

LEGISLATIVE BILL 700

Approved by the Governor March 3, 2022

Introduced by Kolterman, 24.

A BILL FOR AN ACT relating to retirement; to amend sections 23-2317.01, 79-920, 84-1319.01, and 84-1511, Reissue Revised Statutes of Nebraska, sections 23-2309.01, 23-2310.05, 72-1243, 79-921, 84-1301, 84-1310.01, 84-1311.03, and 84-1322, Revised Statutes Cumulative Supplement, 2020, and sections 79-902, 79-978, 79-992.01, 79-9,117, and 84-1503, Revised Statutes Supplement, 2021; to eliminate obsolete provisions relating to investment options under certain acts, the state investment officer, and the Public Employees Retirement Board; to change provisions relating to certain funds; to define and redefine terms; to change provisions relating to participation in certain plans as prescribed; to eliminate provisions relating to termination of employment and early retirement inducement notification; to change duties of certain employers; to change provisions relating to preretirement planning and repayment of a distribution after reemployment; to change duties of and provide duties for the Public Employees Retirement Board; to provide a deadline for a certain compliance audit; to provide for retirement training sessions; to eliminate a retirement education and financial planning program; to harmonize provisions; to repeal the original sections; to outright repeal section 84-1511.01, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Section 1. Section 23-2309.01, Revised Statutes Cumulative Supplement, 2020, is amended to read:

23-2309.01 (1)(a) ~~(1)~~ Each member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, shall be allowed to allocate all contributions to the member's his or her employee account to various investment options. The investment options shall include, but not be limited to, the following:

~~(a) Prior to January 1, 2021, the investment options shall include, but not be limited to, the following:~~

~~(i) An investor select account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy substantially similar to the investment allocations made by the state investment officer for the defined benefit plans under the retirement systems described in subdivision (1)(a) of section 84-1503. Investments shall most likely include domestic and international equities, fixed income investments, and real estate, as well as potentially additional asset classes;~~

~~(ii) A stable return account which shall be invested by or under the direction of the state investment officer in a stable value strategy that provides capital preservation and consistent, steady returns;~~

~~(iii) An equities account which shall be invested by or under the direction of the state investment officer in equities;~~

~~(iv) A balanced account which shall be invested by or under the direction of the state investment officer in equities and fixed income instruments;~~

~~(v) An index fund account which shall be invested by or under the direction of the state investment officer in a portfolio of common stocks designed to closely duplicate the total return of the Standard and Poor's division of The McGraw-Hill Companies, Inc., 500 Index;~~

~~(vi) A fixed income account which shall be invested by or under the direction of the state investment officer in fixed income instruments;~~

~~(vii) A money market account which shall be invested by or under the direction of the state investment officer in short-term fixed income securities; and~~

~~(viii) Beginning July 1, 2006, an age-based account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy that changes based upon the age of the member. The board shall develop an account mechanism that changes the investments as the employee nears retirement age. The asset allocation and asset classes utilized in the investments shall move from aggressive, to moderate, and then to conservative as retirement age approaches.~~

~~If a member fails to select an option or combination of options prior to January 1, 2021, all of his or her funds shall be placed in the option described in subdivision (a)(ii) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.~~

~~(b) On or after January 1, 2021, the investment options shall include, but not be limited to, the following:~~

~~(i) An investor select account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy substantially similar to the investment allocations made by the state investment officer for the defined benefit plans under the retirement systems described in subdivision (1)(a) of section 84-1503. Investments shall most~~

likely include domestic and international equities, fixed income investments, and real estate, as well as potentially additional asset classes;

(ii) A stable return account which shall be invested by or under the direction of the state investment officer in a stable value strategy that provides capital preservation and consistent, steady returns;

(iii) An equities account which shall be invested by or under the direction of the state investment officer in equities;

(iv) A fixed income account which shall be invested by or under the direction of the state investment officer in fixed income instruments; and

(v) A life-cycle fund which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy that adjusts from a position of higher risk to one of lower risk as the member ages.

(b) ~~If the member fails to select an option or combination of options pursuant to this subdivision (a) of this subsection (b), all of the member's his or her funds shall be placed in the option described in subdivision (a)(v) (b)(v) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising the member's his or her allocation.~~

(2) Members of the retirement system may allocate their contributions to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member under subdivision (1)(a) of section 23-2321 or ~~the member's his or her~~ beneficiary may transfer any portion of ~~the member's his or her~~ funds among the options, except for restrictions on transfers to or from the stable return account pursuant to rule or regulation. The board may adopt and promulgate rules and regulations for changes of a member's allocation of contributions to ~~the member's his or her~~ accounts after ~~the member's his or her~~ most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board.

(4) In order to carry out this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the county and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the county shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employee account.

Sec. 2. Section 23-2310.05, Revised Statutes Cumulative Supplement, 2020, is amended to read:

23-2310.05 (1) Each member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, shall be allowed to allocate all contributions to ~~the member's his or her~~ employer account to various investment options. Such investment options shall be the same as the investment options of the employee account as provided in subsection (1) of section 23-2309.01. If a member fails to select an option or combination of options, all of ~~the member's his or her~~ funds in the employer account shall be placed in the investment option described in subdivision (1)(a)(v) or ~~(1)(b)(v) of section 23-2309.01, whichever option is applicable based on the date of contribution.~~ Each member shall be given a detailed current description of each investment option prior to making or revising ~~the member's his or her~~ allocation.

(2) Each member of the retirement system may allocate contributions to ~~the member's his or her~~ employer account to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member under subdivision (1)(a) of section 23-2321 or ~~the member's his or her~~ beneficiary may transfer any portion of ~~the member's his or her~~ funds among the options. The board may adopt and promulgate rules and regulations for changes of a member's allocation of contributions to ~~the member's his or her~~ accounts after ~~the member's his or her~~ most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board.

(4) In order to carry out ~~the provisions of~~ this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the county shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employer account.

Sec. 3. Section 23-2317.01, Reissue Revised Statutes of Nebraska, is amended to read:

23-2317.01 ~~The There is hereby created the County Equal Retirement Benefit Fund is created. The fund shall~~ to be administered by the board. Each county participating in the retirement system on January 1, 1984, pursuant to the County Employees Retirement Act shall make a contribution at least once a

year to the fund, in addition to any other retirement contributions. Such contribution shall be in an amount determined by the board to provide all similarly situated male and female members of the retirement system with equal benefits pursuant to subsection (2) of section 23-2317 and to provide for direct expenses incurred in administering the fund. The board shall keep a record of the contributions made by each county. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 4. Section 72-1243, Revised Statutes Cumulative Supplement, 2020, is amended to read:

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

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

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

Sec. 5. Section 79-902, Revised Statutes Supplement, 2021, is amended to read:

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

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

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

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

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

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

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

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

(b) Compensation does not include (i) fraudulently obtained amounts as determined by the retirement board, (ii) amounts for accrued unused sick leave or accrued unused vacation leave converted to cash payments, (iii) insurance premiums converted into cash payments, (iv) reimbursement for expenses

incurred, (v) fringe benefits, (vi) per diems paid as expenses, (vii) bonuses for services not actually rendered, (viii) early retirement inducements, (ix) cash awards, (x) severance pay, or (xi) employer contributions made for the purposes of separation payments made at retirement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

shall certify to the retirement board on forms prescribed by the retirement board that the annuitant was reemployed, rendered a service, and was paid by the district or agency for such services;

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

(15)(a) Final average compensation means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Retirement Fund;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(44) Temporary employee means an employee hired by a public school who is

not a regular employee and who is hired to provide service for a limited period of time to accomplish a specific purpose or task. When such specific purpose or task is complete, the employment of such temporary employee shall terminate and in no case shall the temporary employment period exceed one year in duration;

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

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

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

(ii) As provided in ~~subsection (2) of~~ section 79-920.

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

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

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

Sec. 6. Section 79-920, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

(b) Eligible school plan state employee means (i) an individual employed by the State Department of Education after July 1, 1989, as a state school official or (ii) an individual who is employed by any state agency in a position covered by the association and who is required to hold a certificate as defined in section 79-807 for the position in which such individual is employed;

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

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

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

(2)(a) Except as provided in subsection (3) of this section, an individual shall become or remain a member of the school plan if:

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

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

(b) An individual who is required to participate in the school plan pursuant to subdivision (2)(a) of this section shall not be deemed to have terminated employment for school plan purposes if such individual subsequently provides service to any employer participating in the school plan, including any school district or educational service unit, or any state agency school plan employer, within one hundred eighty days after ceasing employment except for intermittent voluntary or substitute service at a school district or an educational service unit as described in subdivision (45)(b)(i) of section 79-902.

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

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

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

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

(iii) The individual's employment as an eligible school plan state employee with a state agency school plan employer began or will begin within one hundred eighty days after termination of employment with the school district or educational service unit.

(b) An individual who is required to participate in the state plan pursuant to subdivision (3)(a) of this section shall not be deemed to have

terminated employment for state plan purposes if such individual subsequently provides service to any employer participating in the state plan, including any state agency school plan employer or an agency of the State of Nebraska, within one hundred twenty days after ceasing employment. No such individual may provide substitute or voluntary service as defined in subdivision (45)(b)(i) of section 79-902 to any employer participating in the school plan for at least one hundred twenty days after ceasing employment.

(4) An individual who previously elected to participate in the school plan prior to July 1, 2022, while employed as a state school official and who terminated employment and retired or took a distribution pursuant to the School Employees Retirement Act, shall not render any service to:

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

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

~~(1) An individual who was, prior to July 19, 1980, a state school official and did not become a member of the State Employees Retirement System of the State of Nebraska pursuant to the State Employees Retirement Act may, within sixty days after September 1, 1986, elect to become a member of such system. An individual so electing shall pay the contributions required by such system when the service and minimum age requirements have been met.~~

~~(2)(a) An individual (i) who is or was previously a school employee or who was employed in an out-of-state or a Class V school district, (ii) who becomes employed by the State Department of Education after July 1, 1989, and (iii) who is a state school official may file with the retirement board within thirty days after employment an election to become or remain a member of the School Employees Retirement System of the State of Nebraska. Employees electing not to participate in the School Employees Retirement System shall participate in the State Employees Retirement System of the State of Nebraska.~~

~~(b) An individual shall be required to participate in the State Employees Retirement System if (i) the individual terminated employment from a public school participating in the School Employees Retirement System and retired pursuant to the School Employees Retirement Act and (ii) the employment by the State Department of Education began or will begin within one hundred eighty days after terminating employment from the school.~~

~~(3) An employee electing not to be covered by the School Employees Retirement System of the State of Nebraska under this section shall not be subject to section 79-957 but shall be allowed to retain his or her accumulated contribution in the system and continue to become vested in the state's accumulated contribution as well as the State Employees Retirement System of the State of Nebraska according to the following:~~

~~(a) The years of participation in the School Employees Retirement System of the State of Nebraska before an election is made plus the years of participation in the State Employees Retirement System of the State of Nebraska after the election is made shall both be credited toward compliance with the service requirements provided under section 79-931; and~~

~~(b) The years of participation in the School Employees Retirement System of the State of Nebraska before the election is made plus the years of participation in the State Employees Retirement System of the State of Nebraska after the election is made shall both be credited toward compliance with section 84-1321.~~

Sec. 7. Section 79-921, Revised Statutes Cumulative Supplement, 2020, is amended to read:

79-921 (1) The membership of any person in the retirement system shall cease only if he or she (a) withdraws his or her accumulated contributions under section 79-955, (b) retires on a school or formula or disability retirement allowance, or (c) dies.

(2)(a) The employer shall (i) notify the board in writing of the date upon which a termination of employment has occurred and provide the board with such information as the board deems necessary, (ii) notify the board in writing whether or not a member accepted and received an early retirement inducement, and (iii) submit in writing with the notice of termination of employment and notice of receipt of an early retirement inducement a completed certification by the employer and member under penalty of prosecution pursuant to section 79-949 that, prior to the member's termination, there was no prearranged written or verbal agreement for the member to return to service in any capacity with the same employer.

(b) The member shall submit certification to the board on a form prescribed by the board, under penalty of prosecution pursuant to section 79-949, whether or not the member accepted and received an early retirement inducement from his or her employer.

(b) (c) The board may adopt and promulgate rules and regulations and prescribe forms as the board determines appropriate in order to carry out this subsection and to ensure full disclosure and reporting by the employer and member in order to minimize fraud and abuse and prevent the filing of false or fraudulent claim or benefit applications.

(3)(a) A former member of the retirement system who has withdrawn his or her accumulated contributions under section 79-955 shall be reinstated to membership in the retirement system if such person again becomes a school employee.

(b) The date of such membership shall relate back to the beginning of his

or her original membership in the retirement system only if such school employee has repaid all amounts required in accordance with subsection (4) of this section. Unless and until all such amounts are repaid, the school employee shall be considered a new member, effective as of the date he or she again becomes a school employee.

(4)(a) With respect to any person who is reinstated to membership in the retirement system pursuant to subdivision (3)(a) of this section prior to April 17, 2014, and who files a valid and complete one-time application with the retirement board for the restoration of part or all of his or her relinquished creditable service prior to six years after April 17, 2014, but prior to termination, the following shall apply:

(i) Such member shall pay to the retirement system an amount equal to the previously withdrawn contributions for the creditable service to be restored, plus an amount equal to the actuarial assumed rate of return on such amount to the date of repayment; and

(ii) Payment for restoration of such relinquished creditable service must be completed within seven years of April 17, 2014, or prior to termination, whichever is earlier.

(b) With respect to any person who is reinstated to membership in the retirement system pursuant to subdivision (3)(a) of this section on and after April 17, 2014, and who files a valid and complete one-time application with the retirement board for the restoration of part or all of his or her relinquished creditable service within five years after the date of such member's reinstatement to membership in the retirement system but prior to termination, the following shall apply:

(i) Such member shall pay to the retirement system an amount equal to the previously withdrawn contributions for the creditable service to be restored, plus an amount equal to the actuarial assumed rate of return on such amount to the date of repayment; and

(ii) Payment for restoration of such relinquished creditable service must be completed within five years of the date of such member's reinstatement to membership in the retirement system or prior to termination, whichever is earlier.

(5)(a) If less than full payment is made by the member, relinquished creditable service shall be restored in proportion to the amounts repaid.

(b) Repayment may be made through direct payment, installment payments, an irrevocable payroll deduction authorization, cash rollover contributions pursuant to section 79-933.02, or trustee-to-trustee transfers pursuant to section 79-933.09, except that if the application for the restoration of part or all of the relinquished creditable service is received by the retirement system within one year before the member's termination date or the applicable last payment date as specified in subsection (4) of this section, whichever is earlier, repayment may only be made through a lump-sum direct payment, cash rollover contributions pursuant to section 79-933.02, or trustee-to-trustee transfers pursuant to section 79-933.09.

Sec. 8. Section 79-978, Revised Statutes Supplement, 2021, is amended to read:

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

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

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

(3) Actuarial tables means:

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

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

(ii) For members hired on or after July 1, 2018, or rehired on or after July 1, 2018, after termination of employment and being paid a retirement benefit, the determinations shall be based on a unisex mortality table and an interest rate specified by (A) the board until September 1, 2024, or (B) the retirement board beginning on September 1, 2024. Both the mortality table and the interest rate shall be recommended by the actuary retained pursuant to section 79-984 following an actuarial experience study, a benefit adequacy study, or a plan valuation. The mortality table, interest rate, and actuarial factors in effect on the member's retirement date shall be used to calculate the actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate; and

(b) For joint and survivorship annuities:

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

Group Annuity Mortality Table with a One Year Setback and using an interest rate of eight percent compounded annually; and

(ii) For members hired on or after July 1, 2018, or rehired on or after July 1, 2018, after termination of employment and being paid a retirement benefit, the determinations shall be based on a unisex mortality table and an interest rate specified by (A) the board until September 1, 2024, or (B) the retirement board beginning on September 1, 2024. Both the mortality table and the interest rate shall be recommended by the actuary retained pursuant to section 79-984 following an actuarial experience study, a benefit adequacy study, or a plan valuation. The mortality table, interest rate, and actuarial factors in effect on the member's retirement date shall be used to calculate the actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate;

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

(5) Annuitant means any member receiving an allowance;

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

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

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

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

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

(11) Board of trustees means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

creditable service; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(37) (36) Secondary beneficiary means the person or persons entitled to receive or receiving a benefit by reason of the death of all primary beneficiaries prior to the death of the member. If no primary beneficiary survives the member, secondary beneficiaries shall be treated in the same manner as primary beneficiaries;~~

~~(37) School district means an employer participating in a retirement system established pursuant to the Class V School Employees Retirement Act;~~

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

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

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

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

~~(42)(a) (41)(a) Termination of employment occurs on the date on which the member experiences a bona fide separation from service of employment with the member's employer, the date of which separation is determined by the end of the member's contractual agreement or, if there is no contract or only partial fulfillment of a contract, by an employer. A member shall not be deemed to have terminated employment if the member subsequently provides service to an employer within one hundred eighty days after ceasing employment unless such service is:~~

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

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

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

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

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

~~(42) Temporary employee means a person hired by an employer who is not an employee and who is hired to provide service for a limited period of time to accomplish a specific purpose or task. When such specific purpose or task is complete, the employment of such temporary employee shall terminate and in no case shall the temporary employment period exceed one year in duration;~~

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

(a) Transfer of the school district's funding obligations described in the Class V School Employees Retirement Act or assumption of financial liability for such funding obligations by (i) the State of Nebraska, (ii) the retirement board, (iii) the Nebraska Public Employees Retirement Systems, (iv) any other state entity with duties related to administration of the retirement system, or (v) the council for its investment duties regarding the assets of the retirement system; or

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

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

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

Sec. 9. Section 79-992.01, Revised Statutes Supplement, 2021, is amended to read:

79-992.01 (1) An employer participating in a retirement system established pursuant to the Class V School Employees Retirement Act shall:

(a) ~~(a)(i)~~ Until September 1, 2024, notify the administrator and the board of trustees in writing of the date upon which a termination of employment has occurred and provide the administrator and the board of trustees with such information as the board of trustees deems necessary; and

~~(b) (ii)~~ Beginning September 1, 2024, notify the retirement board in writing of the date upon which a termination of employment has occurred and provide the administrator and the board with such information as the administrator and the board deem necessary. ;

~~(b)(i)~~ Until September 1, 2024, notify the administrator and the board of trustees in writing whether or not a member accepted and received an early retirement inducement; and

~~(ii)~~ Beginning September 1, 2024, notify the retirement board in writing whether or not a member accepted and received an early retirement inducement; and

~~(c)~~ Submit in writing with the notice of termination of employment and notice of receipt of an early retirement inducement a completed certification by an employer and member under penalty of prosecution pursuant to section 79-992.02 that, prior to the member's termination, there was no prearranged written or verbal agreement for the member to return to service in any capacity with the same employer.

~~(2)~~ The member shall submit (a) to the administrator and the board of trustees until September 1, 2024, and (b) to the retirement board beginning September 1, 2024, upon the member's termination, under penalty of prosecution pursuant to section 79-992.02, completed certification on forms prescribed by the administrator and the board of trustees or the retirement board, as applicable, stating whether or not the member accepted and received an early retirement inducement from his or her employer.

~~(2)~~ ~~(3)~~ Until September 1, 2024, and except as provided in section 79-981, the board of trustees, and, beginning September 1, 2024, the retirement board, may adopt and promulgate rules and regulations and prescribe forms as the board of trustees or the retirement board, as applicable, determines appropriate in order to carry out this section and to ensure full disclosure and reporting by an employer and member in order to minimize fraud and abuse and the filing of false or fraudulent claim or benefit applications.

Sec. 10. Section 79-9,117, Revised Statutes Supplement, 2021, is amended to read:

79-9,117 ~~(1)(a)~~ ~~(1)~~ Until September 1, 2024, the board of trustees, and beginning September 1, 2024, the retirement board, shall establish a comprehensive preretirement planning program for school employees who are members of the retirement system. The program shall provide information and advice regarding the many changes members employees face upon retirement, including, but not limited to, changes in physical and mental health, housing, family life, leisure activity, and retirement income.

(b) Beginning September 1, 2024, the retirement board shall establish sessions as provided in section 84-1511 for school employees who are members of the retirement system.

(2) The preretirement planning program shall be available to all members employees who have attained the age of fifty years or are within five years of qualifying for retirement or early retirement under their retirement systems.

(3) The preretirement planning program shall include information on the federal and state income tax consequences of the various annuity or retirement benefit options available to the member employee, information on social security benefits, information on various local, state, and federal government programs and programs in the private sector designed to assist elderly persons, and information and advice the board of trustees or retirement board, as applicable, deems valuable in assisting members employees in the transition from public employment to retirement.

(4) The board of trustees or retirement board, as applicable, shall work with any governmental agency, including political subdivisions or bodies whose services or expertise may enhance the development or implementation of the preretirement planning program.

(5) The costs of the preretirement planning program shall be charged back to the retirement system.

(6) An employer shall provide each member ~~eligible~~ employee leave with pay to attend up to two preretirement planning programs. For purposes of this subsection, leave with pay means a day off paid by an employer and does not mean vacation, sick, personal, or compensatory time. A member ~~An employee~~ may choose to attend a program more than twice, but such leave shall be at the expense of the member employee and shall be at the discretion of the employer. A member ~~An eligible~~ employee shall not be entitled to attend more than one preretirement planning program per fiscal year prior to actual election of retirement.

(7) A nominal registration fee may be charged to each person attending a preretirement planning program to cover the costs for meals, meeting rooms, or other expenses incurred under such program.

Sec. 11. Section 84-1301, Revised Statutes Cumulative Supplement, 2020, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

pay period following the termination of such contributory retirement plan or contract, (g) employees of the State Board of Agriculture who are not members of the state retirement system on July 1, 1982, (h) the Nebraska National Guard air and army technicians, (i) persons who are required to participate in eligible for membership under the School Employees Retirement System of the State of Nebraska who have not elected to become members of the retirement system pursuant to section 79-920 or been made members of the system pursuant to such section, except that those persons so required eligible and actively who as of September 2, 1973, are contributing to the State Employees Retirement System of the State of Nebraska as of July 1, 2022, shall continue as members of the State Employees Retirement System of the State of Nebraska such system, or (j) employees of the Coordinating Commission for Postsecondary Education who are eligible for and have elected to become members of a qualified retirement program approved by the commission which is commensurate with retirement programs at the University of Nebraska. Any individual appointed by the Governor may elect not to become a member of the State Employees Retirement System of the State of Nebraska;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii)(A) Attained at least seventy and one-half years of age for a member

who attained seventy and one-half years of age on or before December 31, 2019;
or

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

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

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

(28) Required contribution means the deduction to be made from the compensation of employees as provided in section 84-1308;

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

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

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

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

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

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

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

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

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

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

Sec. 12. Section 84-1310.01, Revised Statutes Cumulative Supplement, 2020, is amended to read:

84-1310.01 (1)(a) (1) Each member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, shall be allowed to allocate all contributions to the member's his or her employee account to various investment options. The investment options shall include, but not be limited to, the following:

~~(a) Prior to January 1, 2021, the investment options shall include, but not be limited to, the following:~~

~~(i) An investor select account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy substantially similar to the investment allocations made by the state investment officer for the defined benefit plans under the retirement systems described in subdivision (1)(a) of section 84-1503. Investments shall most likely include domestic and international equities, fixed income investments, and real estate, as well as potentially additional asset classes;~~

~~(ii) A stable return account which shall be invested by or under the~~

~~direction of the state investment officer in a stable value strategy that provides capital preservation and consistent, steady returns;~~

~~(iii) An equities account which shall be invested by or under the direction of the state investment officer in equities;~~

~~(iv) A balanced account which shall be invested by or under the direction of the state investment officer in equities and fixed income instruments;~~

~~(v) An index fund account which shall be invested by or under the direction of the state investment officer in a portfolio of common stocks designed to closely duplicate the total return of the Standard and Poor's division of The McGraw-Hill Companies, Inc., 500 Index;~~

~~(vi) A fixed income account which shall be invested by or under the direction of the state investment officer in fixed income instruments;~~

~~(vii) A money market account which shall be invested by or under the direction of the state investment officer in short-term fixed income securities; and~~

~~(viii) Beginning on July 1, 2006, an age-based account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy that changes based upon the age of the member. The board shall develop an account mechanism that changes the investments as the employee nears retirement age. The asset allocation and asset classes utilized in the investments shall move from aggressive, to moderate, and then to conservative as retirement age approaches.~~

~~If a member fails to select an option or combination of options prior to January 1, 2021, all of his or her funds shall be placed in the option described in subdivision (a)(ii) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.~~

~~(b) On or after January 1, 2021, the investment options shall include, but not be limited to, the following:~~

~~(i) An investor select account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy substantially similar to the investment allocations made by the state investment officer for the defined benefit plans under the retirement systems described in subdivision (1)(a) of section 84-1503. Investments shall most likely include domestic and international equities, fixed income investments, and real estate, as well as potentially additional asset classes;~~

~~(ii) A stable return account which shall be invested by or under the direction of the state investment officer in a stable value strategy that provides capital preservation and consistent, steady returns;~~

~~(iii) An equities account which shall be invested by or under the direction of the state investment officer in equities;~~

~~(iv) A fixed income account which shall be invested by or under the direction of the state investment officer in fixed income instruments; and~~

~~(v) A life-cycle fund which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy that adjusts from a position of higher risk to one of lower risk as the member ages.~~

~~(b) If the member fails to select an option or combination of options pursuant to this subdivision (a) of this subsection (b), all of the member's his or her funds shall be placed in the option described in subdivision (a)(v) (b)(v) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising the member's his or her allocation.~~

~~(2) Members of the retirement system may allocate their contributions to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member under subdivision (1)(a) of section 84-1323 or the member's his or her beneficiary may transfer any portion of the member's his or her funds among the options, except for restrictions on transfers to or from the stable return account pursuant to rule or regulation. The board may adopt and promulgate rules and regulations for changes of a member's allocation of contributions to the member's his or her accounts after the member's his or her most recent allocation and for transfers from one investment account to another.~~

~~(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board.~~

~~(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.~~

~~(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the agency shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employee account.~~

Sec. 13. Section 84-1311.03, Revised Statutes Cumulative Supplement, 2020, is amended to read:

84-1311.03 (1) Each member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, shall be allowed to allocate all contributions to the member's his or her employer account to various investment options. Such investment options shall be the same as the investment options of the employee account as provided in subsection (1) of section 84-1310.01. If a member fails to select

an option or combination of options, all of the member's ~~his or her~~ funds in the employer account shall be placed in the investment option described in subdivision (1)(a)(v) or ~~(1)(b)(v)~~ of section 84-1310.01, ~~whichever option is applicable based on the date of contribution.~~ Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Each member of the retirement system may allocate contributions to the member's ~~his or her~~ employer account to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member under subdivision (1)(a) of section 84-1323 or the member's ~~his or her~~ beneficiary may transfer any portion of the member's ~~his or her~~ funds among the options. The board may adopt and promulgate rules and regulations for changes of a member's allocation of contributions to the member's ~~his or her~~ accounts after the member's ~~his or her~~ most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board.

(4) In order to carry out ~~the provisions of~~ this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the agency shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employer account.

Sec. 14. Section 84-1319.01, Reissue Revised Statutes of Nebraska, is amended to read:

84-1319.01 ~~The There is hereby created the State Equal Retirement Benefit Fund is created. The fund shall~~ to be administered by the board. Each state agency participating in the retirement system shall make a contribution at least once a year to the fund, in addition to any other retirement contributions. Such contribution shall be in an amount determined by the board to provide all similarly situated male and female members of the retirement system with equal benefits pursuant to subsection (2) of section 84-1319 and to provide for direct expenses incurred in administering the fund. The amount contributed to the fund by each state agency participating in the retirement system shall be proportionate to the total amount such agency contributes to the system for retirement benefits. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 15. Section 84-1322, Revised Statutes Cumulative Supplement, 2020, is amended to read:

84-1322 (1) Prior to January 1, 2020, except as otherwise provided in this section, a member of the retirement system who has a five-year break in service shall upon reemployment be considered a new employee with respect to the State Employees Retirement Act and shall not receive credit for service prior to his or her reemployment date.

(2)(a) A member who ceases to be an employee before becoming eligible for retirement under section 84-1317 and again becomes a permanent full-time or permanent part-time state employee prior to having a five-year break in service shall immediately be reenrolled in the retirement system and resume making contributions. For purposes of vesting employer contributions made prior to and after reentry into the retirement system under subsection (3) of section 84-1321, years of participation include years of participation prior to such employee's original termination. For a member who is not vested and has received a termination benefit pursuant to section 84-1321, the years of participation prior to such employee's original termination shall be limited in a ratio equal to the amount that the member repays divided by the termination benefit withdrawn pursuant to section 84-1321. This subsection shall apply whether or not the person was a state employee on April 20, 1986, or July 17, 1986.

(b) The reemployed member may repay the value of, or a portion of the value of, the termination benefit withdrawn pursuant to section 84-1321. A reemployed member who elects to repay all or a portion of the value of the termination benefit withdrawn pursuant to section 84-1321 shall repay the actual earnings on such value. Repayment of the termination benefit shall commence within three years after reemployment and shall be completed within five years after reemployment or prior to termination of employment, whichever occurs first, through (i) direct payments to the retirement system, (ii) installment payments made pursuant to a binding irrevocable payroll deduction authorization made by the member, (iii) an eligible rollover distribution as provided under the Internal Revenue Code, or (iv) a direct rollover distribution made in accordance with section 401(a)(31) of the Internal Revenue Code.

(c) The value of the member's forfeited employer account or employer cash balance account, as of the date of forfeiture, shall be restored in a ratio equal to the amount of the benefit that the member has repaid divided by the termination benefit received. The employer account or employer cash balance account shall be restored first out of the current forfeiture amounts and then by additional employer contributions.

(3) For a member who retired pursuant to section 84-1317 and becomes a permanent full-time employee or permanent part-time employee with the state more than one hundred twenty days after his or her retirement date, the member shall continue receiving retirement benefits. Such a retired member or a retired member who received a lump-sum distribution of his or her benefit shall be considered a new employee as of the date of reemployment and shall not receive credit for any service prior to the member's retirement for purposes of the act.

(4) A member who is reinstated as an employee pursuant to a grievance or appeal of his or her termination by the state shall be a member upon reemployment and shall not be considered to have a break in service for such period of time that the grievance or appeal was pending.

(5) Beginning January 1, 2020, if a contributing member of the retirement system ceases to be an employee and returns to service in any capacity with the state prior to having a one-hundred-twenty-day break in service, the member:

(a) Shall not be deemed to have had a bona fide separation of service;

(b) Shall be immediately reenrolled in:

(i) The defined contribution benefit if the member was contributing to the defined contribution benefit prior to ceasing employment; or

(ii) The cash balance benefit in which the member was participating prior to ceasing employment if the member was contributing to the cash balance benefit prior to ceasing employment;

(c) Shall immediately resume making contributions;

(d) Shall make up any missed contributions based upon services rendered and compensation received;

(e) Shall have all distributions from the retirement system canceled; and

(f) Shall repay the gross distributions from the retirement system.

(6)(a) Beginning January 1, 2020, if a contributing member of the retirement system ceases to be an employee and returns to permanent full-time or permanent part-time service in any capacity with the state after having a one-hundred-twenty-day break in service, the member:

(i) Shall be immediately reenrolled in:

(A) The defined contribution benefit if the member was contributing to the defined contribution benefit prior to ceasing employment; or

(B) The cash balance benefit in which the member was participating prior to ceasing employment if the member was contributing to the cash balance benefit prior to ceasing employment;

(ii) Shall immediately resume making contributions;

(iii) Shall continue receiving any annuity elected after the member ceased employment and before the member was reemployed; and

(iv) Shall be prohibited from taking any distributions from the retirement system until the employee again terminates employment with the state.

(b) For the purposes of vesting employer contributions made prior to and after reentry into the retirement system, the member's years of participation prior to the date the member originally ceased employment and the years of participation after the member is reenrolled in the retirement system shall be included as years of participation, except that if the member is not vested on the date the member originally ceased employment and has taken a distribution, the years of participation prior to the date the member originally ceased employment shall be limited in a ratio equal to the value of the distribution that the member repays divided by the total value of the distribution taken as described in subdivision (6)(c) of this section.

(c) A reemployed member may repay all or a portion of the value of a distribution except for an annuity elected after the member ceased employment and before the member was reemployed. Repayment of such a distribution shall commence within three years after reemployment and shall be completed within five years after reemployment or prior to the member again ceasing employment, whichever occurs first, through (i) direct payments to the retirement system, (ii) installment payments made pursuant to a binding irrevocable payroll deduction authorization made by the member, (iii) an eligible rollover distribution as provided under the Internal Revenue Code, or (iv) a direct rollover distribution made in accordance with section 401(a)(31) of the Internal Revenue Code. If the member fails to repay all of the value of such a distribution prior to the member again ceasing employment, the member shall be forever barred from repaying the value of such a distribution taken between the periods of employment. The value of the member's forfeited employer account or employer cash balance account, as of the date of forfeiture, shall be restored in a ratio equal to the amount of the distribution repaid by the member divided by the amount of the distribution taken. The employer account or employer cash balance account shall be restored first out of the current forfeiture amounts and then by additional employer contributions.

Sec. 16. Section 84-1503, Revised Statutes Supplement, 2021, is amended to read:

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

(a) To administer the retirement systems provided for in the County Employees Retirement Act, the Judges Retirement Act, the Nebraska State Patrol Retirement Act, the School Employees Retirement Act, the State Employees Retirement Act, and, beginning September 1, 2024, the Class V School Employees Retirement Act. The agency for the administration of the retirement systems and under the direction of the board shall be known and may be cited as the Nebraska Public Employees Retirement Systems;

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

a majority of the Legislature. ~~Director qualifications shall include, but not be limited to, (i) supervisory or management experience and (ii) training in, experience with, or a demonstrated knowledge of qualified public employee retirement plan administration. The director shall be qualified by training and have at least five years of experience in the administration of a qualified public or private employee retirement plan.~~ The director shall not be a member of the board. The salary of the director shall be set by the board. The director shall serve without term and may be removed by the board;

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

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

(e) To hire an attorney, ~~admitted to the Nebraska State Bar Association,~~ to advise the board in the administration of the retirement systems listed in subdivision (a) of this subsection. The attorney shall be admitted to practice law in Nebraska, except that the board shall have the discretion to hire an attorney for a probationary period not to exceed six months pending such attorney's admission to practice law in Nebraska;

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

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

~~(h) To prescribe and furnish forms for the public retirement system plan reports required to be filed pursuant to sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987 through December 31, 2017.~~

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

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

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

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

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

(e) To obtain, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services, actuarial services on behalf of the State of Nebraska as may be necessary in the administration and development of the retirement systems, including, but not limited to, preparation of an annual actuarial valuation report of each of the defined benefit and cash balance plans administered by the board. Such annual valuation reports shall be presented by the actuary to the Nebraska Retirement Systems Committee of the Legislature at a public hearing or hearings. Any contract for actuarial services shall contain a provision allowing the actuary, without prior approval of the board, to perform actuarial studies of the systems as requested by entities other than the board, if notice, which does not identify the entity or substance of the request, is given to the board, all costs are paid by the requesting entity, results are provided to the board, the Nebraska Retirement Systems Committee of the Legislature, and the Legislative Fiscal Analyst upon being made public, and such actuarial studies do not interfere with the actuary's ongoing responsibility to the board. The term of the contract shall be for up to three years. A competitive, formal, and sealed bidding process shall be completed at least once every three years, unless the board determines that such a process would not be cost effective under the circumstances and that the actuarial services performed have been satisfactory, in which case the contract may also contain an option for renewal without a competitive, formal, and sealed bidding process for up to two additional three-year periods. An actuary under contract for the State of Nebraska shall be a member of the American Academy of Actuaries and meet the academy's qualification standards to render a statement of actuarial opinion;

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

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

acceptance of rollovers;

(h) To obtain auditing services for a separate compliance audit of the retirement systems to be completed by December 31, ~~2028~~ ~~2020~~, and from time to time thereafter at the request of the Nebraska Retirement Systems Committee of the Legislature, to be completed not more than every four years but not less than every ten years. The compliance audit shall be in addition to the annual audit conducted by the Auditor of Public Accounts. The compliance audit shall include, but not be limited to, an examination of records, files, and other documents and an evaluation of all policies and procedures to determine compliance with all state and federal laws. A copy of the compliance audit shall be given to the Governor, the board, and the Nebraska Retirement Systems Committee of the Legislature and shall be presented to the committee at a public hearing;

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

(j)(i) To amend the deferred compensation plan to require that in the event of a member's death, except as provided in section 42-1107, the death benefit shall be paid to the following, in order of priority:

(A) To the member's surviving designated beneficiary on file with the board;

(B) To the spouse married to the member on the member's date of death if there is no surviving designated beneficiary on file with the board; or

(C) To the member's estate if the member is not married on the member's date of death and there is no surviving designated beneficiary on file with the board; and

(ii) The priority designations described in subdivision (2)(j)(i) of this section shall not apply if the member has retired under a joint and survivor benefit option;

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

(l) To administer all retirement system plans in a manner which will maintain each plan's status as a qualified plan pursuant to the Internal Revenue Code, as defined in section 49-801.01, including: Section 401(a)(9) of the Internal Revenue Code relating to the time and manner in which benefits are required to be distributed, including the incidental death benefit distribution requirement of section 401(a)(9)(G) of the Internal Revenue Code; section 401(a)(25) of the Internal Revenue Code relating to the specification of actuarial assumptions; section 401(a)(31) of the Internal Revenue Code relating to direct rollover distributions from eligible retirement plans; section 401(a)(37) of the Internal Revenue Code relating to the death benefit of a member whose death occurs while performing qualified military service; and section 401(a) of the Internal Revenue Code by meeting the requirements of section 414(d) of the Internal Revenue Code relating to the establishment of retirement plans for governmental employees of a state or political subdivision thereof. The board may adopt and promulgate rules and regulations necessary or appropriate to maintain such status including, but not limited to, rules or regulations which restrict discretionary or optional contributions to a plan or which limit distributions from a plan.

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

(4)(a) Beginning in 2016, and at least every four years thereafter in even-numbered years or at the request of the Nebraska Retirement Systems Committee of the Legislature, the board shall obtain an experience study. Within thirty business days after presentation of the experience study to the board, the actuary shall present the study to the Nebraska Retirement Systems Committee at a public hearing. If the board does not adopt all of the recommendations in the experience study, the board shall provide a written

explanation of its decision to the Nebraska Retirement Systems Committee and the Governor. The explanation shall be delivered within ten business days after formal action by the board to not adopt one or more of the recommendations.

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

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

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

(6) Pursuant to section 79-9,121, it shall be the duty of the board to carry out the work plan, file the report, and contract with, bill, and receive payment from an employer of any Class V school employees retirement system established under the Class V School Employees Retirement Act for all services performed in the conduct, completion, and report of such work plan regarding the transfer of management of any such Class V school employees retirement system.

(7) It shall be the duty of the board to complete the additional identification and examination of issues pursuant to section 79-9,124, to enter and carry out the plan for the transfer and transition of the management and administration of any Class V school employees retirement system established under the Class V School Employees Retirement Act pursuant to section 79-979.01, and to bill and receive payment from an employer of any such retirement system for the costs and expenses of the board in carrying out the plan and the transfer of the management and administration of the Class V school employees retirement system to the board.

Sec. 17. Section 84-1511, Reissue Revised Statutes of Nebraska, is amended to read:

84-1511 (1) For purposes of this section:

(a) Leave with pay means time off paid by the employer and does not mean vacation, sick, personal, or compensatory time; and

(b) Session means an in-person training or live-broadcast webinar but does not include information that can be accessed at any time via electronic means.

(2)(a) ~~(1) The Public Employees Retirement Board shall provide sessions establish a comprehensive preretirement planning program for state patrol officers, state employees, judges, county employees, and school employees who are members of the retirement systems established pursuant to the County Employees Retirement Act, the Judges Retirement Act, the School Employees Retirement Act, the Nebraska State Patrol Retirement Act, and the State Employees Retirement Act. The sessions program shall provide information and advice regarding the many changes members employees face upon retirement, including, but not limited to, changes in physical and mental health, housing, family life, leisure activity, and retirement income.~~

(b) ~~(2) The sessions preretirement planning program shall be available to any member who has satisfied the vesting requirements all employees who have attained the age of fifty years or are within five years of qualifying for retirement or early retirement under the their retirement system in which the member participates systems.~~

(c) ~~(3) The sessions preretirement planning program shall include information on the federal and state income tax consequences of the various annuity or retirement benefit options available to retirement system members the employee, information on social security benefits, information on various local, state, and federal government programs and programs in the private sector designed to assist elderly persons, and information and advice the board deems valuable in assisting retirement system members public employees in the transition from public employment to retirement.~~

(d) Beginning September 1, 2024, as provided pursuant to section 79-9,117, the board shall also provide the sessions described in this subsection to school employees who are members of any retirement system established pursuant to the Class V School Employees Retirement Act.

(3) ~~(4) The board shall work with the Department of Health and Human Services, the personnel division of the Department of Administrative Services, employee groups, and any other governmental agency, including political subdivisions or bodies whose services or expertise may enhance the development or implementation of the sessions preretirement planning program.~~

(5) ~~Funding to cover the expense of the preretirement planning program shall be charged back to each retirement fund on a pro rata share based on the number of employees in each plan.~~

(4)(a)(i) Each (6) The employer participating in the Retirement System for

~~Nebraska Counties or the State Employees Retirement System of the State of Nebraska shall provide each member eligible employee leave with pay to attend up to three days of sessions. two preretirement planning programs. For purposes of this subsection, leave with pay shall mean a day off paid by the employer and shall not mean vacation, sick, personal, or compensatory time.~~

~~(ii) Each employer participating in the Nebraska Judges Retirement System, the School Employees Retirement System of the State of Nebraska, or the Nebraska State Patrol Retirement System shall provide each member leave with pay to attend up to two days of sessions.~~

~~(b) Leave authorized pursuant to subdivision (4)(a) of this section may only be used to attend sessions that occur during the employee's normal work day.~~

~~(c) A member An employee may choose to attend a program more sessions than the leave authorized pursuant to subdivision (4)(a) of this section twice, but such leave to attend such additional sessions shall be at the expense of the member employee and shall be at the discretion of the employer. An eligible employee shall not be entitled to attend more than one preretirement planning program per fiscal year prior to actual election of retirement.~~

~~(5) Funding to cover the expenses of a session shall be charged back to the retirement fund of each plan for which sessions are provided pursuant to subsection (2) of this section on a pro rata share based on the number of members in each plan, except that a (7) A nominal registration fee may be charged to each person attending an in-person training session a preretirement planning program to cover the costs for meals, meeting rooms, or other expenses incurred that are incident to an in-person training session. under such program.~~

Sec. 18. Original sections 23-2317.01, 79-920, 84-1319.01, and 84-1511, Reissue Revised Statutes of Nebraska, sections 23-2309.01, 23-2310.05, 72-1243, 79-921, 84-1301, 84-1310.01, 84-1311.03, and 84-1322, Revised Statutes Cumulative Supplement, 2020, and sections 79-902, 79-978, 79-992.01, 79-9,117, and 84-1503, Revised Statutes Supplement, 2021, are repealed.

Sec. 19. The following section is outright repealed: Section 84-1511.01, Reissue Revised Statutes of Nebraska.

Sec. 20. Since an emergency exists, this act takes effect when passed and approved according to law.