of this section, or if the entity engages in the contemplated
3 business transaction reviewed under subdivision (4)(b) of this section
4 that results in the entity no longer qualifying under section 414(d) of
5 the Internal Revenue Code:

6 (i) The board shall notify the entity that it no longer qualifies
7 under section 414(d) of the Internal Revenue Code within ten business
8 days after the determination;

9 (ii) The affected plan members shall be immediately considered fully
10 vested;

11 (iii) The affected plan members shall become inactive within ninety
12 days after the board's determination;

13 (iv) The entity shall pay to the County Employees Retirement Fund an
14 amount equal to any funding obligation;

15 (v) The entity shall pay to the County Employees Cash Balance
16 Retirement Expense Fund an amount equal to any administrative costs
17 incurred by the board or the Nebraska Public Employees Retirement Systems
18 in connection with the entity's removal from the retirement system; and

19 (vi) The entity shall pay directly to the board's contracted actuary
20 an amount equal to the cost of any actuarial study necessary to aid the
21 board in determining the amount of such funding obligation, if not
22 previously paid.

23 (d) For purposes of this subsection:

24 (i) Business transaction means a merger; consolidation; sale of
25 assets, equipment, or facilities; termination of a division, department,
26 section, or subgroup of the entity; or any other business transaction
27 that results in termination of some or all of the entity's workforce; and

28 (ii) Funding obligation means the financial liability of the
29 retirement system to provide benefits for the affected plan members
30 incurred by the retirement system due to the entity's business
31 transaction calculated using the methodology and assumptions recommended

1 by the board's contracted actuary and approved by the board. The
2 methodology and assumptions used must be structured in a way that ensures
3 the entity is financially liable for all the costs of the entity's
4 business transaction, and the retirement system is not financially liable
5 for any of the cost of the entity's business transaction.

6 (e) The board may adopt and promulgate rules and regulations to
7 carry out this subsection including, but not limited to, the methods of
8 notifying the board of pending business transactions, the acceptable
9 methods of payment, and the timing of such payment.

10 (5) Within the first one hundred eighty days of employment, a full-
11 time employee may apply to the board for vesting credit for years of
12 participation in another Nebraska governmental plan, as defined by
13 section 414(d) of the Internal Revenue Code. During the years of
14 participation in the other Nebraska governmental plan, the employee must
15 have been a full-time employee, as defined in the Nebraska governmental
16 plan in which the credit was earned. The board may adopt and promulgate
17 rules and regulations governing the assessment and granting of vesting
18 credit.

19 (6) Any employee who qualifies for membership in the retirement
20 system pursuant to this section may not be disqualified from membership
21 in the retirement system solely because such employee also maintains
22 separate employment which qualifies the employee for membership in
23 another public retirement system, nor may membership in this retirement
24 system disqualify such an employee from membership in another public
25 retirement system solely by reason of separate employment which qualifies
26 such employee for membership in this retirement system.

27 (7) A full-time or part-time employee of a city, village, or
28 township who becomes a county employee pursuant to a merger of services
29 shall receive vesting credit for his or her years of participation in a
30 Nebraska governmental plan, as defined by section 414(d) of the Internal
31 Revenue Code, of the city, village, or township.

1 (8) A full-time or part-time employee of a city, village, fire
2 protection district, or township who becomes a municipal county employee
3 shall receive credit for his or her years of employment with the city,
4 village, fire protection district, or township for purposes of the
5 vesting provisions of this section.

6 (9) A full-time or part-time employee of the state who becomes a
7 county employee pursuant to transfer of assessment function to a county
8 shall not be deemed to have experienced a termination of employment and
9 shall receive vesting credit for his or her years of participation in the
10 State Employees Retirement System of the State of Nebraska.

11 (10) Counties shall ensure that employees authorized to participate
12 in the retirement system pursuant to this section shall enroll and make
13 required contributions to the retirement system immediately upon becoming
14 an employee. Information necessary to determine membership in the
15 retirement system shall be provided by the employer.

16 Sec. 4. Section 24-703.01, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 24-703.01 ~~No~~ ~~On and after July 1, 2010,~~ no judge shall be
19 authorized to participate in the retirement system provided for in the
20 Judges Retirement Act unless the judge ~~(a)~~ is a United States citizen or
21 ~~(b) is a qualified alien under the federal Immigration and Nationality~~
22 ~~Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and~~
23 is lawfully present in the United States. The court and the judge shall
24 maintain at least one of the following documents which shall be
25 unexpired, if applicable to the particular document, to demonstrate
26 United States citizenship or lawful presence in the United States as of
27 the judge's date of hire and produce any such document so maintained upon
28 request of the board or the Nebraska Public Employees Retirement Systems:

- 29 (1) A state-issued driver's license;
30 (2) A state-issued identification card;
31 (3) A certified copy of a birth certificate or delayed birth

1 certificate issued in any state, territory, or possession of the United
2 States;

3 (4) A Consular Report of Birth Abroad issued by the United States
4 Department of State;

5 (5) A United States passport;

6 (6) A foreign passport with a United States visa;

7 (7) A United States Certificate of Naturalization;

8 (8) A United States Certificate of Citizenship;

9 (9) A tribal certificate of Native American blood or similar
10 document;

11 (10) A United States Citizenship and Immigration Services Employment
12 Authorization Document, Form I-766;

13 (11) A United States Citizenship and Immigration Services Permanent
14 Resident Card, Form I-551; or

15 (12) Any other document issued by the United States Department of
16 Homeland Security or the United States Citizenship and Immigration
17 Services granting employment authorization in the United States and
18 approved by the board.

19 Sec. 5. Section 60-1304, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 60-1304 (1) Carrier enforcement officers described in subdivision
22 (2)(b) of section 60-1303 who, on or after July 20, 2002, are transferred
23 to the Nebraska State Patrol and become officers of the Nebraska State
24 Patrol with the powers and duties prescribed in sections 81-2001 to
25 81-2009 shall, within ninety days of transfer, elect to participate in
26 the Nebraska State Patrol Retirement System or elect to remain members of
27 the State Employees Retirement System of the State of Nebraska.

28 (2) An officer who elects to become a member of the Nebraska State
29 Patrol Retirement System pursuant to this section shall (a) receive
30 eligibility and vesting credit pursuant to subsection (3) ~~(2)~~ of section
31 81-2016 for his or her years of participation in the State Employees

1 Retirement System of the State of Nebraska, (b) be vested in the employer
2 account with the State Employees Retirement System of the State of
3 Nebraska regardless of his or her period of participation in the State
4 Employees Retirement System, and (c) be treated for all other purposes of
5 the Nebraska State Patrol Retirement Act as a new member of the Nebraska
6 State Patrol Retirement System.

7 (3) Transferring participation from the State Employees Retirement
8 System of the State of Nebraska to the Nebraska State Patrol Retirement
9 System pursuant to this section does not constitute a termination for
10 purposes of the State Employees Retirement Act.

11 Sec. 6. Section 79-901, Revised Statutes Cumulative Supplement,
12 2022, is amended to read:

13 79-901 Sections 79-901 to 79-977.03 and section 8 of this act shall
14 be known and may be cited as the School Employees Retirement Act.

15 Sec. 7. Section 79-902, Revised Statutes Supplement, 2023, is
16 amended to read:

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

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

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

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

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

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

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

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

30 (b) Compensation does not include (i) fraudulently obtained amounts
31 as determined by the retirement board, (ii) amounts for accrued unused

1 sick leave or accrued unused vacation leave converted to cash payments,
2 (iii) insurance premiums converted into cash payments, (iv) reimbursement
3 for expenses incurred, (v) fringe benefits, (vi) per diems paid as
4 expenses, (vii) bonuses for services not actually rendered, (viii) early
5 retirement inducements, (ix) cash awards, (x) severance pay, or (xi)
6 employer contributions made for the purposes of separation payments made
7 at retirement.

8 (c) Compensation in excess of the limitations set forth in section
9 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01
10 shall be disregarded. For an employee who was a member of the retirement
11 system before the first plan year beginning after December 31, 1995, the
12 limitation on compensation shall not be less than the amount which was
13 allowed to be taken into account under the retirement system as in effect
14 on July 1, 1993;

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

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

25 (b) Creditable service includes working days, sick days, vacation
26 days, holidays, and any other leave days for which the employee is paid
27 regular wages as part of the employee's agreement with the employer.
28 Creditable service does not include lump-sum payments to the employee
29 upon termination or retirement in lieu of accrued benefits for such days,
30 eligibility and vesting credit, service years for which member
31 contributions are withdrawn and not repaid by the member, service

1 rendered for which the retirement board determines that the member was
2 paid less in compensation than the minimum wage as provided in the Wage
3 and Hour Act, service which the board determines was rendered with the
4 intent to defraud the retirement system, or service provided to an
5 employer in a retirement system established pursuant to the Class V
6 School Employees Retirement Act;

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

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

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

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

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

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

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

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

30 (d) An additional salary or wage component of any kind that is being
31 paid as an incentive to leave employment and not for personal services

1 performed for which creditable service is granted;

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

8 (f) Any other form of separation payments made by an employer to a
9 member at termination, including, but not limited to, purchasing
10 retirement annuity contracts for the member pursuant to section 79-514,
11 depositing money for the member in an account established under section
12 403(b) of the Internal Revenue Code except for payments for accrued
13 unused leave, or purchasing service credit for the member pursuant to
14 section 79-933.08;

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

20 (13) Emeritus member means a person (a) who has entered retirement
21 under the act, including those persons who have retired since July 1,
22 1945, under any other regularly established retirement or pension system
23 as contemplated by section 79-916, (b) who has thereafter been reemployed
24 in any capacity by a public school, a Class V school district, or a
25 school under the control and management of the Board of Trustees of the
26 Nebraska State Colleges, the Board of Regents of the University of
27 Nebraska, or a community college board of governors or has become a state
28 school official or county school official subsequent to such retirement,
29 and (c) who has applied to the board for emeritus membership in the
30 retirement system. The school district or agency shall certify to the
31 retirement board on forms prescribed by the retirement board that the

1 annuitant was reemployed, rendered a service, and was paid by the
2 district or agency for such services;

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

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

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

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

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

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

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

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

22 (b) Payments under the Retirement Incentive Plan pursuant to section
23 79-855 and Staff Development Assistance pursuant to section 79-856 shall
24 not be included in the determination of final average compensation;

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

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

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

31 (19) Member means any person who has an account in the School

1 Retirement Fund;

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

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

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

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

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

29 (25) Regular interest means interest fixed at a rate equal to the
30 daily treasury yield curve for one-year treasury securities, as published
31 by the Secretary of the Treasury of the United States, that applies on

1 July 1 of each year, which may be credited monthly, quarterly,
2 semiannually, or annually as the board may direct;

3 (26) Relinquished creditable service means, with respect to a member
4 who has withdrawn his or her accumulated contributions under section
5 79-955, the total amount of creditable service which such member has
6 given up as a result of his or her election not to remain a member of the
7 retirement system;

8 (27) Required beginning date means, for purposes of the deferral of
9 distributions and the commencement of mandatory distributions pursuant to
10 section 401(a)(9) of the Internal Revenue Code and the regulations issued
11 thereunder, April 1 of the year following the calendar year in which a
12 member:

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

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

18 (B) Attained at least seventy-two years of age for a member who
19 attained seventy and one-half years of age on or after January 1, 2020,
20 and prior to January 1, 2023;

21 (C) Attained at least seventy-three years of age for a member who
22 attained seventy-two years of age after December 31, 2022, and seventy-
23 three years of age prior to January 1, 2033; or

24 (D) Attained at least seventy-five years of age for a member who
25 attained seventy-four years of age after December 31, 2032; or

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

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

30 (28) Required deposit means the deduction from a member's
31 compensation as provided for in section 79-958 which shall be deposited

1 in the School Retirement Fund;

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

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

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

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

18 (33) Retirement system means the School Employees Retirement System
19 of the State of Nebraska;

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

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

1 employees;

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

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

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

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

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

31 (41) State school official means the Commissioner of Education and

1 his or her professional staff who are required by law or by the State
2 Department of Education to hold a certificate as such term is defined in
3 section 79-807;

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

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

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

26 (45)(a) Termination of employment or termination occurs on the date
27 ~~on which~~ the member experiences a bona fide separation from service of
28 ~~employment~~ with the member's employer. The ~~, the~~ date of the ~~which~~
29 separation is ~~determined by~~ the end of the member's contractual agreement
30 or, if there is no contract or only partial fulfillment of a contract, as
31 determined by the employer.

1 (b) A member shall not be deemed to have incurred a termination of
2 employment if the board determines based on the facts and circumstances
3 that:

4 (i) A claimed termination was not a bona fide separation from
5 service with the member's employer;

6 (ii) A member was compensated for a full contractual period when the
7 member stopped working prior to the end date of the contract; or

8 (iii) A member prearranged a return to work that violates the
9 provisions of the School Employees Retirement Act.

10 (c) A member who experiences a separation from service must comply
11 with the return-to-work provisions of section 8 of this act if the member
12 is subsequently employed by an employer participating in the retirement
13 system.

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

19 ~~(i) Bona fide unpaid voluntary service or substitute service,~~
20 ~~provided on an intermittent basis. For purposes of this subdivision, (A)~~
21 ~~intermittent basis means service provided on a day-to-day basis that is~~
22 ~~not greater than eight days of service during a calendar month and (B)~~
23 ~~day of service means any length of substitute service or unpaid voluntary~~
24 ~~service provided during a single calendar day; or~~

25 ~~(ii) As provided in section 79-920.~~

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

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

1 a policy which limits or denies employees who have experienced a
2 separation from service with the employer ~~terminated employment from~~
3 working as a volunteer ~~providing voluntary~~ or substitute employee service
4 within one hundred eighty days after the employee experiences such
5 separation from service ~~termination~~; and

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

8 Sec. 8. (1)(a) A member who experiences a separation from service
9 with the member's employer but has not submitted a retirement application
10 or a request for distribution pursuant to section 79-955, or received a
11 retirement benefit, disability retirement benefit, or distribution
12 pursuant to section 79-955, from the retirement system, may return to
13 work as a temporary employee, substitute employee, or volunteer for any
14 employer participating in the retirement system. Such an employee:

15 (i) Shall be deemed to have incurred a termination for purposes of
16 sections 79-921, 79-932, 79-933.02 to 79-933.06, and 79-933.08;

17 (ii) Shall not be deemed to have incurred a termination for purposes
18 of sections 79-933, 79-951, and 79-955, and shall not be eligible to
19 receive a retirement benefit, disability retirement benefit, or
20 distribution pursuant to section 79-955, from the retirement system,
21 until the member incurs a termination of employment as described in
22 subdivision (45) of section 79-902; and

23 (iii) Except as provided in subdivision (1)(b) of this section,
24 shall not be eligible to contribute to the retirement system pursuant to
25 section 79-958 or accrue service credit in the retirement system pursuant
26 to section 79-927.

27 (b)(i) A member as described in subdivision (1)(a) of this section
28 who becomes a regular employee for an employer participating in the
29 retirement system shall immediately begin making contributions pursuant
30 to section 79-958 on all compensation paid by such employer and accrue
31 service credit pursuant to section 79-927 for all such service performed

1 for such employer, including any work as a temporary employee or
2 substitute employee.

3 (ii) A member as described in subdivision (1)(a) of this section who
4 has not established eligibility as a regular employee at another employer
5 shall not make contributions pursuant to section 79-958 on all
6 compensation paid by such employer nor accrue service credit pursuant to
7 section 79-927 for work performed by the member as a temporary employee
8 or substitute employee for such employer.

9 (c) Work performed while the member is not contributing to the
10 retirement system pursuant to subdivision (1)(a) of this section shall
11 not accrue service credit in the retirement system pursuant to section
12 79-927 and cannot be purchased as service credit under sections 79-933.03
13 to 79-933.06 and 79-933.08.

14 (2)(a) A member who experiences a separation from service with the
15 member's employer and has submitted a retirement application or a request
16 for distribution pursuant to section 79-955, or received a retirement
17 benefit, disability retirement benefit, or distribution pursuant to
18 section 79-955, from the retirement system, shall not be deemed to have
19 incurred a termination of employment if the member subsequently returns
20 to work for any employer participating in the retirement system within
21 one hundred eighty days after separating from service, unless such work
22 is limited to:

23 (i) Intermittent work as a volunteer or substitute employee. For
24 purposes of this subsection:

25 (A) Intermittent work means work provided on a day-to-day basis that
26 is not greater than eight days of work during a calendar month; and

27 (B) Day of work means any length of work as a volunteer or
28 substitute employee provided during a single calendar day; or

29 (ii) Work as authorized by, and performed in accordance with,
30 section 79-920.

31 (b) The one-hundred-eighty-day period begins on the later of:

1 (i) The date the member experienced a bona fide separation from
2 service of all employment with all employers participating in the
3 retirement system; or

4 (ii) The date the Nebraska Public Employees Retirement Systems
5 receives the member's retirement application or request for distribution
6 pursuant to section 79-955.

7 (c)(i) A member may seek a determination from the director of the
8 Nebraska Public Employees Retirement Systems that it has been at least
9 one hundred eighty days since the member satisfied the requirements
10 described in this subsection. The director shall make such determination
11 if the member produces clear and convincing evidence that is received by
12 the director within forty-five days after the later of:

13 (A) The date the member experienced a bona fide separation of
14 service of all employment with all employers participating in the
15 retirement system; or

16 (B) The date the member's retirement application or request for
17 distribution pursuant to section 79-955 is received by the Nebraska
18 Public Employees Retirement Systems.

19 (ii) A member may appeal the director's determination to the board
20 within thirty days of receiving such determination.

21 (iii) The board's determination on the appeal shall be final and
22 shall not be appealable to any court.

23 Sec. 9. Section 79-915, Revised Statutes Cumulative Supplement,
24 2022, is amended to read:

25 79-915 (1) Persons residing outside of the United States and engaged
26 temporarily as school employees in the State of Nebraska shall not become
27 members of the retirement system.

28 (2) ~~No On and after July 1, 2010, no~~ school employee shall be
29 authorized to participate in the retirement system provided for in the
30 School Employees Retirement Act unless the employee ~~(a)~~ is a United
31 States citizen or ~~(b) is a qualified alien under the federal Immigration~~

1 ~~and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on~~
2 ~~January 1, 2009, and is lawfully present in the United States. The~~
3 employing public school and the school employee shall maintain at least
4 one of the following documents which shall be unexpired, if applicable to
5 the particular document, to demonstrate United States citizenship or
6 lawful presence in the United States as of the employee's date of hire
7 and produce any such document so maintained upon request of the
8 retirement board or the Nebraska Public Employees Retirement Systems:

9 (a) A state-issued driver's license;

10 (b) A state-issued identification card;

11 (c) A certified copy of a birth certificate or delayed birth
12 certificate issued in any state, territory, or possession of the United
13 States;

14 (d) A Consular Report of Birth Abroad issued by the United States
15 Department of State;

16 (e) A United States passport;

17 (f) A foreign passport with a United States visa;

18 (g) A United States Certificate of Naturalization;

19 (h) A United States Certificate of Citizenship;

20 (i) A tribal certificate of Native American blood or similar
21 document;

22 (j) A United States Citizenship and Immigration Services Employment
23 Authorization Document, Form I-766;

24 (k) A United States Citizenship and Immigration Services Permanent
25 Resident Card, Form I-551; or

26 (l) Any other document issued by the United States Department of
27 Homeland Security or the United States Citizenship and Immigration
28 Services granting employment authorization in the United States and
29 approved by the retirement board.

30 (3)(a) The board may determine that a governmental entity currently
31 participating in the retirement system no longer qualifies, in whole or

1 in part, under section 414(d) of the Internal Revenue Code as a
2 participating employer in a governmental plan.

3 (b)(i) To aid governmental entities in their business decisionmaking
4 process, any governmental entity currently participating in the
5 retirement system contemplating a business transaction that may result in
6 such entity no longer qualifying, in whole or in part, under section
7 414(d) of the Internal Revenue Code may notify the board in writing as
8 soon as reasonably practicable, but no later than one hundred eighty days
9 before the transaction is to occur.

10 (ii) The board when timely notified shall, as soon as is reasonably
11 practicable, obtain from its contracted actuary the cost of any actuarial
12 study necessary to determine the potential funding obligation. The board
13 will notify the entity of such cost.

14 (iii) If such entity pays the board's contracted actuary pursuant to
15 subdivision (3)(c)(vi) of this section for any actuarial study necessary
16 to determine the potential funding obligation, the board shall, as soon
17 as reasonably practicable following its receipt of the actuarial study,
18 (A) determine whether the entity's contemplated business transaction will
19 cause the entity to no longer qualify under section 414(d) of the
20 Internal Revenue Code, (B) determine whether the contemplated business
21 transaction constitutes a plan termination by the entity, (C) determine
22 the potential funding obligation, (D) determine the administrative costs
23 that will be incurred by the board or the Nebraska Public Employees
24 Retirement Systems in connection with the entity's removal from the
25 retirement system, and (E) notify the entity of such determinations.

26 (iv) Failure to timely notify the board pursuant to subdivision (3)
27 (b)(i) of this section may result in the entity being treated as though
28 the board made a decision pursuant to subdivision (3)(a) of this section.

29 (c) If the board makes a determination pursuant to subdivision (3)
30 (a) of this section, or if the entity engages in the contemplated
31 business transaction reviewed under subdivision (3)(b) of this section

1 that results in the entity no longer qualifying under section 414(d) of
2 the Internal Revenue Code:

3 (i) The board shall notify the entity that it no longer qualifies
4 under section 414(d) of the Internal Revenue Code within ten business
5 days after the determination;

6 (ii) The affected plan members shall be immediately considered fully
7 vested;

8 (iii) The affected plan members shall become inactive within ninety
9 days after the board's determination;

10 (iv) The entity shall pay to the School Retirement Fund an amount
11 equal to any funding obligation;

12 (v) The entity shall pay to the Expense Fund an amount equal to any
13 administrative costs incurred by the board or the Nebraska Public
14 Employees Retirement Systems in connection with the entity's removal from
15 the retirement system; and

16 (vi) The entity shall pay directly to the board's contracted actuary
17 an amount equal to the cost of any actuarial study necessary to aid the
18 board in determining the amount of such funding obligation, if not
19 previously paid.

20 (d) For purposes of this subsection:

21 (i) Business transaction means a merger; consolidation; sale of
22 assets, equipment, or facilities; termination of a division, department,
23 section, or subgroup of the entity; or any other business transaction
24 that results in termination of some or all of the entity's workforce; and

25 (ii) Funding obligation means the financial liability of the
26 retirement system to provide benefits for the affected plan members
27 incurred by the retirement system due to the entity's business
28 transaction calculated using the methodology and assumptions recommended
29 by the board's contracted actuary and approved by the board. The
30 methodology and assumptions used must be structured in a way that ensures
31 the entity is financially liable for all the costs of the entity's

1 business transaction, and the retirement system is not financially liable
2 for any of the cost of the entity's business transaction.

3 (e) The board may adopt and promulgate rules and regulations to
4 carry out this subsection including, but not limited to, the methods of
5 notifying the board of pending business transactions, the acceptable
6 methods of payment, and the timing of such payment.

7 Sec. 10. Section 79-920, Revised Statutes Supplement, 2023, is
8 amended to read:

9 79-920 (1) For purposes of this section:

10 (a) Association means the State Code Agency Teachers Association, or
11 its equivalent successor, recognized by the State of Nebraska as the
12 exclusive and sole collective-bargaining agent for all teachers other
13 than temporary teachers employed by an agency of the State of Nebraska;

14 (b) Eligible school plan state employee means an individual who
15 satisfies all school plan eligibility criteria and who is (i) an
16 individual employed by the State Department of Education after July 1,
17 1989, as a state school official, (ii) an individual who is employed by
18 any state agency in a position covered by the association and who is
19 required to hold a certificate as defined in section 79-807 for the
20 position in which such individual is employed, or (iii) an individual who
21 is employed by any state agency not in a position covered by the
22 association who is required to hold a certificate as defined in section
23 79-807 for the position in which such individual is employed;

24 (c) School plan means the School Employees Retirement System of the
25 State of Nebraska;

26 (d) State agency school plan employer means the State Department of
27 Education or another agency of the State of Nebraska with employees
28 covered by the association; and

29 (e) State plan means the State Employees Retirement System of the
30 State of Nebraska.

31 (2)(a) Except as provided in subsection (3) of this section, an

1 individual shall become or remain a member of the school plan if:

2 (i) Such individual is or was previously a school employee or was
3 employed in an out-of-state school district or a Class V school district;
4 and

5 (ii) Such individual becomes an eligible school plan state employee
6 with a state agency school plan employer.

7 (b) An individual who is required to participate in the school plan
8 pursuant to subdivision (2)(a) of this section shall not be deemed to
9 have terminated employment for school plan purposes if such individual
10 subsequently provides service to any employer participating in the school
11 plan, including any school district or educational service unit, or any
12 state agency school plan employer, within one hundred eighty days after
13 ceasing employment except an individual may be permitted to provide
14 intermittent work as a volunteer or substitute employee for intermittent
15 voluntary or substitute service at a school district or an educational
16 service unit as described in subdivision (2)(a) of section 8 of this act
17 ~~(45)(b)(i) of section 79-902.~~

18 (c) An individual who is required to participate in the school plan
19 pursuant to subdivision (2)(a) of this section shall not render any
20 service to another agency of the State of Nebraska within one hundred
21 twenty days after ceasing employment.

22 (3)(a) An individual shall participate in the state plan if:

23 (i) The individual has never previously participated in the school
24 plan while employed as an eligible school plan state employee with a
25 state agency school plan employer;

26 (ii) The individual terminated employment with a school district or
27 an educational service unit participating in the school plan and retired
28 or took a distribution pursuant to the School Employees Retirement Act;
29 and

30 (iii) The individual's employment as an eligible school plan state
31 employee with a state agency school plan employer began or will begin

1 within one hundred eighty days after termination of employment with the
2 school district or educational service unit.

3 (b) An individual who is required to participate in the state plan
4 pursuant to subdivision (3)(a) of this section shall not be deemed to
5 have terminated employment for state plan purposes if such individual
6 subsequently provides service to any employer participating in the state
7 plan, including any state agency school plan employer or an agency of the
8 State of Nebraska, within one hundred twenty days after ceasing
9 employment. No such individual shall be permitted to provide intermittent
10 work as a volunteer or substitute employee as described in subdivision
11 (2)(a) of section 8 of this act may provide substitute or voluntary
12 service as defined in subdivision (45)(b)(i) of section 79-902 to any
13 employer participating in the school plan for at least one hundred twenty
14 days after ceasing employment.

15 (4) An individual who previously elected to participate in the
16 school plan prior to March 4, 2022, while employed as a state school
17 official and who terminated employment and retired or took a distribution
18 pursuant to the School Employees Retirement Act, shall not render any
19 service to:

20 (a) A school district or an educational service unit participating
21 in the school plan or a state agency school plan employer within one
22 hundred eighty days after terminating employment except as described in
23 subdivision (45)(b)(i) of section 79-902; or

24 (b) Another agency of the State of Nebraska within one hundred
25 twenty days after terminating employment.

26 Sec. 11. Section 79-955, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 79-955 (1) Upon termination of employment for any cause other than
29 death or retirement, the retirement board shall, upon the member's
30 request demand, terminate his or her membership in the retirement system
31 and distribute ~~cause to be paid~~ to such member the member's accumulated

1 ~~contributions standing to the credit of his or her individual account in~~
2 the School Retirement Fund.

3 (2) Any member who attains or has attained membership in another
4 Nebraska state or school retirement system authorized by the Legislature
5 and who elects not to be or remain a member of the School Employees
6 Retirement System of the State of Nebraska shall have his or her
7 accumulated contributions returned to him or her forthwith.

8 Sec. 12. Section 79-978, Revised Statutes Cumulative Supplement,
9 2022, is amended to read:

10 79-978 For purposes of the Class V School Employees Retirement Act,
11 unless the context otherwise requires:

12 (1) Accumulated contributions means the sum of amounts contributed
13 by a member of the system together with regular interest credited
14 thereon;

15 (2) Actuarial equivalent means the equality in value of the
16 retirement allowance for early retirement or the retirement allowance for
17 an optional form of annuity, or both, with the normal form of the annuity
18 to be paid, as determined by the application of the appropriate actuarial
19 table, except that use of such actuarial tables shall not effect a
20 reduction in benefits accrued prior to September 1, 1985, as determined
21 by the actuarial tables in use prior to such date;

22 (3) Actuarial tables means:

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

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

30 (ii) For members hired on or after July 1, 2018, or rehired on or
31 after July 1, 2018, after termination of employment and being paid a

1 retirement benefit, the determinations shall be based on a unisex
2 mortality table and an interest rate specified by (A) the board until
3 September 1, 2024, or (B) the retirement board beginning on September 1,
4 2024. Both the mortality table and the interest rate shall be recommended
5 by the actuary retained pursuant to section 79-984 following an actuarial
6 experience study, a benefit adequacy study, or a plan valuation. The
7 mortality table, interest rate, and actuarial factors in effect on the
8 member's retirement date shall be used to calculate the actuarial
9 equivalency of any retirement benefit. Such interest rate may be, but is
10 not required to be, equal to the assumed rate; and

11 (b) For joint and survivorship annuities:

12 (i) For members hired before July 1, 2018, a unisex retiree
13 mortality table using sixty-five percent of the male mortality and
14 thirty-five percent of the female mortality from the 1994 Group Annuity
15 Mortality Table with a One Year Setback and using an interest rate of
16 eight percent compounded annually and a unisex joint annuitant mortality
17 table using thirty-five percent of the male mortality and sixty-five
18 percent of the female mortality from the 1994 Group Annuity Mortality
19 Table with a One Year Setback and using an interest rate of eight percent
20 compounded annually; and

21 (ii) For members hired on or after July 1, 2018, or rehired on or
22 after July 1, 2018, after termination of employment and being paid a
23 retirement benefit, the determinations shall be based on a unisex
24 mortality table and an interest rate specified by (A) the board until
25 September 1, 2024, or (B) the retirement board beginning on September 1,
26 2024. Both the mortality table and the interest rate shall be recommended
27 by the actuary retained pursuant to section 79-984 following an actuarial
28 experience study, a benefit adequacy study, or a plan valuation. The
29 mortality table, interest rate, and actuarial factors in effect on the
30 member's retirement date shall be used to calculate the actuarial
31 equivalency of any retirement benefit. Such interest rate may be, but is

1 not required to be, equal to the assumed rate;

2 (4) Administrator of the retirement system or administrator means

3 (a) until September 1, 2024, the person administering the retirement
4 system who is appointed by the board or (b) beginning on September 1,
5 2024, the director appointed by the retirement board pursuant to section
6 84-1503;

7 (5) Annuitant means any member receiving an allowance;

8 (6) Annuity means annual payments, for both prior service and
9 membership service, for life as provided in the Class V School Employees
10 Retirement Act;

11 (7) Audit year means the period beginning January 1 in any year and
12 ending on December 31 of that same year, which is the period of time used
13 in the preparation of (a) the annual actuarial analysis and valuation and
14 (b) a financial audit of the retirement system, including the investments
15 of the retirement system;

16 (8) Beneficiary means any person entitled to receive or receiving a
17 benefit by reason of the death of a member;

18 (9) Board means the board of trustees until July 1, 2021, and the
19 board of education beginning July 1, 2021, and until September 1, 2024;

20 (10) Board of education means the board or boards of education of a
21 school district or districts;

22 (11) Board of trustees means:

23 (a) Until September 1, 2024, the entity established pursuant to
24 section 79-980; and

25 (b) Beginning September 1, 2024, the board of education shall be
26 deemed to be the successor in interest for all liability associated with
27 the actions or inactions of the entity identified under subdivision (11)
28 (a) of this section and as specified in the Class V School Employees
29 Retirement Act;

30 (12)(a) Compensation means gross wages or salaries payable to the
31 member during a fiscal year and includes (i) overtime pay, (ii) member

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

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

17 (c) Compensation in excess of the limitations set forth in section
18 401(a)(17) of the Internal Revenue Code, as defined in section 49-801.01,
19 shall be disregarded;

20 (13) Council means the Nebraska Investment Council created and
21 acting pursuant to section 72-1237;

22 (14) Creditable service means the sum of the membership service and
23 the prior service, measured in one-tenth-year increments;

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

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

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

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

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

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

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

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

23 (17) Employee means the following enumerated persons receiving
24 compensation from the school district: (a) Teachers, other than
25 substitutes, employed on a written contract basis; (b) administrators
26 employed on a written contract, agreement, or document basis; and (c)
27 regular employees;

28 (18) Employer means a school district participating in a retirement
29 system established pursuant to the Class V School Employees Retirement
30 Act;

31 (19) Fiscal year means the period beginning September 1 in any year

1 and ending on August 31 of the next succeeding year;

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

4 (21) Interest means, for the purchase of service credit, the
5 purchase of prior service credit, restored refunds, and delayed payments,
6 the investment return assumption used in the most recent actuarial
7 valuation;

8 (22) Member means any employee included in the membership of the
9 retirement system or any former employee who has made contributions to
10 the system and has not received a refund;

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

1 including fractional years of membership service in one-tenth-year
2 increments, shall be aggregated;

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

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

9 (26) Participation means qualifying for and making required deposits
10 to the retirement system during the course of a fiscal year;

11 (27) Primary beneficiary means the person or persons entitled to
12 receive or receiving a benefit by reason of the death of a member;

13 (28) Prior service means service rendered prior to September 1,
14 1951, for which credit is allowed under section 79-999, service rendered
15 by retired employees receiving benefits under preexisting systems, and
16 service for which credit is allowed under sections 79-990, 79-991,
17 79-994, 79-995, and 79-997;

18 (29)(a) Regular employee means a person hired on a full-time basis,
19 which basis shall contemplate a work week of not less than thirty hours,
20 and who is not (i) a teacher employed on a written contract basis or (ii)
21 an administrator employed on a written contract, agreement, or document
22 basis.

23 (b) Effective September 1, 2021, a person hired by an employer or
24 under contract to provide service for less than thirty hours per week but
25 who provides service for an average of thirty hours or more per week in
26 each calendar month of any three calendar months of a fiscal year shall,
27 beginning with the next full payroll period, commence contributions and
28 shall be deemed a regular employee;

29 (30) Regular interest means interest (a) on the total contributions
30 of the member prior to the close of the last preceding fiscal year, (b)
31 compounded annually, and (c)(i) beginning September 1, 2016, at a rate

1 equal to the daily treasury yield curve for one-year treasury securities,
2 as published by the Secretary of the Treasury of the United States, that
3 applies on September 1 of each year and (ii) prior to September 1, 2016,
4 at rates to be determined annually by the board, which shall have the
5 sole, absolute, and final discretionary authority to make such
6 determination, except that the rate for any given year in no event shall
7 exceed the actual percentage of net earnings of the system during the
8 last preceding fiscal year;

9 (31) Retirement allowance means the total annual retirement benefit
10 payable to a member for service or disability;

11 (32) Retirement application means beginning on and after September
12 1, 2024, the form approved and provided by the retirement system for
13 acceptance of a member's request for either regular or disability
14 retirement;

15 (33) Retirement board means the Public Employees Retirement Board
16 created and acting pursuant to section 84-1501;

17 (34) Retirement date means the date of retirement of a member for
18 service or disability as fixed by (a) the board for retirements occurring
19 prior to September 1, 2024, or (b) the retirement board for retirements
20 occurring on or after September 1, 2024;

21 (35) Retirement system or system means the School Employees'
22 Retirement System of (corporate name of the school district as described
23 in section 79-405) as provided for by the act;

24 (36) School district means an employer participating in a retirement
25 system established pursuant to the Class V School Employees Retirement
26 Act;

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

1 (38) Solvency means the rate of all contributions required pursuant
2 to the Class V School Employees Retirement Act is equal to or greater
3 than the actuarially required contribution rate as annotated in the most
4 recent valuation report prepared by the actuary retained for the
5 retirement system as provided in section 79-984;

6 (39) State investment officer means the person appointed by the
7 council pursuant to section 72-1240 and acting pursuant to the Nebraska
8 State Funds Investment Act;

9 (40) Substitute employee means a person hired by an employer as a
10 temporary employee to assume the duties of an employee due to a temporary
11 absence of any employee. Substitute employee does not mean a person hired
12 as an employee on an ongoing basis to assume the duties of other
13 employees who are temporarily absent;

14 (41) Temporary employee means a person hired by an employer who is
15 not an employee and who is hired to provide service for a limited period
16 of time to accomplish a specific purpose or task. When such specific
17 purpose or task is complete, the employment of such temporary employee
18 shall terminate and in no case shall the temporary employment period
19 exceed one year in duration;

20 (42)(a) Termination of employment or termination occurs on the date
21 ~~on which~~ the member experiences a bona fide separation from service of
22 employment with the member's employer, the date of which separation is
23 ~~determined by the~~ last day of service under ~~end of~~ the member's
24 contractual agreement or, if there is no contract or only partial
25 fulfillment of a contract, as determined by an employer. A member who
26 experiences a separation from service shall comply with the return-to-
27 work provisions of section 79-992 if the member returns to work for an
28 employer. shall not be deemed to have terminated employment if the member
29 subsequently provides service to an employer within one hundred eighty
30 days after ceasing employment unless such service is:

31 (i) ~~Bona fide unpaid voluntary service;~~

1 ~~(ii) Substitute service provided on an intermittent basis. For~~
2 ~~purposes of this subdivision, (A) intermittent basis means service~~
3 ~~provided on a day-to-day basis that is not greater than eight days of~~
4 ~~service during a calendar month and (B) day of service means any length~~
5 ~~of substitute service provided during a single calendar day; or~~

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

9 (b) A member shall not be deemed to have incurred a termination of
10 ~~terminated~~ employment if the board determines that, based on the facts
11 and circumstances, (i) a claimed termination of employment was not a bona
12 fide separation from service with the employer; ~~or~~ (ii) a member was
13 compensated for a full contractual period when the member stopped working
14 ~~terminated~~ prior to the end date of the member's employment as determined
15 by the member's contract or labor agreement; or (iii) a member
16 prearranged a return to work that violates the Class V School Employees
17 Retirement Act.

18 (c) Nothing in this subdivision (42) precludes an employer from
19 adopting a policy which limits or denies employees who have experienced a
20 separation from service ~~terminated employment~~ from working as a volunteer
21 ~~providing voluntary~~ or substitute employee service within one hundred
22 eighty days after the employee experiences a separation from service
23 ~~termination~~;

24 (43) Transfer of management means the transition and transfer of the
25 general management, administration, and operation of the retirement
26 system from the board of trustees, board of education, and school
27 district to the retirement board as described in the Class V School
28 Employees Retirement Act. Transfer of management does not include:

29 (a) Transfer of the school district's funding obligations described
30 in the Class V School Employees Retirement Act or assumption of financial
31 liability for such funding obligations by (i) the State of Nebraska, (ii)

1 the retirement board, (iii) the Nebraska Public Employees Retirement
2 Systems, (iv) any other state entity with duties related to
3 administration of the retirement system, or (v) the council for its
4 investment duties regarding the assets of the retirement system; or

5 (b) Merger or consolidation of any Class V school employees
6 retirement system established under the Class V School Employees
7 Retirement Act with the School Employees Retirement System of the State
8 of Nebraska or any other retirement system administered by the retirement
9 board;

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

11 (45) Voluntary service or volunteer means providing bona fide unpaid
12 service to an employer.

13 Sec. 13. Section 79-992, Revised Statutes Cumulative Supplement,
14 2022, is amended to read:

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

1 her contributions as provided in this section reenters the service of the
2 district and again becomes a member of the retirement system, he or she
3 may restore any or all money previously received by him or her as a
4 refund, including the interest on the amount of the restored refund for
5 the period of his or her absence from the district's service as
6 determined using the interest rate for interest on such restored refunds,
7 and he or she shall then again receive credit for that portion of service
8 which the restored money represents. Such restoration may be made as the
9 board may direct until September 1, 2024, and as the retirement board may
10 direct beginning September 1, 2024, through direct payments to the system
11 or on an installment basis pursuant to a binding irrevocable payroll
12 deduction authorized between the member and the school district over a
13 period of not to exceed five years from the date of reemployment.
14 Interest on delayed payments shall be at the rate of interest for
15 determining interest on delayed payments by members to the retirement
16 system. Creditable service may be purchased only in one-tenth-year
17 increments, starting with the most recent years' salary.

18 (2) Except as provided in section 79-992.01:

19 (a)(i) (a) A retired member, or a member described in subdivision
20 (2)(c) or (d) of this subsection, who returns to employment as or again
21 becomes an employee of the school district shall again participate in the
22 retirement system as a new member and shall make contributions to the
23 retirement system commencing upon reemployment as an employee.

24 (ii) The retirement annuity of a retired member who returns to
25 employment with the school district shall continue to be paid by the
26 retirement system. A retired member who returns to employment as an
27 employee of the school district shall receive creditable service only for
28 service performed after his or her return to employment and in no event
29 shall creditable service which accrues or the compensation paid to the
30 member after such return to employment after retirement increase the
31 amount of the member's original retirement annuity;—and

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

19 (c) A member who experiences a separation from service but has not
20 submitted a retirement application or request for distribution pursuant
21 to this section or as described in subdivision (32) of section 79-978, or
22 received a retirement benefit, disability retirement benefit, or refund
23 may return to work as a temporary employee, substitute employee, or
24 volunteer. Such a temporary employee, substitute employee, or volunteer:

25 (i) Shall be deemed to have incurred a termination of employment for
26 purposes of section 79-991;

27 (ii) Shall not be deemed to have incurred a termination of
28 employment for purposes of this section or section 79-992.01, 79-9,105,
29 or 79-9,106, or for any other purposes under the Class V School Employees
30 Retirement Act, and shall not be eligible to receive a retirement
31 benefit, disability retirement benefit, or distribution pursuant to this

1 section, until the member incurs a termination of employment as described
2 in subdivision (42) of section 79-978; and

3 (iii) Except as provided in subdivision (2)(a)(i) of this section,
4 shall not be eligible to contribute to the retirement system pursuant to
5 section 79-9,113 or earn membership service credit in the retirement
6 system as described in subdivision (23) of section 79-978; and

7 (d)(i) A member who experiences a separation from service and has
8 submitted a retirement application or request for distribution pursuant
9 to this section or as described in subdivision (32) of section 79-978, or
10 received a retirement benefit, disability retirement benefit, or
11 distribution, shall not be deemed to have incurred a termination of
12 employment if the member subsequently returns to work for the district
13 within one hundred eighty days after separating from service, unless such
14 work is limited to:

15 (A) Bona fide unpaid voluntary service;

16 (B) Work performed as a substitute employee on an intermittent
17 basis; or

18 (C) Work as a temporary employee following a bona fide separation of
19 service of not less than thirty calendar days and which is provided to
20 accomplish a specific purpose or task for a limited period not to exceed
21 one year.

22 (ii) For purposes of subdivision (2)(d) of this section:

23 (A) Intermittent basis means work provided on a day-to-day basis
24 that is not greater than eight days of work during a calendar month; and

25 (B) Day of work means any length of work as a substitute employee
26 provided during a single calendar day.

27 (iii) The one-hundred-eighty-day period described in subdivision (2)

28 (d)(i) of this section begins on the later of:

29 (A) The date the member experienced a bona fide separation from
30 service of all employment as an employee with the school district; or

31 (B) The date the board receives the member's retirement application

1 or request for distribution as described in subdivision (32) of section
2 79-978.

3 (iv) A member may seek a determination from the administrator that
4 it has been at least one hundred eighty days since the member satisfied
5 the requirements described in this subdivision (2)(d). The administrator
6 shall make such determination if the member produces clear and convincing
7 evidence that is received by the administrator within forty-five days
8 after the later of:

9 (A) The date the member experienced a bona fide separation of
10 service of all employment as an employee with the district; or

11 (B) The date the board receives the member's retirement application
12 or request for distribution as described in subdivision (32) of section
13 79-978.

14 (v) A member may appeal the administrator's determination to the
15 board within thirty days of the determination by the administrator. The
16 board's determination on appeal shall be final and shall not be
17 appealable to any court.

18 (3) In the event a member is entitled to receive a refund of
19 contributions pursuant to subsection (1) or subdivision (2)(b)(ii) of
20 this section in an amount greater than one thousand dollars, if the
21 member does not elect to have the refund paid directly to himself or
22 herself or transferred to an eligible retirement plan designated by the
23 member as a direct rollover pursuant to section 79-998, then the refund
24 of contributions shall be paid in a direct rollover to an individual
25 retirement plan as designated by the board until September 1, 2024, and
26 as designated by the retirement board beginning September 1, 2024.

27 Sec. 14. Section 79-9,118, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 79-9,118 ~~No~~ ~~On~~ ~~and~~ ~~after~~ ~~July~~ ~~1,~~ ~~2011,~~ ~~no~~ employee shall be
30 authorized to participate in the retirement system unless the employee
31 ~~(1)~~ is a United States citizen or ~~(2)~~ is a qualified alien under the

1 ~~federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such~~
2 ~~act existed on January 1, 2009, and is lawfully present in the United~~
3 ~~States. The employing public school and the school employee shall~~
4 ~~maintain at least one of the following documents which shall be~~
5 ~~unexpired, if applicable to the particular document, to demonstrate~~
6 ~~United States citizenship or lawful presence in the United States as of~~
7 ~~the employee's date of hire, and, beginning September 1, 2024, produce~~
8 ~~any such document so maintained upon request of the retirement board or~~
9 ~~the Nebraska Public Employees Retirement Systems:~~

- 10 (1) A state-issued driver's license;
- 11 (2) A state-issued identification card;
- 12 (3) A certified copy of a birth certificate or delayed birth
13 certificate issued in any state, territory, or possession of the United
14 States;
- 15 (4) A Consular Report of Birth Abroad issued by the United States
16 Department of State;
- 17 (5) A United States passport;
- 18 (6) A foreign passport with a United States visa;
- 19 (7) A United States Certificate of Naturalization;
- 20 (8) A United States Certificate of Citizenship;
- 21 (9) A tribal certificate of Native American blood or similar
22 document;
- 23 (10) A United States Citizenship and Immigration Services Employment
24 Authorization Document, Form I-766;
- 25 (11) A United States Citizenship and Immigration Services Permanent
26 Resident Card, Form I-551; or
- 27 (12) Any other document issued by the United States Department of
28 Homeland Security or the United States Citizenship and Immigration
29 Services granting employment authorization in the United States and
30 approved (a) until September 1, 2024, by the board of trustees and (b)
31 beginning September 1, 2024, by the retirement board.

1 Sec. 15. Section 81-2016, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 81-2016 (1) Every member of the Nebraska State Patrol who was
4 employed by the State of Nebraska as such, on September 7, 1947, and
5 every person employed as a member of such patrol thereafter, shall be a
6 member of the system, except for those members of the Nebraska State
7 Patrol who elected pursuant to section 60-1304 to remain members of the
8 State Employees Retirement System of the State of Nebraska.

9 ~~(2) No on and after July 1, 2010, no~~ employee shall be authorized to
10 participate in the retirement system provided for in the Nebraska State
11 Patrol Retirement Act unless the employee ~~(a)~~ is a United States citizen
12 or ~~(b) is a qualified alien under the federal Immigration and Nationality~~
13 ~~Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and~~
14 is lawfully present in the United States. The employing state agency and
15 the employee shall maintain at least one of the following documents which
16 shall be unexpired, if applicable to the particular document, to
17 demonstrate United States citizenship or lawful presence in the United
18 States as of the employee's date of hire and produce any such document so
19 maintained upon request of the board or the Nebraska Public Employees
20 Retirement Systems:

21 (a) A state-issued driver's license;

22 (b) A state-issued identification card;

23 (c) A certified copy of a birth certificate or delayed birth
24 certificate issued in any state, territory, or possession of the United
25 States;

26 (d) A Consular Report of Birth Abroad issued by the United States
27 Department of State;

28 (e) A United States passport;

29 (f) A foreign passport with a United States visa;

30 (g) A United States Certificate of Naturalization;

31 (h) A United States Certificate of Citizenship;

1 (i) A tribal certificate of Native American blood or similar
2 document;

3 (j) A United States Citizenship and Immigration Services Employment
4 Authorization Document, Form I-766;

5 (k) A United States Citizenship and Immigration Services Permanent
6 Resident Card, Form I-551; or

7 (l) Any other document issued by the United States Department of
8 Homeland Security or the United States Citizenship and Immigration
9 Services granting employment authorization in the United States and
10 approved by the board.

11 (3) (2) Within the first one hundred eighty days of employment, a
12 member may apply to the board for eligibility and vesting credit for
13 years of participation in another Nebraska governmental plan, as defined
14 by section 414(d) of the Internal Revenue Code. During the years of
15 participation in the other Nebraska governmental plan, the employee must
16 have been a full-time employee, as defined in the Nebraska governmental
17 plan in which the credit was earned.

18 (4) (3) Any officer who qualifies for membership pursuant to
19 subsection (1) of this section may not be disqualified from membership in
20 the retirement system solely because such officer also maintains separate
21 employment which qualifies the officer for membership in another public
22 retirement system, nor may membership in this retirement system
23 disqualify such an officer from membership in another public retirement
24 system solely by reason of separate employment which qualifies such
25 officer for membership in this retirement system.

26 (5) (4) Information necessary to determine membership shall be
27 provided by the Nebraska State Patrol.

28 (6) (5) The board may adopt and promulgate rules and regulations
29 governing the assessment and granting of eligibility and vesting credit.

30 Sec. 16. Section 84-1307, Revised Statutes Cumulative Supplement,
31 2022, is amended to read:

1 84-1307 (1) The membership of the retirement system shall be
2 composed of all persons who are or were employed by the State of Nebraska
3 and who maintain an account balance with the retirement system.

4 (2) The following employees of the State of Nebraska are authorized
5 to participate in the retirement system: (a) All permanent full-time
6 employees who have attained the age of eighteen years shall begin
7 participation in the retirement system upon employment; and (b) all
8 permanent part-time employees who have attained the age of eighteen years
9 may exercise the option to begin participation in the retirement system
10 within the first thirty days of employment. An employee who exercises the
11 option to begin participation in the retirement system pursuant to this
12 section shall remain in the retirement system until his or her
13 termination of employment or retirement, regardless of any change of
14 status as a permanent or temporary employee.

15 (3) ~~No On and after July 1, 2010, no~~ employee shall be authorized to
16 participate in the retirement system provided for in the State Employees
17 Retirement Act unless the employee (a) is a United States citizen or (b)
18 ~~is a qualified alien under the federal Immigration and Nationality Act, 8~~
19 ~~U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is~~
20 ~~lawfully present in the United States. The employing state agency and the~~
21 ~~employee shall maintain at least one of the following documents which~~
22 ~~shall be unexpired, if applicable to the particular document, to~~
23 ~~demonstrate United States citizenship or lawful presence in the United~~
24 ~~States as of the employee's date of hire and produce any such document so~~
25 ~~maintained upon request of the retirement board or the Nebraska Public~~
26 ~~Employees Retirement Systems:~~

27 (a) A state-issued driver's license;

28 (b) A state-issued identification card;

29 (c) A certified copy of a birth certificate or delayed birth
30 certificate issued in any state, territory, or possession of the United
31 States;

1 (d) A Consular Report of Birth Abroad issued by the United States
2 Department of State;

3 (e) A United States passport;

4 (f) A foreign passport with a United States visa;

5 (g) A United States Certificate of Naturalization;

6 (h) A United States Certificate of Citizenship;

7 (i) A tribal certificate of Native American blood or similar
8 document;

9 (j) A United States Citizenship and Immigration Services Employment
10 Authorization Document, Form I-766;

11 (k) A United States Citizenship and Immigration Services Permanent
12 Resident Card, Form I-551; or

13 (l) Any other document issued by the United States Department of
14 Homeland Security or the United States Citizenship and Immigration
15 Services granting employment authorization in the United States and
16 approved by the retirement board.

17 (4) For purposes of this section, (a) permanent full-time employees
18 includes employees of the Legislature or Legislative Council who work
19 one-half or more of the regularly scheduled hours during each pay period
20 of the legislative session and (b) permanent part-time employees includes
21 employees of the Legislature or Legislative Council who work less than
22 one-half of the regularly scheduled hours during each pay period of the
23 legislative session.

24 (5)(a) Within the first one hundred eighty days of employment, a
25 full-time employee may apply to the board for vesting credit for years of
26 participation in another Nebraska governmental plan, as defined by
27 section 414(d) of the Internal Revenue Code. During the years of
28 participation in the other Nebraska governmental plan, the employee must
29 have been a full-time employee, as defined in the Nebraska governmental
30 plan in which the credit was earned. The board may adopt and promulgate
31 rules and regulations governing the assessment and granting of vesting

1 credit.

2 (b) If the contributory retirement plan or contract let pursuant to
3 section 48-609, as such section existed prior to January 1, 2018, is
4 terminated, employees of the Department of Labor who are active
5 participants in such contributory retirement plan or contract on the date
6 of termination of such plan or contract shall be granted vesting credit
7 for their years of participation in such plan or contract.

8 (6) Any employee who qualifies for membership in the retirement
9 system pursuant to this section may not be disqualified for membership in
10 the retirement system solely because such employee also maintains
11 separate employment which qualifies the employee for membership in
12 another public retirement system, nor may membership in this retirement
13 system disqualify such an employee from membership in another public
14 employment system solely by reason of separate employment which qualifies
15 such employee for membership in this retirement system.

16 (7) State agencies shall ensure that employees authorized to
17 participate in the retirement system pursuant to this section shall
18 enroll and make required contributions to the retirement system
19 immediately upon becoming an employee. Information necessary to determine
20 membership in the retirement system shall be provided by the employer.

21 Sec. 17. Section 84-1504, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 84-1504 (1) The Public Employees Retirement Board, on behalf of the
24 state, may contract with any individual to defer a portion of such
25 individual's compensation or with the Legislative Council to defer any
26 other amount that the Legislative Council agrees to credit to an
27 individual's account pursuant to section 457 of the Internal Revenue
28 Code.

29 (2) The compensation to be deferred at the election of the
30 individual and any other amount credited on behalf of such individual by
31 the Legislative Council shall not exceed the total compensation to be

1 received by the individual from the employer or exceed the limits
2 established by the Internal Revenue Code for such a plan.

3 (3) The deferred compensation program shall serve in addition to but
4 not be a part of any existing retirement or pension system provided for
5 state or county employees or any other benefit program.

6 (4) Any compensation deferred at the election of the individual
7 under such a deferred compensation plan shall continue to be included as
8 regular compensation for the purpose of computing the retirement,
9 pension, or social security contributions made or benefits earned by any
10 employee.

11 (5) Any sum so deferred shall not be included in the computation of
12 any federal or state taxes withheld on behalf of any such individual.

13 (6) The state, the board, the state investment officer, the agency,
14 or the county shall not be responsible for any investment results entered
15 into by the individual in the deferred compensation agreement.

16 (7) Nothing in this section shall in any way limit, restrict, alter,
17 amend, invalidate, or nullify any deferred compensation plan previously
18 instituted by any instrumentality or agency of the State of Nebraska, and
19 any such plan is hereby authorized and approved.

20 (8) ~~No On and after July 1, 2010, no~~ employee of the state or any
21 political subdivision of the state shall be authorized to participate in
22 a deferred compensation plan unless the employee ~~(a)~~ is a United States
23 citizen or ~~(b) is a qualified alien under the federal Immigration and~~
24 ~~Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1,~~
25 ~~2009,~~ and is lawfully present in the United States. The employing state
26 agency or political subdivision of the State of Nebraska and the employee
27 shall maintain at least one of the following documents which shall be
28 unexpired, if applicable to the particular document, to demonstrate
29 United States citizenship or lawful presence in the United States as of
30 the employee's date of hire and produce any such document so maintained
31 upon request of the Public Employees Retirement Board or the Nebraska

1 Public Employees Retirement Systems:

2 (a) A state-issued driver's license;

3 (b) A state-issued identification card;

4 (c) A certified copy of a birth certificate or delayed birth
5 certificate issued in any state, territory, or possession of the United
6 States;

7 (d) A Consular Report of Birth Abroad issued by the United States
8 Department of State;

9 (e) A United States passport;

10 (f) A foreign passport with a United States visa;

11 (g) A United States Certificate of Naturalization;

12 (h) A United States Certificate of Citizenship;

13 (i) A tribal certificate of Native American blood or similar
14 document;

15 (j) A United States Citizenship and Immigration Services Employment
16 Authorization Document, Form I-766;

17 (k) A United States Citizenship and Immigration Services Permanent
18 Resident Card, Form I-551; or

19 (l) Any other document issued by the United States Department of
20 Homeland Security or the United States Citizenship and Immigration
21 Services granting employment authorization in the United States and
22 approved by the Public Employees Retirement Board.

23 (9) For purposes of this section, individual means (a) any state
24 employee, whether employed on a permanent or temporary basis, full-time
25 or part-time, (b) a person under contract providing services to the state
26 who is not employed by the University of Nebraska or any of the state
27 colleges or community colleges and who has entered into a contract with
28 the state to have compensation deferred prior to August 28, 1999, and (c)
29 any county employee designated as a permanent part-time or full-time
30 employee or elected official whose employer does not offer a deferred
31 compensation plan and who has entered into an agreement pursuant to

1 section 48-1401.

2 Sec. 18. Original sections 4-108, 4-111, 23-2306, 24-703.01,
3 60-1304, 79-955, 79-9,118, 81-2016, and 84-1504, Reissue Revised Statutes
4 of Nebraska, sections 79-901, 79-915, 79-978, 79-992, and 84-1307,
5 Revised Statutes Cumulative Supplement, 2022, and sections 79-902 and
6 79-920, Revised Statutes Supplement, 2023, are repealed.

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

9 2. On page 1, strike beginning with "section" in line 1 through line
10 6 and insert "sections 4-108, 4-111, 23-2306, 24-703.01, 60-1304, 79-955,
11 79-9,118, 81-2016, and 84-1504, Reissue Revised Statutes of Nebraska,
12 sections 79-901, 79-915, 79-978, 79-992, and 84-1307, Revised Statutes
13 Cumulative Supplement, 2022, and sections 79-902 and 79-920, Revised
14 Statutes Supplement, 2023; to change provisions relating to participation
15 in retirement programs by noncitizens; to change provisions relating to
16 returning to work after termination and contributions under the School
17 Employees Retirement Act and the Class V School Employees Retirement Act;
18 to define and redefine terms; to eliminate obsolete provisions; to
19 harmonize provisions; to repeal the original sections; and to declare an
20 emergency."