

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 33

FINAL READING

Introduced by Kolterman, 24.

Read first time January 10, 2019

Committee: Nebraska Retirement Systems

1 A BILL FOR AN ACT relating to retirement; to amend sections 72-1243,
2 72-1277, 72-1278, and 84-1502, Reissue Revised Statutes of Nebraska,
3 and sections 79-934, 79-989, 84-712.05, and 84-1503, Revised
4 Statutes Cumulative Supplement, 2018; to change written plan of
5 action deadlines for the Nebraska Investment Council and the Public
6 Employees Retirement Board; to change findings and comprehensive
7 review provisions relating to the achieving a better life experience
8 program; to eliminate obsolete language regarding formula annuity
9 retirement allowances under the School Employees Retirement Act; to
10 provide a public records exception as prescribed under the Class V
11 School Employees Retirement Act; to increase the board member per
12 diem and change duties relating to competitive bidding of the Public
13 Employees Retirement Board; to harmonize provisions; to repeal the
14 original sections; and to declare an emergency.
15 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 72-1243, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 72-1243 (1) Except as otherwise specifically provided by law, the
4 state investment officer shall direct the investment and reinvestment of
5 money in all state funds not currently needed and all funds described in
6 section 83-133 and order the purchase, sale, or exchange of securities
7 for such funds. He or she shall notify the State Treasurer of any
8 payment, receipt, or delivery that may be required as a result of any
9 investment decision, which notification shall be the authorization and
10 direction for the State Treasurer to make such disbursement, receipt, or
11 delivery from the appropriate fund.

12 (2) The council shall have an analysis made of the investment
13 returns that have been achieved on the assets of each retirement system
14 administered by the Public Employees Retirement Board as provided in
15 section 84-1503 and, beginning January 1, 2017, on the assets of each
16 retirement system provided for under the Class V School Employees
17 Retirement Act. By March 31 of each year, the analysis shall be presented
18 to the board and the Nebraska Retirement Systems Committee of the
19 Legislature. The analysis shall be prepared by an independent
20 organization which has demonstrated expertise to perform this type of
21 analysis and for which there exists no conflict of interest in the
22 analysis being provided. The analysis may be waived by the council for
23 any retirement system with assets of less than one million dollars.

24 (3) By March 31 of each year prior to 2020, and by April 10 of each
25 year beginning in 2020, the council shall prepare a written plan of
26 action and shall present such plan to the Nebraska Retirement Systems
27 Committee of the Legislature at a public hearing. The plan shall include,
28 but not be limited to, the council's investment portfolios, investment
29 strategies, the duties and limitations of the state investment officer,
30 and an organizational structure of the council's office.

31 Sec. 2. Section 72-1277, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 72-1277 The Legislature finds that:

3 (1) The Nebraska Investment Council was created by the Legislature
4 in Laws 1967, LB 335. Additional legislation was passed in Laws 1969, LB
5 1345, which provided for centralization of the investment of state funds
6 and addressed types of authorized investments and since then the
7 statutory framework of the council has been modified periodically by the
8 Legislature;

9 (2) The laws of Nebraska provide that the appointed members of the
10 council and the state investment officer are deemed fiduciaries with
11 respect to investment of the assets (a) in the retirement systems, the
12 achieving a better life experience program pursuant to sections 77-1401
13 to 77-1409, and the Nebraska educational savings plan trust and as
14 fiduciaries are required to discharge their duties with respect to such
15 assets solely in the best interest of the members and beneficiaries of
16 such plans and (b) of other state funds solely in the best interest of
17 the residents of Nebraska;

18 (3) As fiduciaries, the appointed members of the council and the
19 officer must act with the care, skill, prudence, and diligence under the
20 circumstances then prevailing that a prudent person acting in like
21 capacity and familiar with such matters would use in the conduct of an
22 enterprise of like character with like aims by diversifying the
23 investments of assets in the various plans so as to minimize the risk of
24 large losses;

25 (4) The council managed over fifteen billion three hundred million
26 dollars of assets as of September 30, 2007. Those assets have quadrupled
27 since 1995. The assets managed by the council produced almost one billion
28 five hundred million dollars in investment earnings in 2006 and almost
29 seven billion dollars of investment earnings since December 31, 1995;

30 (5) The council has the responsibility of the management of
31 portfolios for over thirty state entities. The financial markets and

1 investment strategies that must be employed to achieve satisfactory
2 returns have become more complex and the best practices of similar state
3 government investment agencies have evolved since the creation of the
4 council; and

5 (6) Pursuant to section 72-1249.02, the operating costs of the
6 council are charged to the income of each fund managed by the council,
7 and such charges are transferred to the State Investment Officer's Cash
8 Fund. Management, custodial, and service costs that are a direct expense
9 of state funds are paid from the income of such funds.

10 Sec. 3. Section 72-1278, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 72-1278 The Nebraska Investment Council shall enter into a contract
13 with a qualified independent organization familiar with similar state
14 investment offices to complete a comprehensive review of the current
15 statutory, regulatory, and organizational situation of the council,
16 review best practices of similar state investment offices, and make
17 recommendations to the council, the Governor, and the Legislature for
18 changes needed to ensure that the council has adequate authority to
19 independently execute its fiduciary responsibilities to the members and
20 beneficiaries of the retirement systems, the achieving a better life
21 experience program pursuant to sections 77-1401 to 77-1409, and the
22 Nebraska educational savings plan trust and the residents of Nebraska
23 with regards to other state funds. The recommendations submitted to the
24 Legislature shall be submitted electronically.

25 Sec. 4. Section 79-934, Revised Statutes Cumulative Supplement,
26 2018, is amended to read:

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

1 allowance provided by section 79-933.

2 (2) Subject to the other provisions of this section, the monthly
3 formula annuity in the normal form shall be determined by multiplying the
4 number of years of creditable service for which such member would
5 otherwise receive the service annuity provided by section 79-933 by (a)
6 one and one-quarter percent of his or her final average compensation for
7 a member who has acquired the equivalent of one-half year of service or
8 more as a school employee under the retirement system following August
9 24, 1975, (b) one and one-half percent of his or her final average
10 compensation for a member who has acquired the equivalent of one-half
11 year of service or more as a school employee under the retirement system
12 following July 17, 1982, (c) one and sixty-five hundredths percent of his
13 or her final average compensation for a member who has acquired the
14 equivalent of one-half year of service or more as a school employee under
15 the retirement system following July 1, 1984, (d) one and seventy-three
16 hundredths percent of his or her final average compensation for a member
17 actively employed as a school employee under the retirement system or
18 under contract with an employer on or after June 5, 1993, (e) one and
19 eight-tenths percent of his or her final average compensation for a
20 member who has acquired the equivalent of one-half year of service or
21 more as a school employee under the retirement system following July 1,
22 1995, and was employed as a school employee under the retirement system
23 or under contract with an employer on or after April 10, 1996, (f) one
24 and nine-tenths percent of his or her final average compensation for a
25 member who has acquired the equivalent of one-half year of service or
26 more as a school employee under the retirement system following July 1,
27 1998, and was employed as a school employee under the retirement system
28 or under contract with an employer on or after April 29, 1999, (g) two
29 percent of his or her final average compensation for a member who has
30 acquired the equivalent of one-half year of service or more as a school
31 employee under the retirement system following July 1, 2000, who was

1 employed as a school employee under the retirement system or under
2 contract with an employer on or after May 2, 2001, and hired prior to
3 July 1, 2016, and who has not retired prior to May 2, 2001, or (h) two
4 percent of his or her final average compensation for a member initially
5 hired on or after July 1, 2016, or a member who has taken a refund or
6 retirement and is rehired or hired by a separate employer covered by the
7 retirement system on or after July 1, 2016, and has acquired the
8 equivalent of five years of service or more as a school employee under
9 the retirement system or under contract with an employer on or after July
10 1, 2016. Subdivision (2)(f) of this section shall not apply to a member
11 who is retired prior to April 29, 1999. Subdivision (2)(g) of this
12 section shall not apply to a member who is retired prior to May 2, 2001.

13 (3) If the annuity begins on or after the member's sixty-fifth
14 birthday, the annuity shall not be reduced.

15 (4) If the annuity begins prior to the member's sixtieth birthday
16 and the member has completed thirty-five or more years of creditable
17 service, the annuity shall be actuarially reduced on the basis of age
18 sixty-five.

19 (5)(a) For a member who has acquired the equivalent of one-half year
20 of creditable service or more as a school employee under the retirement
21 system following July 1, 1997, and who was a school employee on or after
22 March 4, 1998, and who was hired prior to July 1, 2016, if the annuity
23 begins at a time when the sum of the member's attained age and creditable
24 service totals eighty-five and the member is at least fifty-five years of
25 age, the annuity shall not be reduced. This subdivision shall not apply
26 to a member who is retired prior to March 4, 1998.

27 (b) For a member hired on or after July 1, 2016, and prior to July
28 1, 2018, or for a member who has taken a retirement or refund that
29 relinquished all prior service credit and who has not repaid the full
30 amount of the refund pursuant to section 79-921 and is rehired or hired
31 by any employer covered by the retirement system on or after July 1,

1 2016, and prior to July 1, 2018, if the annuity begins at a time when the
2 sum of the member's attained age and creditable service totals eighty-
3 five and the member is at least fifty-five years of age, the annuity
4 shall not be reduced.

5 (c) For a member hired on or after July 1, 2018, or for a member or
6 former member who has taken a retirement or refund that relinquished all
7 prior service credit and who has not repaid the full amount of the refund
8 pursuant to section 79-921 and is rehired or hired by any employer
9 covered by the retirement system on or after July 1, 2018, if the annuity
10 begins at a time when the sum of the member's attained age and creditable
11 service totals eighty-five and the member is at least sixty years of age,
12 the annuity shall not be reduced.

13 (6) If the annuity begins on or after the member's sixtieth birthday
14 and the member has completed at least a total of five years of creditable
15 service including eligibility and vesting credit but has not yet
16 qualified for an unreduced annuity as specified in this section, the
17 annuity shall be reduced by three percent for each year after the
18 member's sixtieth birthday and prior to his or her sixty-fifth birthday.

19 (7) Except as provided in section 42-1107, the normal form of the
20 formula annuity shall be an annuity payable monthly during the remainder
21 of the member's life with the provision that in the event of his or her
22 death before sixty monthly payments have been made the monthly payments
23 will be continued to his or her estate or to the beneficiary he or she
24 has designated until sixty monthly payments have been made. Except as
25 provided in section 42-1107, a member may elect to receive in lieu of the
26 normal form of annuity an actuarially equivalent annuity in any optional
27 form provided by section 79-938.

28 (8) All formula annuities shall be paid from the School Retirement
29 Fund.

30 ~~(9)(a) (9)(a)(i)~~ For purposes of this section, in the determination
31 of compensation for members ~~on or after July 1, 2005, that part of a~~

1 ~~member's compensation for the plan year which exceeds the member's~~
2 ~~compensation with the same employer for the preceding plan year by more~~
3 ~~than seven percent of the compensation base during the sixty months~~
4 ~~preceding the member's retirement shall be excluded unless (A) the member~~
5 ~~experienced a substantial change in employment position, (B) as verified~~
6 ~~by the school board, the excess compensation above seven percent occurred~~
7 ~~as the result of a collective bargaining agreement between the employer~~
8 ~~and a recognized collective bargaining unit or category of school~~
9 ~~employee, and the percentage increase in compensation above seven percent~~
10 ~~shall not be excluded for employees outside of a collective bargaining~~
11 ~~unit or within the same category of school employee, or (C) the excess~~
12 ~~compensation occurred as the result of a districtwide permanent benefit~~
13 ~~change made by the employer for a category of school employee in~~
14 ~~accordance with subdivision (4)(a)(iv) of section 79-902. (ii) For~~
15 ~~purposes of subdivision (9)(a) of this section: (A) Category of school~~
16 ~~employee means either all employees of the employer who are~~
17 ~~administrators or certificated teachers, or all employees of the employer~~
18 ~~who are not administrators or certificated teachers, or both; (B)~~
19 ~~Compensation base means (I) for current members, employed with the same~~
20 ~~employer, the member's compensation for the plan year ending June 30,~~
21 ~~2005, or (II) for members newly hired or hired by a separate employer on~~
22 ~~or after July 1, 2005, the member's compensation for the first full plan~~
23 ~~year following the member's date of hiring. Thereafter, the member's~~
24 ~~compensation base shall be increased each plan year by the lesser of~~
25 ~~seven percent of the member's preceding plan year's compensation base or~~
26 ~~the member's actual annual compensation increase during the preceding~~
27 ~~plan year; and (C) Recognized collective bargaining unit means a group of~~
28 ~~employees similarly situated with a similar community of interest~~
29 ~~appropriate for bargaining recognized as such by a school board. (b)(i)~~
30 ~~In the determination of compensation for members whose retirement date is~~
31 ~~on or after July 1, 2012, through June 30, 2013, that part of a member's~~

1 ~~compensation for the plan year which exceeds the member's compensation~~
2 ~~with the same employer for the preceding plan year by more than nine~~
3 ~~percent of the compensation base shall be excluded. (ii) For purposes of~~
4 ~~subdivision (9)(b) of this section, compensation base means (A) for~~
5 ~~current members employed with the same employer, the member's~~
6 ~~compensation for the plan year ending June 30, 2012, or (B) for members~~
7 ~~newly hired or hired by a separate employer on or after July 1, 2012, the~~
8 ~~member's compensation for the first full plan year following the member's~~
9 ~~date of hiring. (c)(i) In the determination of compensation for members~~
10 whose retirement date is on or after July 1, 2013, that part of a
11 member's compensation for the plan year which exceeds the member's
12 compensation for the preceding plan year by more than eight percent
13 during the capping period shall be excluded. Such member's compensation
14 for the first plan year of the capping period shall be compared to the
15 member's compensation received for the plan year immediately preceding
16 the capping period.

17 ~~(b) (ii) For purposes of subdivision (9)(c) of this subsection~~
18 ~~section:~~

19 ~~(i) (A) Capping period means the five plan years preceding the later~~
20 ~~of (A) (I) such member's retirement date or (B) (II) such member's final~~
21 ~~compensation date; and~~

22 ~~(ii) (B) Final compensation date means the later of (A) (I) the date~~
23 ~~on which a retiring member's final compensation is actually paid or (B)~~
24 ~~(II) if a retiring member's final compensation is paid in advance as a~~
25 ~~lump sum, the date on which such final compensation would have been paid~~
26 ~~to the member in the absence of such advance payment.~~

27 Sec. 5. Section 79-989, Revised Statutes Cumulative Supplement,
28 2018, is amended to read:

29 79-989 (1) The board of education shall have available records
30 showing the name, address, title, social security number, beneficiary
31 records, annual compensation, sex, date of birth, length of creditable

1 and noncreditable service in hours, standard hours, and contract days,
2 bargaining unit, and annual contributions of each employee entitled to
3 membership in the retirement system and such other information as may be
4 reasonably requested by the board of trustees regarding such member as
5 may be necessary for actuarial study and valuation and the administration
6 of the retirement system. This information shall be available in a timely
7 manner to the board of trustees upon request.

8 (2) The information maintained by the board of education and
9 obtained by the board of trustees for the administration of the
10 retirement system pursuant to this section shall not be considered public
11 records subject to sections 84-712 to 84-712.09, except that the
12 following information shall be considered public records: The member's
13 name, the date the member's participation in the retirement system
14 commenced, and the date the member's participation in the retirement
15 system ended, if applicable.

16 Sec. 6. Section 84-712.05, Revised Statutes Cumulative Supplement,
17 2018, is amended to read:

18 84-712.05 The following records, unless publicly disclosed in an
19 open court, open administrative proceeding, or open meeting or disclosed
20 by a public entity pursuant to its duties, may be withheld from the
21 public by the lawful custodian of the records:

22 (1) Personal information in records regarding a student, prospective
23 student, or former student of any educational institution or exempt
24 school that has effectuated an election not to meet state approval or
25 accreditation requirements pursuant to section 79-1601 when such records
26 are maintained by and in the possession of a public entity, other than
27 routine directory information specified and made public consistent with
28 20 U.S.C. 1232g, as such section existed on February 1, 2013, and
29 regulations adopted thereunder;

30 (2) Medical records, other than records of births and deaths and
31 except as provided in subdivision (5) of this section, in any form

1 concerning any person; records of elections filed under section 44-2821;
2 and patient safety work product under the Patient Safety Improvement Act;

3 (3) Trade secrets, academic and scientific research work which is in
4 progress and unpublished, and other proprietary or commercial information
5 which if released would give advantage to business competitors and serve
6 no public purpose;

7 (4) Records which represent the work product of an attorney and the
8 public body involved which are related to preparation for litigation,
9 labor negotiations, or claims made by or against the public body or which
10 are confidential communications as defined in section 27-503;

11 (5) Records developed or received by law enforcement agencies and
12 other public bodies charged with duties of investigation or examination
13 of persons, institutions, or businesses, when the records constitute a
14 part of the examination, investigation, intelligence information, citizen
15 complaints or inquiries, informant identification, or strategic or
16 tactical information used in law enforcement training, except that this
17 subdivision shall not apply to records so developed or received:

18 (a) Relating to the presence of and amount or concentration of
19 alcohol or drugs in any body fluid of any person; or

20 (b) Relating to the cause of or circumstances surrounding the death
21 of an employee arising from or related to his or her employment if, after
22 an investigation is concluded, a family member of the deceased employee
23 makes a request for access to or copies of such records. This subdivision
24 does not require access to or copies of informant identification, the
25 names or identifying information of citizens making complaints or
26 inquiries, other information which would compromise an ongoing criminal
27 investigation, or information which may be withheld from the public under
28 another provision of law. For purposes of this subdivision, family member
29 means a spouse, child, parent, sibling ~~brother~~, ~~sister~~, grandchild, or
30 grandparent by blood, marriage, or adoption;

31 (6) Appraisals or appraisal information and negotiation records

1 concerning the purchase or sale, by a public body, of any interest in
2 real or personal property, prior to completion of the purchase or sale;

3 (7) Personal information in records regarding personnel of public
4 bodies other than salaries and routine directory information;

5 (8) Information solely pertaining to protection of the security of
6 public property and persons on or within public property, such as
7 specific, unique vulnerability assessments or specific, unique response
8 plans, either of which is intended to prevent or mitigate criminal acts
9 the public disclosure of which would create a substantial likelihood of
10 endangering public safety or property; computer or communications network
11 schema, passwords, and user identification names; guard schedules; lock
12 combinations; or public utility infrastructure specifications or design
13 drawings the public disclosure of which would create a substantial
14 likelihood of endangering public safety or property, unless otherwise
15 provided by state or federal law;

16 (9) The security standards, procedures, policies, plans,
17 specifications, diagrams, access lists, and other security-related
18 records of the Lottery Division of the Department of Revenue and those
19 persons or entities with which the division has entered into contractual
20 relationships. Nothing in this subdivision shall allow the division to
21 withhold from the public any information relating to amounts paid persons
22 or entities with which the division has entered into contractual
23 relationships, amounts of prizes paid, the name of the prize winner, and
24 the city, village, or county where the prize winner resides;

25 (10) With respect to public utilities and except as provided in
26 sections 43-512.06 and 70-101, personally identified private citizen
27 account payment and customer use information, credit information on
28 others supplied in confidence, and customer lists;

29 (11) Records or portions of records kept by a publicly funded
30 library which, when examined with or without other records, reveal the
31 identity of any library patron using the library's materials or services;

1 (12) Correspondence, memoranda, and records of telephone calls
2 related to the performance of duties by a member of the Legislature in
3 whatever form. The lawful custodian of the correspondence, memoranda, and
4 records of telephone calls, upon approval of the Executive Board of the
5 Legislative Council, shall release the correspondence, memoranda, and
6 records of telephone calls which are not designated as sensitive or
7 confidential in nature to any person performing an audit of the
8 Legislature. A member's correspondence, memoranda, and records of
9 confidential telephone calls related to the performance of his or her
10 legislative duties shall only be released to any other person with the
11 explicit approval of the member;

12 (13) Records or portions of records kept by public bodies which
13 would reveal the location, character, or ownership of any known
14 archaeological, historical, or paleontological site in Nebraska when
15 necessary to protect the site from a reasonably held fear of theft,
16 vandalism, or trespass. This section shall not apply to the release of
17 information for the purpose of scholarly research, examination by other
18 public bodies for the protection of the resource or by recognized tribes,
19 the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or
20 the federal Native American Graves Protection and Repatriation Act;

21 (14) Records or portions of records kept by public bodies which
22 maintain collections of archaeological, historical, or paleontological
23 significance which reveal the names and addresses of donors of such
24 articles of archaeological, historical, or paleontological significance
25 unless the donor approves disclosure, except as the records or portions
26 thereof may be needed to carry out the purposes of the Unmarked Human
27 Burial Sites and Skeletal Remains Protection Act or the federal Native
28 American Graves Protection and Repatriation Act;

29 (15) Job application materials submitted by applicants, other than
30 finalists or a priority candidate for a position described in section
31 85-106.06 selected using the enhanced public scrutiny process in section

1 85-106.06, who have applied for employment by any public body as defined
2 in section 84-1409. For purposes of this subdivision, (a) job application
3 materials means employment applications, resumes, reference letters, and
4 school transcripts and (b) finalist means any applicant who is not an
5 applicant for a position described in section 85-106.06 and (i) who
6 reaches the final pool of applicants, numbering four or more, from which
7 the successful applicant is to be selected, (ii) who is an original
8 applicant when the final pool of applicants numbers less than four, or
9 (iii) who is an original applicant and there are four or fewer original
10 applicants;

11 (16)(a) ~~(16)~~ Records obtained by the Public Employees Retirement
12 Board pursuant to section 84-1512 and (b) records maintained by the board
13 of education of a Class V school district and obtained by the board of
14 trustees for the administration of a retirement system provided for under
15 the Class V School Employees Retirement Act pursuant to section 79-989;

16 (17) Social security numbers; credit card, charge card, or debit
17 card numbers and expiration dates; and financial account numbers supplied
18 to state and local governments by citizens;

19 (18) Information exchanged between a jurisdictional utility and city
20 pursuant to section 66-1867;

21 (19) Draft records obtained by the Nebraska Retirement Systems
22 Committee of the Legislature and the Governor from Nebraska Public
23 Employees Retirement Systems pursuant to subsection (4) of section
24 84-1503;

25 (20) All prescription drug information submitted pursuant to section
26 71-2454, all data contained in the prescription drug monitoring system,
27 and any report obtained from data contained in the prescription drug
28 monitoring system; and

29 (21) Information obtained by any government entity, whether federal,
30 state, county, or local, regarding firearm registration, possession,
31 sale, or use that is obtained for purposes of an application permitted or

1 required by law or contained in a permit or license issued by such
2 entity. Such information shall be available upon request to any federal,
3 state, county, or local law enforcement agency.

4 Sec. 7. Section 84-1502, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 84-1502 (1) Within thirty days after its appointment, the Public
7 Employees Retirement Board shall meet and select a chairperson and
8 secretary. Thereafter, the chairperson and the secretary shall be elected
9 in January of each year.

10 (2) The board shall meet upon call of the chairperson or upon the
11 request of three members of the board filed with the board office.
12 Meetings of the board shall be held in this state and may be held by
13 telecommunication equipment if the requirements of the Open Meetings Act
14 are met.

15 (3) The members of the board, except the state investment officer,
16 shall be paid seventy-five ~~fifty~~ dollars per diem, and all members shall
17 be reimbursed for their actual and necessary expenses incurred in
18 connection with the performance of their duties as board members as
19 provided in sections 81-1174 to 81-1177.

20 Sec. 8. Section 84-1503, Revised Statutes Cumulative Supplement,
21 2018, is amended to read:

22 84-1503 (1) It shall be the duty of the Public Employees Retirement
23 Board:

24 (a) To administer the retirement systems provided for in the County
25 Employees Retirement Act, the Judges Retirement Act, the Nebraska State
26 Patrol Retirement Act, the School Employees Retirement Act, and the State
27 Employees Retirement Act. The agency for the administration of the
28 retirement systems and under the direction of the board shall be known
29 and may be cited as the Nebraska Public Employees Retirement Systems;

30 (b) To appoint a director to administer the systems under the
31 direction of the board. The appointment shall be subject to the approval

1 of the Governor and a majority of the Legislature. The director shall be
2 qualified by training and have at least five years of experience in the
3 administration of a qualified public or private employee retirement plan.
4 The director shall not be a member of the board. The salary of the
5 director shall be set by the board. The director shall serve without term
6 and may be removed by the board;

7 (c) To provide for an equitable allocation of expenses among the
8 retirement systems administered by the board, and all expenses shall be
9 provided from the investment income earned by the various retirement
10 funds unless alternative sources of funds to pay expenses are specified
11 by law;

12 (d) To administer the deferred compensation program authorized in
13 section 84-1504;

14 (e) To hire an attorney, admitted to the Nebraska State Bar
15 Association, to advise the board in the administration of the retirement
16 systems listed in subdivision (a) of this subsection;

17 (f) To hire an internal auditor to perform the duties described in
18 section 84-1503.04 who meets the minimum standards as described in
19 section 84-304.03;

20 (g) To adopt and implement procedures for reporting information by
21 employers, as well as testing and monitoring procedures in order to
22 verify the accuracy of such information. The information necessary to
23 determine membership shall be provided by the employer. The board may
24 adopt and promulgate rules and regulations and prescribe such forms
25 necessary to carry out this subdivision. Nothing in this subdivision
26 shall be construed to require the board to conduct onsite audits of
27 political subdivisions for compliance with statutes, rules, and
28 regulations governing the retirement systems listed in subdivision (1)(a)
29 of this section regarding membership and contributions; and

30 (h) To prescribe and furnish forms for the public retirement system
31 plan reports required to be filed pursuant to sections 2-3228, 12-101,

1 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118,
2 23-3526, 71-1631.02, and 79-987 through December 31, 2017.

3 (2) In administering the retirement systems listed in subdivision
4 (1)(a) of this section, it shall be the duty of the board:

5 (a) To determine, based on information provided by the employer, the
6 prior service annuity, if any, for each person who is an employee of the
7 county on the date of adoption of the retirement system;

8 (b) To determine the eligibility of an individual to be a member of
9 the retirement system and other questions of fact in the event of a
10 dispute between an individual and the individual's employer;

11 (c) To adopt and promulgate rules and regulations, as the board may
12 deem necessary, for the management of the board;

13 (d) To keep a complete record of all proceedings taken at any
14 meeting of the board;

15 (e) To obtain, by a competitive, formal, and sealed bidding process
16 through the materiel division of the Department of Administrative
17 Services, actuarial services on behalf of the State of Nebraska as may be
18 necessary in the administration and development of the retirement
19 systems, including, but not limited to, preparation of an annual
20 actuarial valuation report of each of the defined benefit and cash
21 balance plans administered by the board. Such annual valuation reports
22 shall be presented by the actuary to the Nebraska Retirement Systems
23 Committee of the Legislature at a public hearing or hearings. Any
24 contract for actuarial services shall contain a provision allowing the
25 actuary, without prior approval of the board, to perform actuarial
26 studies of the systems as requested by entities other than the board, if
27 notice, which does not identify the entity or substance of the request,
28 is given to the board, all costs are paid by the requesting entity,
29 results are provided to the board, the Nebraska Retirement Systems
30 Committee of the Legislature, and the Legislative Fiscal Analyst upon
31 being made public, and such actuarial studies do not interfere with the

1 actuary's ongoing responsibility to the board. The term of the contract
2 shall be for up to three years. A competitive, formal, and sealed bidding
3 process shall be completed at least once every three years, unless the
4 board determines that such a process would not be cost effective under
5 the circumstances and that the actuarial services performed have been
6 satisfactory, in which case the contract may also contain an option for
7 renewal without a competitive, formal, and sealed bidding process for up
8 to ~~two~~ three additional three-year periods years. An actuary under
9 contract for the State of Nebraska shall be a member of the American
10 Academy of Actuaries and meet the academy's qualification standards to
11 render a statement of actuarial opinion;

12 (f) To direct the State Treasurer to transfer funds, as an expense
13 of the retirement systems, to the Legislative Council Retirement Study
14 Fund. Such transfer shall occur beginning on or after July 1, 2005, and
15 at intervals of not less than five years and not more than fifteen years
16 and shall be in such amounts as the Legislature shall direct;

17 (g) To adopt and promulgate rules and regulations, as the board may
18 deem necessary, to carry out the provisions of each retirement system
19 described in subdivision (1)(a) of this section, which includes, but is
20 not limited to, the crediting of military service, direct rollover
21 distributions, and the acceptance of rollovers;

22 (h) To obtain, ~~by a competitive, formal, and sealed bidding process~~
23 ~~through the materiel division of the Department of Administrative~~
24 ~~Services,~~ auditing services for a separate compliance audit of the
25 retirement systems to be completed by December 31, 2020, and from time to
26 time thereafter at the request of the Nebraska Retirement Systems
27 Committee of the Legislature, to be completed not more than every four
28 years but not less than every ten years. The compliance audit shall be in
29 addition to the annual audit conducted by the Auditor of Public Accounts.
30 The compliance audit shall include, but not be limited to, an examination
31 of records, files, and other documents and an evaluation of all policies

1 and procedures to determine compliance with all state and federal laws. A
2 copy of the compliance audit shall be given to the Governor, the board,
3 and the Nebraska Retirement Systems Committee of the Legislature and
4 shall be presented to the committee at a public hearing;

5 (i) To adopt and promulgate rules and regulations, as the board may
6 deem necessary, for the adjustment of contributions or benefits, which
7 includes, but is not limited to: (i) The procedures for refunding
8 contributions, adjusting future contributions or benefit payments, and
9 requiring additional contributions or repayment of benefits; (ii) the
10 process for a member, member's beneficiary, employee, or employer to
11 dispute an adjustment to contributions or benefits; (iii) establishing
12 materiality and de minimus amounts for agency transactions, adjustments,
13 and inactive account closures; and (iv) notice provided to all affected
14 persons. Following an adjustment, a timely notice shall be sent that
15 describes the adjustment and the process for disputing an adjustment to
16 contributions or benefits;

17 (j) To make a thorough investigation through the director or the
18 director's designee, of any overpayment of a benefit, when in the
19 judgment of the director such investigation is necessary, including, but
20 not limited to, circumstances in which benefit payments are made after
21 the death of a member or beneficiary and the retirement system is not
22 made aware of such member's or beneficiary's death. In connection with
23 any such investigation, the board, through the director or the director's
24 designee, shall have the power to compel the attendance of witnesses and
25 the production of books, papers, records, and documents, whether in
26 hardcopy, electronic form, or otherwise, and issue subpoenas for such
27 purposes. Such subpoenas shall be served in the same manner and have the
28 same effect as subpoenas from district courts; and

29 (k) To administer all retirement system plans in a manner which will
30 maintain each plan's status as a qualified plan pursuant to the Internal
31 Revenue Code, as defined in section 49-801.01, including: Section 401(a)

1 (9) of the Internal Revenue Code relating to the time and manner in which
2 benefits are required to be distributed, including the incidental death
3 benefit distribution requirement of section 401(a)(9)(G) of the Internal
4 Revenue Code; section 401(a)(25) of the Internal Revenue Code relating to
5 the specification of actuarial assumptions; section 401(a)(31) of the
6 Internal Revenue Code relating to direct rollover distributions from
7 eligible retirement plans; section 401(a)(37) of the Internal Revenue
8 Code relating to the death benefit of a member whose death occurs while
9 performing qualified military service; and section 401(a) of the Internal
10 Revenue Code by meeting the requirements of section 414(d) of the
11 Internal Revenue Code relating to the establishment of retirement plans
12 for governmental employees of a state or political subdivision thereof.
13 The board may adopt and promulgate rules and regulations necessary or
14 appropriate to maintain such status including, but not limited to, rules
15 or regulations which restrict discretionary or optional contributions to
16 a plan or which limit distributions from a plan.

17 (3) By March 31 of each year prior to 2020, and by April 10 of each
18 year beginning in 2020, the board shall prepare a written plan of action
19 and shall present such plan to the Nebraska Retirement Systems Committee
20 of the Legislature at a public hearing. The plan shall include, but not
21 be limited to, the board's funding policy, the administrative costs and
22 other fees associated with each fund and plan overseen by the board,
23 member education and informational programs, the director's duties and
24 limitations, an organizational structure of the office of the Nebraska
25 Public Employees Retirement Systems, and the internal control structure
26 of such office to ensure compliance with state and federal laws.

27 (4)(a) Beginning in 2016, and at least every four years thereafter
28 in even-numbered years or at the request of the Nebraska Retirement
29 Systems Committee of the Legislature, the board shall obtain an
30 experience study. Within thirty business days after presentation of the
31 experience study to the board, the actuary shall present the study to the

1 Nebraska Retirement Systems Committee at a public hearing. If the board
2 does not adopt all of the recommendations in the experience study, the
3 board shall provide a written explanation of its decision to the Nebraska
4 Retirement Systems Committee and the Governor. The explanation shall be
5 delivered within ten business days after formal action by the board to
6 not adopt one or more of the recommendations.

7 (b) The director shall provide an electronic copy of the first draft
8 and a final draft of the experience study and annual valuation reports to
9 the Nebraska Retirement Systems Committee and the Governor when the
10 director receives the drafts from the actuary. The drafts shall be deemed
11 confidential information. The draft copies obtained by the Nebraska
12 Retirement Systems Committee and the Governor pursuant to this section
13 shall not be considered public records subject to sections 84-712 to
14 84-712.09.

15 (c) For purposes of this subsection, business days shall be computed
16 by excluding the day the request is received, after which the designated
17 period of time begins to run. A business day shall not include a Saturday
18 or a Sunday or a day during which the Nebraska Public Employees
19 Retirement Systems office is closed.

20 (5) It shall be the duty of the board to direct the State Treasurer
21 to transfer funds, as an expense of the retirement system provided for
22 under the Class V School Employees Retirement Act, to and from the Class
23 V Retirement System Payment Processing Fund and the Class V School
24 Employees Retirement Fund for the benefit of a retirement system provided
25 for under the Class V School Employees Retirement Act to implement the
26 provisions of section 79-986. The agency for the administration of this
27 provision and under the direction of the board shall be known and may be
28 cited as the Nebraska Public Employees Retirement Systems.

29 Sec. 9. Original sections 72-1243, 72-1277, 72-1278, and 84-1502,
30 Reissue Revised Statutes of Nebraska, and sections 79-934, 79-989,
31 84-712.05, and 84-1503, Revised Statutes Cumulative Supplement, 2018, are

1 repealed.

2 Sec. 10. Since an emergency exists, this act takes effect when
3 passed and approved according to law.