

LEGISLATIVE BILL 1005

Approved by the Governor April 23, 2018

Introduced by Kolterman, 24.

A BILL FOR AN ACT relating to government; to amend sections 23-2302, 23-2305, 23-2306.02, 23-2306.03, 23-2310.05, 23-2323.02, 23-2323.03, 23-3527, 24-704, 24-704.01, 24-710, 24-710.05, 24-710.06, 79-904, 79-905, 79-907, 79-915, 79-924, 79-933.01, 79-933.02, 79-933.03, 79-933.04, 79-933.07, 81-2019, 81-2031.03, 81-2031.04, 84-1305, 84-1310.01, 84-1311.03, 84-1312, 84-1313, 85-122, and 85-123.01, Reissue Revised Statutes of Nebraska, sections 23-2305.01, 23-2306, 23-2309.01, 79-9,113, 81-2019.01, 81-2026, and 84-1305.02, Revised Statutes Cumulative Supplement, 2016, and sections 23-2323.01, 79-902, 79-904.01, 79-926, 79-978, 79-1003, 79-1028.01, 81-2014, 84-1301, 84-1325, and 84-1503, Revised Statutes Supplement, 2017; to change provisions relating to employer removal or withdrawal from the Retirement System for Nebraska Counties or the School Employees Retirement System of the State of Nebraska; to change provisions relating to facility participation in a retirement system under the County Employees Retirement Act; to provide authority relating to the adoption of bylaws, prescription of forms, and adoption and promulgation of rules and regulations by the Public Employees Retirement Board to carry out state-administered retirement acts as prescribed; to redefine actuarial equivalent in the School Employees Retirement Act, the Nebraska State Patrol Retirement Act, and the State Employees Retirement Act; to change calculation of retirement benefits and required contributions under the Class V School Employees Retirement Act; to redefine a term and change an exclusion to levy limitations and budget limitations under the Tax Equity and Educational Opportunities Support Act; to change provisions relating to investment and management of the University Trust Fund; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 23-2302, Reissue Revised Statutes of Nebraska, is amended to read:

23-2302 (1) A county employees retirement system shall be established for the purpose of providing a retirement annuity or other benefits for employees as provided by the County Employees Retirement Act. It shall be known as the Retirement System for Nebraska Counties, and by such name shall transact all business and hold all cash and other property as provided in the County Employees Retirement Act.

(2) The retirement system shall not accept as contributions any money from members or participating counties except the following:

(a) Mandatory contributions and fees established by sections 23-2307 and 23-2308;

(b) Payments on behalf of transferred employees made pursuant to section 23-2306.02 or 23-2306.03;

(c) Money that is a repayment of refunded contributions made pursuant to section 23-2320;

(d) Contributions for military service credit made pursuant to section 23-2323.01;

(e) Actuarially required contributions pursuant to subdivision (4)(b) of section 23-2317;

(f) Trustee-to-trustee transfers pursuant to section 23-2323.04; ~~or~~

(g) Corrections ordered by the board pursuant to section 23-2305.01; ~~or~~

(h) Payments made pursuant to subsection (4) of section 23-2306.

Sec. 2. Section 23-2305, Reissue Revised Statutes of Nebraska, is amended to read:

23-2305 It shall be the duty of the board to administer the County Employees Retirement Act as provided in section 84-1503. The board ~~may~~ shall adopt and promulgate rules and regulations to carry out the act.

Sec. 3. Section 23-2305.01, Revised Statutes Cumulative Supplement, 2016, is amended to read:

23-2305.01 (1)(a) If the board determines that the retirement system has previously received contributions or distributed benefits which for any reason are not in accordance with the statutory provisions of the County Employees Retirement Act, the board shall refund contributions, require additional contributions, adjust benefits, credit dividend amounts, or require repayment of benefits paid. In the event of an overpayment of a benefit, the board may, in addition to other remedies, offset future benefit payments by the amount of the prior overpayment, together with regular interest or interest credits, whichever is appropriate, thereon. In the event of an underpayment of a benefit, the board shall immediately make payment equal to the deficit amount plus regular interest or interest credits, whichever is appropriate.

(b) The board shall have the power, through the director of the Nebraska Public Employees Retirement Systems or the director's designee, to make a thorough investigation of any overpayment of a benefit, when in the judgment of

the retirement system 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.

(2) The board ~~may shall~~ adopt and promulgate rules and regulations implementing this section, which ~~may shall~~ include, but not be limited to, the following: (a) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (b) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment of contributions or benefits; and (c) notice provided to all affected persons. All notices shall be sent prior to an adjustment and shall describe the process for disputing an adjustment of contributions or benefits.

Sec. 4. Section 23-2306, Revised Statutes Cumulative Supplement, 2016, is amended to read:

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

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

(3) On and after July 1, 2010, no employee of a member county shall be authorized to participate in the retirement system provided for in the County Employees Retirement Act unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

~~(4)(a) The (4) On and after July 1, 2013, the board may determine that a governmental entity currently participating in the retirement system no longer qualifies, in whole or in part, under section 414(d) of the Internal Revenue Code as a participating employer in a governmental plan. Upon such determination, affected plan members shall be considered fully vested. The board shall notify such entity within ten days after making a determination. Within ninety days after the board's notice to such entity, affected plan members shall become inactive. The board may adopt and promulgate rules and regulations to carry out this subsection.~~

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

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

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

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

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

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

~~(ii) The affected plan members shall be immediately considered fully~~

vested;

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

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

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

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

(d) For purposes of this subsection:

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

(ii) Funding obligation means the financial liability of the retirement system to provide benefits for the affected plan members incurred by the retirement system due to the entity's business transaction calculated using the methodology and assumptions recommended by the board's contracted actuary and approved by the board. The methodology and assumptions used must be structured in a way that ensures the entity is financially liable for all the costs of the entity's business transaction, and the retirement system is not financially liable for any of the cost of the entity's business transaction.

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

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

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

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

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

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

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

Sec. 5. Section 23-2306.02, Reissue Revised Statutes of Nebraska, is amended to read:

23-2306.02 Under such rules and regulations as the retirement board may adopt and promulgate ~~adopts and promulgates~~, a full-time or part-time employee of a city, village, or township who becomes a county employee pursuant to a merger of services may pay to the retirement system an amount equal to the sum of all deductions which were made from the employee's compensation, plus earnings, during such period of employment with the city, village, or township. Payment shall be made within five years after the merger or prior to retirement, whichever comes first, and may be made through direct payment, installment payments, or an irrevocable payroll authorization.

Sec. 6. Section 23-2306.03, Reissue Revised Statutes of Nebraska, is amended to read:

23-2306.03 Under such rules and regulations as the retirement board may adopt and promulgate ~~adopts and promulgates~~, a full-time or part-time employee of a city, village, fire protection district, or township who becomes a municipal county employee shall transfer all of his or her funds in the retirement system of the city, village, fire protection district, or township

by paying to the Retirement System for Nebraska Counties from funds held by the retirement system of the city, village, fire protection district, or township an amount equal to one of the following: (1) If the retirement system of the city, village, fire protection district, or township maintains a defined benefit plan, an amount not to exceed the initial benefit transfer value as provided in section 13-2401, leaving no funds attributable to the transferred employee within the retirement system of the city, village, fire protection district, or township; or (2) if the retirement system of the city, village, fire protection district, or township maintains a defined contribution plan, an amount not to exceed the employee and employer accounts of the transferring employee plus earnings during the period of employment with the city, village, fire protection district, or township. The employee shall receive vesting credit for his or her years of service in a governmental plan, as defined in section 414(d) of the Internal Revenue Code, maintained by the city, village, fire protection district, or township. Payment shall be made within five years after employment begins with the receiving entity or prior to retirement, whichever comes first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

Sec. 7. Section 23-2309.01, Revised Statutes Cumulative Supplement, 2016, is amended to read:

23-2309.01 (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 his or her employee account to various investment options. The investment options shall include, but not be limited to, the following:

(a) 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;

(b) 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;

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

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

(e) 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;

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

(g) 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

(h) 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, all of his or her funds shall be placed in the option described in subdivision (b) 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.

(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 his or her beneficiary may transfer any portion of 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~~ shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after 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. 8. Section 23-2310.05, Reissue Revised Statutes of Nebraska, 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 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 his or her funds in the employer account shall be placed in the balanced account option described in subdivision (1)(d) of section 23-2309.01. 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 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 his or her beneficiary may transfer any portion of his or her funds among the options. The board ~~may shall~~ adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after 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. 9. Section 23-2323.01, Revised Statutes Supplement, 2017, is amended to read:

23-2323.01 (1)(a) For military service beginning on or after December 12, 1994, but before January 1, 2018, any employee who, while an employee, entered into and served in the armed forces of the United States and who within ninety days after honorable discharge or honorable separation from active duty again became an employee shall be credited, for the purposes of section 23-2315, with all the time actually served in the armed forces as if such person had been an employee throughout such service in the armed forces pursuant to the terms and conditions of subdivision (b) of this subsection.

(b) Under such rules and regulations as the retirement board ~~may adopt and promulgate~~ ~~adopts and promulgates~~, an employee who is reemployed on or after December 12, 1994, pursuant to 38 U.S.C. 4301 et seq., may pay to the retirement system an amount equal to the sum of all deductions which would have been made from the employee's compensation during such period of military service. Payment shall be made within the period required by law, not to exceed five years. To the extent that payment is made, (i) the employee shall be treated as not having incurred a break in service by reason of the employee's period of military service, (ii) the period of military service shall be credited for the purposes of determining the nonforfeitability of the employee's accrued benefits and the accrual of benefits under the plan, and (iii) the employer shall allocate the amount of employer contributions to the employee's employer account in the same manner and to the same extent the allocation occurs for other employees during the period of service. For purposes of employee and employer contributions under this section, the employee's compensation during the period of military service shall be the rate the employee would have received but for the military service or, if not reasonably determinable, the average rate the employee received during the twelve-month period immediately preceding military service.

(c) The employer shall pick up the employee contributions made through irrevocable payroll deduction authorizations pursuant to this subsection, and the contributions so picked up shall be treated as employer contributions in the same manner as contributions picked up under section 23-2307.

(2)(a) For military service beginning on or after January 1, 2018, any employee who is reemployed pursuant to 38 U.S.C. 4301 et seq., shall be treated as not having incurred a break in service by reason of the employee's period of military service. Such military service shall be credited for purposes of determining the nonforfeitability of the employee's accrued benefits and the accrual of benefits under the plan.

(b) The county employing the employee shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service. To satisfy the liability, the county employing the employee shall pay to the retirement system an amount equal to:

(i) The sum of the employee and employer contributions that would have been paid during such period of military service; and

(ii) Any actuarial costs necessary to fund the obligation of the plan to provide benefits based upon such period of military service. For the purposes of determining the amount of such liability and obligation of the plan, earnings and forfeitures, gains and losses, regular interest, interest credits, or dividends that would have accrued on the employee and employer contributions

that are paid by the employer pursuant to this section shall not be included.

(c) The amount required pursuant to subdivision (b) of this subsection shall be paid to the retirement system as soon as reasonably practicable following the date of reemployment but must be paid within eighteen months of the date the board notifies the employer of the amount due. If the employer fails to pay the required amount within such eighteen-month period, then the employer is also responsible for any actuarial costs and interest on actuarial costs that accrue from eighteen months after the date the employer is notified by the board until the date the amount is paid.

(d) The retirement board may adopt and promulgate rules and regulations to carry out this subsection, including, but not limited to, rules and regulations on:

(i) How and when the employee and employer must notify the retirement system of a period of military service;

(ii) The acceptable methods of payment;

(iii) Determining the service and compensation upon which the contributions must be made;

(iv) Accelerating the payment from the employer due to unforeseen circumstances that occur before payment is made pursuant to this section, including, but not limited to, the employee's termination or retirement or the employer's reorganization, consolidation, merger, or closing; and

(v) The documentation required to substantiate that the employee was reemployed pursuant to 38 U.S.C. 4301 et seq.

(3) This section only applies to military service that falls within the definition of uniformed service under 38 U.S.C. 4301 et seq. Military service does not include service provided pursuant to sections 55-101 to 55-181.

Sec. 10. Section 23-2323.02, Reissue Revised Statutes of Nebraska, is amended to read:

23-2323.02 (1) For purposes of this section and section 23-2323.03:

(a) Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee ~~Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code;~~

(b) Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code ~~Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee;~~

(c) Eligible retirement plan means (i) an individual retirement account described in section 408(a) of the Internal Revenue Code, (ii) an individual retirement annuity described in section 408(b) of the code, except for an endowment contract, (iii) a qualified plan described in section 401(a) of the code, (iv) an annuity plan described in section 403(a) or 403(b) of the code, (v) except for purposes of section 23-2323.03, an individual retirement plan described in section 408A of the code, and (vi) a plan described in section 457(b) of the code and maintained by a governmental employer. For eligible rollover distributions to a surviving spouse, an eligible retirement plan means subdivisions (1)(c)(i) through (vi) of this section; and

(d) Eligible rollover distribution means any distribution to a distributee of all or any portion of the balance to the credit of the distributee in the plan, except such term shall not include any distribution which is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life of the distributee or joint lives of the distributee and the distributee's beneficiary or for the specified period of ten years or more and shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

(2) For distributions made to a distributee on or after January 1, 1993, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee.

(3) A member's surviving spouse or former spouse who is an alternate payee under a qualified domestic relations order and, on or after January 1, 2010, any designated beneficiary of a member who is not a surviving spouse or former spouse who is entitled to receive an eligible rollover distribution from the retirement system may, in accordance with such rules, regulations, and limitations as may be established by the board, elect to have such distribution made in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code.

(4) An eligible rollover distribution on behalf of a designated beneficiary of a member who is not a surviving spouse or former spouse of the member may be transferred to an individual retirement account or annuity described in section 408(a) or section 408(b) of the Internal Revenue Code that is established for the purpose of receiving the distribution on behalf of the designated beneficiary and that will be treated as an inherited individual retirement account or individual retirement annuity described in section 408(d)(3)(C) of the Internal Revenue Code.

(5) The board ~~may shall~~ adopt and promulgate rules and regulations for direct rollover procedures which are consistent with section 401(a)(31) of the Internal Revenue Code and which include, but are not limited to, the form and time of direct rollover distributions.

Sec. 11. Section 23-2323.03, Reissue Revised Statutes of Nebraska, is amended to read:

23-2323.03 (1) The retirement system may accept cash rollover

contributions from a member who is making payment pursuant to section 23-2306.02, 23-2306.03, 23-2320, or 23-2323.01 if the contributions do not exceed the amount authorized to be paid by the member pursuant to section 23-2306.02, 23-2306.03, 23-2320, or 23-2323.01, and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified plan under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, the entire amount of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified plan under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days from the date of the distribution from the qualified plan, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments made under section 23-2306.02, 23-2306.03, 23-2320, or 23-2323.01.

(3) Under the same conditions as provided in subsection (1) of this section, the retirement system may accept eligible rollover distributions from (a) an annuity contract described in section 403(b) of the Internal Revenue Code, (b) a plan described in section 457(b) of the code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or (c) the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the code that is eligible to be rolled over and would otherwise be includible in gross income. Amounts accepted pursuant to this subsection shall be deposited as all other payments under this section.

(4) The retirement system may accept direct rollover distributions made from a qualified plan pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

(5) The board ~~may shall~~ adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Sec. 12. Section 23-3527, Reissue Revised Statutes of Nebraska, is amended to read:

~~23-3527 A facility established under the provisions of section 23-3501, in a county eligible to participate in the County Employees Retirement Act pursuant to Chapter 23, article 23, shall be given the option to participate in the retirement system under such act so long as the facility elects to participate within the later of one year from the operative date of this section, or one year from the date the facility is established. Failure to timely elect to participate in such retirement system shall bar the facility from electing to participate in the future. (1) A facility established under the provisions of section 23-3501, in a county which is presently participating in a retirement system under the County Employees Retirement Act pursuant to Chapter 23, article 23, shall be given the option to continue participation under such act or to discontinue such participation.~~

~~(2) A facility established under the provisions of section 23-3501, in a county which in the future shall elect to participate in a retirement system under the County Employees Retirement Act shall be given the option to participate in a retirement system pursuant to such act or to decline such participation.~~

Sec. 13. Section 24-704, Reissue Revised Statutes of Nebraska, is amended to read:

24-704 (1) The general administration of the retirement system for judges provided for in the Judges Retirement Act, except the investment of funds, is hereby vested in the board. The Auditor of Public Accounts shall make an annual audit of the retirement system and electronically file an annual report of its condition with the Clerk of the Legislature. Each member of the Legislature shall receive an electronic copy of the annual report by making a request for such report to the Auditor of Public Accounts. The board ~~may shall~~ adopt and promulgate rules and regulations as may be necessary to carry out the Judges Retirement Act.

(2)(a) The board shall employ a director and such assistants and employees as may be necessary to efficiently discharge the duties imposed by the act. The director shall keep a record of all acts and proceedings taken by the board.

(b) The director shall keep a complete record of all members with respect to name, current address, age, contributions, length of service, compensation, and any other facts as may be necessary in the administration of the act. The information in the records shall be provided by the State Court Administrator in an accurate and verifiable form, as specified by the director. The director shall, from time to time, carry out testing procedures pursuant to section 84-1512 to verify the accuracy of such information. For the purpose of obtaining such facts and information, the director shall have access to the records of the various state departments and agencies and the holder of the records shall comply with a request by the director for access by providing such facts and information to the director in a timely manner. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate.

(c) The director shall develop and implement an employer education program using principles generally accepted by public employee retirement systems so that all employers have the knowledge and information necessary to prepare and

file reports as the board requires.

(3) Information necessary to determine membership in the retirement system shall be provided by the State Court Administrator.

(4) Any funds of the retirement system available for investment shall be invested by the Nebraska Investment Council pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Payment for investment services by the council shall be charged directly against the gross investment returns of the funds. Charges so incurred shall not be a part of the board's annual budget request. The amounts of payment for such services, as of December 31 of each year, shall be reported not later than March 31 of the following year to the council, the board, and the Nebraska Retirement Systems Committee of the Legislature. The report submitted to the committee shall be submitted electronically. The state investment officer shall sell any such securities upon request from the director so as to provide money for the payment of benefits or annuities.

Sec. 14. Section 24-704.01, Reissue Revised Statutes of Nebraska, is amended to read:

24-704.01 (1)(a) If the board determines that the retirement system has previously received contributions or distributed benefits which for any reason are not in accordance with the Judges Retirement Act, the board shall refund contributions, require additional contributions, adjust benefits, or require repayment of benefits paid. In the event of an overpayment of a benefit, the board may, in addition to other remedies, offset future benefit payments by the amount of the prior overpayment, together with regular interest thereon. In the event of an underpayment of a benefit, the board shall immediately make payment equal to the deficit amount plus regular interest.

(b) The board shall have the power, through the director of the Nebraska Public Employees Retirement Systems or the director's designee, to make a thorough investigation of any overpayment of a benefit, when in the judgment of the retirement system 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.

(2) The board ~~may shall~~ adopt and promulgate rules and regulations implementing this section, which shall include, but not be limited to, the following: (a) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (b) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment of contributions or benefits; and (c) notice provided to all affected persons. All notices shall be sent prior to an adjustment and shall describe the process for disputing an adjustment of contributions or benefits.

Sec. 15. Section 24-710, Reissue Revised Statutes of Nebraska, is amended to read:

24-710 (1) The retirement annuity of a judge who is an original member, who has not made the election provided for in subsection (8) of section 24-703 or section 24-710.01, and who retires under section 24-708 or 24-709 shall be computed as follows: Each such judge shall be entitled to receive an annuity, each monthly payment of which shall be in an amount equal to three and one-third percent of his or her final average compensation as such judge, multiplied by the number of his or her years of creditable service. The amount stated in this section shall be supplemental to any benefits received by such judge under the Nebraska and federal old age and survivors' insurance acts at the date of retirement, but the monthly combined benefits received thereunder and by the Judges Retirement Act shall not exceed sixty-five percent of the final average compensation such judge was receiving when he or she last served as such judge. The amount of retirement annuity of a judge who retires under section 24-708 or 24-709 shall not be less than twenty-five dollars per month if he or she has four years or more of service credit.

(2) The retirement annuity of a judge who is a future member and who retires after July 1, 1986, under section 24-708 or 24-709 shall be computed as follows: Each such judge shall be entitled to receive an annuity, each monthly payment of which shall be in an amount equal to three and one-half percent of his or her final average compensation as such judge, multiplied by the number of his or her years of creditable service, except that prior to an actuarial factor adjustment for purposes of calculating an optional form of annuity benefits under subsection (3) of this section, the monthly benefits received under this subsection shall not exceed seventy percent of the final average compensation such judge was receiving when he or she last served as such judge.

(3) Except as provided in section 42-1107, any member may, when filing an application as provided by the retirement system, elect to receive, in lieu of the normal form annuity benefits to which the member or his or her beneficiary may otherwise be entitled under the Judges Retirement Act, an optional form of annuity benefits which the board may by rules and regulations provide, the value of which, determined by accepted actuarial methods and on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file in the office of the director, is equal to the value of the benefit replaced. The board ~~may shall~~ (a) adopt and promulgate appropriate

rules and regulations ~~to establish~~ establishing joint and survivorship annuities, with and without reduction on the death of the first annuitant, and such other forms of annuities as may in its judgment be appropriate and establishing benefits as provided in sections 24-707 and 24-707.01, (b) prescribe appropriate forms for making the election by the members, and (c) provide for the necessary actuarial services to make the required valuations.

(4) A one-time cost-of-living adjustment shall be made for each retired judge and each surviving beneficiary who is receiving a retirement annuity as provided for in this section. The annuity shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1992, except that such increases shall not exceed three percent per year of retirement and the total increase shall not exceed two hundred fifty dollars per month.

Sec. 16. Section 24-710.05, Reissue Revised Statutes of Nebraska, is amended to read:

24-710.05 (1) For purposes of this section and section 24-710.06:

(a) Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee ~~Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code;~~

(b) Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code ~~Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee;~~

(c) Eligible retirement plan means (i) an individual retirement account described in section 408(a) of the Internal Revenue Code, (ii) an individual retirement annuity described in section 408(b) of the code, except for an endowment contract, (iii) a qualified plan described in section 401(a) of the code, (iv) an annuity plan described in section 403(a) or 403(b) of the code, (v) except for purposes of section 24-710.06, an individual retirement plan described in section 408A of the code, and (vi) a plan described in section 457(b) of the code and maintained by a governmental employer. For eligible rollover distributions to a surviving spouse, an eligible retirement plan means subdivisions (1)(c)(i) through (vi) of this section; and

(d) Eligible rollover distribution means any distribution to a distributee of all or any portion of the balance to the credit of the distributee in the plan, except such term shall not include any distribution which is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life of the distributee or joint lives of the distributee and the distributee's beneficiary or for the specified period of ten years or more and shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

(2) For distributions made to a distributee on or after January 1, 1993, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee.

(3) A member's surviving spouse or former spouse who is an alternate payee under a qualified domestic relations order and, on or after July 1, 2010, any designated beneficiary of a member who is not a surviving spouse or former spouse who is entitled to receive an eligible rollover distribution from the retirement system may, in accordance with such rules, regulations, and limitations as may be established by the board, elect to have such distribution made in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code.

(4) An eligible rollover distribution on behalf of a designated beneficiary of a member who is not a surviving spouse or former spouse of the member may be transferred to an individual retirement account or annuity described in section 408(a) or section 408(b) of the Internal Revenue Code that is established for the purpose of receiving the distribution on behalf of the designated beneficiary and that will be treated as an inherited individual retirement account or individual retirement annuity described in section 408(d)(3)(C) of the Internal Revenue Code.

(5) The board ~~may~~ shall adopt and promulgate rules and regulations for direct rollover procedures which are consistent with section 401(a)(31) of the Internal Revenue Code and which include, but are not limited to, the form and time of direct rollover distributions.

Sec. 17. Section 24-710.06, Reissue Revised Statutes of Nebraska, is amended to read:

24-710.06 (1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to section 24-706 if the contributions do not exceed the amount of payment required for the service credits purchased by the member pursuant to such section and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified plan under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, the entire amount of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified plan under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days from the date of the distribution from the qualified plan, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments for service credits.

(3) Under the same conditions as provided in subsection (1) of this section, the retirement system may accept eligible rollover distributions from (a) an annuity contract described in section 403(b) of the Internal Revenue Code, (b) a plan described in section 457(b) of the code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or (c) the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the code that is eligible to be rolled over and would otherwise be includible in gross income. Amounts accepted pursuant to this subsection shall be deposited as all other payments under this section.

(4) The retirement system may accept direct rollover distributions made from a qualified plan pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

(5) The board ~~may shall~~ adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Sec. 18. Section 79-902, Revised Statutes Supplement, 2017, 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;

(b) For employees hired prior to July 1, 2018, 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, or service which the board determines was rendered with the intent to defraud the retirement system;

(c) For employees hired on or after July 1, 2018, creditable service includes working days, 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 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 any other type of leave not expressly included in this subdivision; and

(d) Creditable service does not include service provided to an employer in the retirement system provided under 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 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;

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

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

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

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

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

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

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

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

(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) 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;

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 19. Section 79-904, Reissue Revised Statutes of Nebraska, is amended to read:

79-904 The general administration of the retirement system, except the investment of funds, is hereby vested in the retirement board. The board ~~may~~ shall, by a majority vote of its members, adopt bylaws and adopt and promulgate rules and regulations, from time to time, to carry out the School Employees Retirement Act. The board shall perform such other duties as may be required to execute the act.

Sec. 20. Section 79-904.01, Revised Statutes Supplement, 2017, is amended to read:

79-904.01 (1)(a) If the board determines that the retirement system has previously received contributions or distributed benefits which for any reason are not in accordance with the statutory provisions of the School Employees Retirement Act, the board may refund contributions, require additional contributions, adjust benefits, or require repayment of benefits paid. In the event of an overpayment of a benefit, the board may, in addition to other remedies, offset future benefit payments by the amount of the prior overpayment, together with regular interest thereon. In the event of a material underpayment of a benefit, the board shall immediately make payment equal to the deficit amount plus regular interest.

(b) The board shall have the power, through the director of the Nebraska Public Employees Retirement Systems or the director's designee, to make a thorough investigation of any overpayment of a benefit, when in the judgment of the retirement system 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.

(2) 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 79-933, such member shall repay the benefit to the retirement system.

(3) The board ~~may shall~~ adopt and promulgate rules and regulations implementing this section, which shall include, but not be limited to, the following: (a) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (b) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment of contributions or benefits; and (c) notice provided to all affected persons. All notices shall be sent at the time of or prior to an adjustment and shall describe the process for disputing an adjustment of contributions or benefits.

(4) The board shall not refund contributions made on compensation in excess of the limitations imposed by subdivision (4) of section 79-902 or subsection (9) of section 79-934.

Sec. 21. Section 79-905, Reissue Revised Statutes of Nebraska, is amended to read:

79-905 It shall be the duty of the ~~The~~ retirement board to shall:

(1) Determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of dispute between an individual and a department;

(2) Adopt rules and regulations, as the board may deem necessary, for the management of the board;

(3) Prescribe the form in which employers report contributions, hours worked by school employees, payroll information, and other information necessary to carry out the board's duties;

(4) Keep a complete record of all proceedings taken at any meeting of the board;

(5) Employ a director and such assistants and employees ~~other assistance~~ as may be necessary in the performance of its duties; and

(6) Obtain actuarial services pursuant to subdivision (2)(e) of section 84-1503.

Sec. 22. Section 79-907, Reissue Revised Statutes of Nebraska, is amended to read:

79-907 (1)(a) On or before October 1, 2001, and at least every two years thereafter, the retirement board shall send to each contributing member of the retirement system by first-class mail, a statement of creditable service, reported salary, and other such information as is determined by the director of the Nebraska Public Employees Retirement Systems to be necessary in calculating the member's retirement benefit.

(b) If the member requests a modification or correction of his or her statement of information, the member shall provide documentation to the board supporting such modification or correction and provide clear and convincing evidence that the statement is in error. The board shall, within sixty days after receipt of the documentation supporting the modification or correction, determine whether the member has proven by clear and convincing evidence that the statement shall be modified or corrected. If the board determines that the member has provided clear and convincing evidence, the board shall modify or

correct the statement. If the board determines that the member has not provided clear and convincing evidence, the board shall deny the modification or correction. In either case, the board shall notify the member. The member may appeal the decision of the board pursuant to section 79-950.

(c) The board has an ongoing fiduciary duty to modify or correct a member's statement if the board discovers an error in the information it has on record. A modification or correction shall be made within sixty days after the error is brought to the attention of the board.

(2) The board ~~may~~ shall adopt and promulgate rules and regulations and prescribe the necessary forms to carry out this section.

Sec. 23. Section 79-915, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) On and after July 1, 2010, no school employee shall be authorized to participate in the retirement system provided for in the School Employees Retirement Act unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

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

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

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

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

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

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

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

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

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

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

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

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

(d) For purposes of this subsection:

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

(ii) Funding obligation means the financial liability of the retirement system to provide benefits for the affected plan members incurred by the retirement system due to the entity's business transaction calculated using the methodology and assumptions recommended by the board's contracted actuary and approved by the board. The methodology and assumptions used must be structured in a way that ensures the entity is financially liable for all the costs of the entity's business transaction, and the retirement system is not financially liable for any of the cost of the entity's business transaction.

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

Sec. 24. Section 79-924, Reissue Revised Statutes of Nebraska, is amended to read:

79-924 The retirement board ~~may shall~~ adopt and promulgate rules and regulations to allow for lump-sum or installment payments for school employees who elect to repurchase relinquished creditable service under section 79-921 or buy credit for prior years of service under sections 79-933.03 to 79-933.06 and 79-933.08. Any person who elects to repurchase relinquished creditable service or buy credit for prior years of service on an installment basis may be charged reasonable service costs, shall be credited with those prior years of service only as the money is actually received by the retirement system, and shall have paid to the retirement system all installments prior to the commencement of a retirement annuity.

Sec. 25. Section 79-926, Revised Statutes Supplement, 2017, is amended to read:

79-926 (1) Under such rules and regulations as the retirement board ~~may~~ adopt and promulgate ~~adopts and promulgates~~, each person who was a school employee at any time prior to the establishment of the retirement system and who becomes a member of the retirement system shall, within two years after becoming a member, file a detailed statement of all service as a school employee rendered by him or her prior to the date of establishment of the retirement system. In order to qualify for prior service credit toward a service annuity, a school employee, unless temporarily out of service for further professional education, for service in the armed forces, or for temporary disability, must have completed four years of service on a part-time or full-time basis during the five calendar years immediately preceding July 1, 1945, or have completed eighteen years out of the last twenty-five years prior to July 1, 1945, full time or part time, and two years out of the five years immediately preceding July 1, 1945, full time or part time, or such school employee must complete, unless temporarily out of service for further professional education, for service in the armed forces, or for temporary disability, four years of service within the five calendar years immediately following July 1, 1945. In order to qualify for prior service credit toward a service annuity, a school employee who becomes a member of the retirement system on or before September 30, 1951, or from July 1, 1945, to the date of becoming a member shall have been continuously employed in a public school in Nebraska operating under any other regularly established retirement or pension system.

(2)(a) Any school employee who is reemployed pursuant to 38 U.S.C. 4301 et seq., shall be treated as not having incurred a break in service by reason of his or her period of military service. Such military service shall be credited for purposes of determining the nonforfeitability of the member's accrued benefits and the accrual of benefits under the plan.

(b) The employer shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service. To satisfy the liability, the employer shall pay to the retirement system an amount equal to:

(i) The sum of the member and employer contributions that would have been paid during such period of military service; and

(ii) Any actuarial costs necessary to fund the obligation of the plan to provide benefits based upon such period of military service. For the purposes of determining the amount of such liability and obligation of the plan, earnings and forfeitures, gains and losses, regular interest, or interest credits that would have accrued on the member and employer contributions that are paid by the employer pursuant to this section shall not be included.

(c) The amount required in subdivision (b) of this subsection shall be paid to the retirement system as soon as reasonably practicable following the date of reemployment, but must be paid within eighteen months of the date the board notifies the employer of the amount due. If the employer fails to pay the required amount within such eighteen-month period, then the employer is also responsible for any actuarial costs and interest on actuarial costs that accrue from eighteen months after the date the employer is notified by the board until the date the amount is paid.

(d) The retirement board may adopt and promulgate rules and regulations to carry out this subsection, including, but not limited to, rules and regulations on:

(i) How and when the member and employer must notify the retirement system of a period of military service;

(ii) The acceptable methods of payment;

(iii) Determining the service and compensation upon which the contributions must be made;

(iv) Accelerating the payment from the employer due to unforeseen circumstances that occur before payment is made pursuant to this section, including, but not limited to, the member's termination or retirement or the employer's reorganization, consolidation, merger, or closing; and

(v) The documentation required to substantiate that the member was reemployed pursuant to 38 U.S.C. 4301 et seq.

(3) This section only applies to military service that falls within the definition of uniformed service under 38 U.S.C. 4301 et seq. Military service does not include service provided pursuant to sections 55-101 to 55-181.

Sec. 26. Section 79-933.01, Reissue Revised Statutes of Nebraska, is

amended to read:

79-933.01 (1) For purposes of this section and section 79-933.02:

(a) Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee ~~Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code;~~

(b) Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code ~~Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee;~~

(c) Eligible retirement plan means (i) an individual retirement account described in section 408(a) of the Internal Revenue Code, (ii) an individual retirement annuity described in section 408(b) of the code, except for an endowment contract, (iii) a qualified plan described in section 401(a) of the code, (iv) an annuity plan described in section 403(a) or 403(b) of the code, (v) except for purposes of section 79-933.02, an individual retirement plan described in section 408A of the code, and (vi) a plan described in section 457(b) of the code and maintained by a governmental employer. For eligible rollover distributions to a surviving spouse, an eligible retirement plan means subdivisions (1)(c)(i) through (vi) of this section; and

(d) Eligible rollover distribution means any distribution to a distributee of all or any portion of the balance to the credit of the distributee in the plan, except such term shall not include any distribution which is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life of the distributee or joint lives of the distributee and the distributee's beneficiary or for the specified period of ten years or more and shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

(2) For distributions made to a distributee on or after January 1, 1993, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee.

(3) A member's surviving spouse or former spouse who is an alternate payee under a qualified domestic relations order and, on or after July 1, 2010, any designated beneficiary of a member who is not a surviving spouse or former spouse who is entitled to receive an eligible rollover distribution from the retirement system may, in accordance with such rules, regulations, and limitations as may be established by the board, elect to have such distribution made in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code.

(4) An eligible rollover distribution on behalf of a designated beneficiary of a member who is not a surviving spouse or former spouse of the member may be transferred to an individual retirement account or annuity described in section 408(a) or section 408(b) of the Internal Revenue Code that is established for the purpose of receiving the distribution on behalf of the designated beneficiary and that will be treated as an inherited individual retirement account or individual retirement annuity described in section 408(d)(3)(C) of the Internal Revenue Code.

(5) The board ~~may~~ shall adopt and promulgate rules and regulations for direct rollover procedures which are consistent with section 401(a)(31) of the Internal Revenue Code and which include, but are not limited to, the form and time of direct rollover distributions.

Sec. 27. Section 79-933.02, Reissue Revised Statutes of Nebraska, is amended to read:

79-933.02 (1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to sections 79-921, 79-933.03 to 79-933.06, and 79-933.08 if the contributions do not exceed the amount of payment required for the relinquished creditable service repurchased or service credits purchased by the member pursuant to such sections and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified plan under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, the entire amount of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified plan under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days from the date of the distribution from the qualified plan, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments for purchase of service credits or repurchase of relinquished creditable service pursuant to section 79-921.

(3) Under the same conditions as provided in subsection (1) of this section, the retirement system may accept eligible rollover distributions from (a) an annuity contract described in section 403(b) of the Internal Revenue Code, (b) a plan described in section 457(b) of the code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or (c) the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the code that is eligible to be rolled over and would otherwise be includible in gross income. Amounts accepted pursuant to this subsection shall be deposited as all other payments under this section.

(4) The retirement system may accept direct rollover distributions made from a qualified plan pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

(5) The board ~~may shall~~ adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Sec. 28. Section 79-933.03, Reissue Revised Statutes of Nebraska, is amended to read:

79-933.03 (1) Under such rules and regulations as the board ~~may shall~~ adopt and promulgate, a contributing member under contract or employed on July 19, 1996, may receive credit for not to exceed ten years of creditable teaching service rendered in public schools in another state or schools in this state covered by a school retirement system established pursuant to section 79-979, if such member files an application for service credit within three years of membership or reinstatement in the School Employees Retirement System of the State of Nebraska and makes payment into the retirement system of an amount equal to the required deposits he or she would have paid had he or she been employed in this state by a school covered by the retirement system, plus the interest which would have accrued on such amount. Payment must be completed within five years of membership or reinstatement in the retirement system, or prior to termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(2) A member who retires as a school employee of this state shall not receive credit for time in service outside of this state or in a school in this state covered by the school retirement system established pursuant to section 79-979 in excess of the time he or she has been in service as a school employee in this state of a school covered by the School Employees Retirement System of the State of Nebraska. The board shall refund to the member the payments made pursuant to subsection (1) of this section to the extent that the member does not receive credit for such service.

(3) A member who purchases service credit pursuant to this section shall provide such documentation as the board may require to prove that the member has forfeited the receipt of any benefits from the retirement system of the public school in another state or a school in this state covered by a retirement system established pursuant to section 79-979 for the creditable service rendered in such school.

Sec. 29. Section 79-933.04, Reissue Revised Statutes of Nebraska, is amended to read:

79-933.04 (1) For contributing members under contract or employed on July 19, 1996, and under such rules and regulations as the board ~~may shall~~ adopt and promulgate, any member who was away from his or her position while on a leave of absence from such position authorized by the school board or board of education of the school district by which he or she was employed at the time of such leave of absence or pursuant to any contractual agreement entered into by such school district may receive credit for such time as he or she was on such leave of absence. Such credit shall increase the benefits provided by the retirement system and shall be included in creditable service when determining eligibility for death, disability, termination, and retirement benefits. The member who receives the credit shall earn benefits during the leave based on compensation at the level received immediately prior to the leave of absence. Such credit shall be allowed if such member has paid into the retirement system an amount equal to the sum of the deductions from his or her compensation and any contribution which the school district would have been required to make had he or she continued to receive compensation at the level received immediately prior to the leave of absence with such deposits plus interest which would have accrued on such deposits to be paid as the retirement board may direct within five years of his or her return to membership in the retirement system, or prior to termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(2) Leave of absence shall be construed to include, but ~~is not be~~ limited to, sabbaticals, maternity leave, exchange teaching programs, full-time leave as an elected official of a professional association or collective-bargaining unit, or leave of absence to pursue further education or study. A leave of absence granted pursuant to this section shall not exceed four years in length, and in order to receive credit for the leave of absence the member must return to employment with a school district, other than a Class V school district, in the state within one year after termination of the leave of absence and must apply for such credit within three years of the return to membership in the retirement system.

Sec. 30. Section 79-933.07, Reissue Revised Statutes of Nebraska, is amended to read:

79-933.07 The board ~~may shall~~ adopt and promulgate rules and regulations for the purchase of service credit or the repurchase of relinquished creditable service, which shall include, but not be limited to, the method for determining actuarial cost and interest requirements for payments other than one lump-sum payment.

Sec. 31. Section 79-978, Revised Statutes Supplement, 2017, 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: τ

(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 the board of trustees. Both the mortality table and the interest rate shall be recommended by the actuary retained by the board of trustees and approved by the board of trustees 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: τ

(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 the board of trustees. Both the mortality table and the interest rate shall be recommended by the actuary retained by the board of trustees and approved by the board of trustees 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) Annuitant means any member receiving an allowance;

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

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

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

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

(9)(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;

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

(11) Creditable service means the sum of the membership service and the

prior service, measured in one-tenth-year increments;

(12) 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;

(13) 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 retire with a reduced retirement benefit;

(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 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;

(14) Employee means the following enumerated persons receiving compensation from the school district: (a) Regular teachers and administrators employed on a written contract basis; and (b) regular employees, not included in subdivision (14)(a) of this section, hired upon a full-time basis, which basis shall contemplate a workweek of not less than thirty hours;

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

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

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

(18) 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;

(19) 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;

(20) 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 the 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;

(21) 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;

(22) 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;

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

(24) 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;

(25) 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;

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

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

(28) 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;

(29) 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;

(30) 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 by the board of trustees as provided in section 79-984;

~~(31)~~ (30) State investment officer means the state investment officer appointed pursuant to section 72-1240 and acting pursuant to the Nebraska State Funds Investment Act;

~~(32)~~ (31) 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;

~~(33)~~ (32) 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;

~~(34)~~ (33) Trustee means a trustee provided for in section 79-980; and

~~(35)~~ (34) Voluntary service or volunteer means providing bona fide unpaid service to an employer.

Sec. 32. Section 79-9,113, Revised Statutes Cumulative Supplement, 2016, is amended to read:

79-9,113 (1)(a) If, at any future time, a majority of the eligible members of the retirement system votes to be included under an agreement providing old age and survivors insurance under the Social Security Act of the United States, the contributions to be made by the member and the school district for membership service, from and after the effective date of the agreement with respect to services performed subsequent to December 31, 1954, shall each be reduced from five to three percent but not less than three percent of the member's salary per annum, and the credits for membership service under this system, as provided in section 79-999, shall thereafter be reduced from one and one-half percent to nine-tenths of one percent and not less than nine-tenths of one percent of salary or wage earned by the member during each fiscal year, and from one and sixty-five hundredths percent to one percent and not less than one percent of salary or wage earned by the member during each fiscal year and from two percent to one and two-tenths percent of salary or wage earned by the member during each fiscal year, and from two and four-tenths percent to one and forty-four hundredths percent of salary or wage earned by the member during each fiscal year, except that after September 1, 1963, and prior to September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of salary covered by old age and survivors insurance, and five percent above that amount. Commencing September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five percent of salary or wages earned above that amount in the same fiscal year. Commencing September 1, 1976, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and nine-tenths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five and twenty-five hundredths percent of salary or wages earned above that amount in the same fiscal year. Commencing on September 1, 1982, all employees of the school district shall contribute an amount equal to the membership contribution which shall be four and nine-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1989, all employees of the school district shall contribute an amount equal to the membership contribution which shall be five and eight-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1995, all employees of the school district shall contribute an amount equal to the membership contribution which shall be six and three-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 2007, all employees of the school district shall contribute an amount equal to the membership contribution which shall be seven and three-tenths percent of the compensation paid in each fiscal year. Commencing September 1, 2009, all employees of the school district shall contribute an amount equal to the membership contribution which shall be eight and three-tenths percent of the

compensation paid in each fiscal year. Commencing September 1, 2011, all employees of the school district shall contribute an amount equal to the membership contribution which shall be nine and three-tenths percent of the compensation paid in each fiscal year. Commencing September 1, 2013, all employees of the school district shall contribute an amount equal to the membership contribution which shall be nine and seventy-eight hundredths percent of the compensation paid in each fiscal year.

(b) The contributions by the school district in any fiscal year beginning on or after September 1, 1999, shall be the greater of (i) one hundred percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board of education upon recommendation of the actuary and the board of trustees.

(c) The contributions by the school district in any fiscal year beginning on or after September 1, 2007, and prior to September 1, 2018, shall be the greater of (i) one hundred one percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board of education upon recommendation of the actuary retained by the board of trustees and after considering any amounts that will be, or are expected to be, transferred to the system pursuant to subdivision (1)(b) of section 79-966. The amount necessary to maintain the solvency of the system as determined in subdivision (ii) of this subdivision (c) shall be transmitted by the school district to the account of the retirement system no later than August 31, 2018 For purposes of this section, 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 using a closed thirty-year amortization period beginning on the current valuation date for any unfunded actuarial accrued liability. The school district contributions specified in subdivision (i) of this subdivision (c) shall be made monthly and shall be immediately transmitted to the account of the retirement system.

(d) The contributions by the school district in any fiscal year beginning on or after September 1, 2018, and each September 1 thereafter, shall be the greater of (i) one hundred one percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board of education upon recommendation of the actuary retained by the board of trustees and after considering any amounts that will be, or are expected to be, transferred to the system pursuant to subdivision (1)(b) of section 79-966. The amount necessary to maintain the solvency of the system as determined in subdivision (ii) of this subdivision (d) shall be transmitted by the school district to the account of the retirement system no later than August 31, 2019, and each August 31 thereafter. The school district contributions specified in subdivision (i) of this subdivision (d) shall be made monthly and shall be immediately transmitted to the account of the retirement system.

(e) Nothing in this section prohibits the school district from making other contributions in addition to the contributions required pursuant to this section.

(f) ~~(d)~~ The employee's contribution shall be made in the form of a monthly deduction from compensation as provided in subsection (2) of this section and shall be immediately transmitted to the account of the retirement system. Every employee who is a member of the system shall be deemed to consent and agree to such deductions and shall receipt in full for compensation, and payment to such employee of compensation less such deduction shall constitute a full and complete discharge of all claims and demands whatsoever for services rendered by such employee during the period covered by such payment except as to benefits provided under the Class V School Employees Retirement Act.

(g) ~~(e)~~ After September 1, 1963, and prior to September 1, 1969, all employees shall be credited with a membership service annuity which shall be nine-tenths of one percent of salary or wage covered by old age and survivors insurance and one and one-half percent of salary or wages above that amount, except that those employees who retire on or after August 31, 1969, shall be credited with a membership service annuity which shall be one percent of salary or wages covered by old age and survivors insurance and one and sixty-five hundredths percent of salary or wages above that amount for service performed after September 1, 1963, and prior to September 1, 1969. Commencing September 1, 1969, all employees shall be credited with a membership service annuity which shall be one percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during each fiscal year and one and sixty-five hundredths percent of salary or wages earned above that amount in the same fiscal year, except that all employees retiring on or after August 31, 1976, shall be credited with a membership service annuity which shall be one and forty-four hundredths percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during such fiscal year and two and four-tenths percent of salary or wages earned above that amount in the same fiscal year, and the retirement annuities of employees who have not retired prior to September 1, 1963, and who elected under the provisions of section 79-988 as such section existed immediately prior to February 20, 1982, not to become members of the system shall not be less than they would have been had they remained under any preexisting system to date of retirement.

(h) ~~(f)~~ Members of this system having the service qualifications of members of the School Employees Retirement System of the State of Nebraska, as provided by section 79-926, who are members of the retirement system

established pursuant to the Class V School Employees Retirement Act prior to July 1, 2016, shall receive the state service annuity provided by sections 79-933 to 79-935 and 79-951.

(2) The school district shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The school district shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The school district shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Beginning September 1, 1995, the school district shall also pick up any contributions required by sections 79-990, 79-991, and 79-992 which are made under an irrevocable payroll deduction authorization between the member and the school district, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal and state income taxes based upon these contributions until the Internal Revenue Service rules that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed from the system. Employee contributions picked up shall be treated for all purposes of the Class V School Employees Retirement Act in the same manner and to the extent as employee contributions made prior to the date picked up.

Sec. 33. Section 79-1003, Revised Statutes Supplement, 2017, is amended to read:

79-1003 For purposes of the Tax Equity and Educational Opportunities Support Act:

(1) Adjusted general fund operating expenditures means (a) for school fiscal years 2013-14 through 2015-16, the difference of the general fund operating expenditures as calculated pursuant to subdivision (23) of this section increased by the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, instructional time allowance, teacher education allowance, and focus school and program allowance, (b) for school fiscal years 2016-17 through 2018-19, the difference of the general fund operating expenditures as calculated pursuant to subdivision (23) of this section increased by the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, and focus school and program allowance, and (c) for school fiscal year 2019-20 and each school fiscal year thereafter, the difference of the general fund operating expenditures as calculated pursuant to subdivision (23) of this section increased by the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, community achievement plan allowance, and focus school and program allowance;

(2) Adjusted valuation means the assessed valuation of taxable property of each local system in the state, adjusted pursuant to the adjustment factors described in section 79-1016. Adjusted valuation means the adjusted valuation for the property tax year ending during the school fiscal year immediately preceding the school fiscal year in which the aid based upon that value is to be paid. For purposes of determining the local effort rate yield pursuant to section 79-1015.01, adjusted valuation does not include the value of any property which a court, by a final judgment from which no appeal is taken, has declared to be nontaxable or exempt from taxation;

(3) Allocated income tax funds means the amount of assistance paid to a local system pursuant to section 79-1005.01 as adjusted, for school fiscal years prior to school fiscal year 2017-18, by the minimum levy adjustment pursuant to section 79-1008.02;

(4) Average daily membership means the average daily membership for grades kindergarten through twelve attributable to the local system, as provided in each district's annual statistical summary, and includes the proportionate share of students enrolled in a public school instructional program on less than a full-time basis;

(5) Base fiscal year means the first school fiscal year following the school fiscal year in which the reorganization or unification occurred;

(6) Board means the school board of each school district;

(7) Categorical funds means funds limited to a specific purpose by federal or state law, including, but not limited to, Title I funds, Title VI funds, federal vocational education funds, federal school lunch funds, Indian education funds, Head Start funds, and funds from the Education Innovation

Fund;

(8) Consolidate means to voluntarily reduce the number of school districts providing education to a grade group and does not include dissolution pursuant to section 79-498;

(9) Converted contract means an expired contract that was in effect for at least fifteen school years beginning prior to school year 2012-13 for the education of students in a nonresident district in exchange for tuition from the resident district when the expiration of such contract results in the nonresident district educating students, who would have been covered by the contract if the contract were still in effect, as option students pursuant to the enrollment option program established in section 79-234;

(10) Converted contract option student means a student who will be an option student pursuant to the enrollment option program established in section 79-234 for the school fiscal year for which aid is being calculated and who would have been covered by a converted contract if the contract were still in effect and such school fiscal year is the first school fiscal year for which such contract is not in effect;

(11) Department means the State Department of Education;

(12) District means any Class I, II, III, IV, V, or VI school district or unified system as defined in section 79-4,108;

(13) Ensuing school fiscal year means the school fiscal year following the current school fiscal year;

(14) Equalization aid means the amount of assistance calculated to be paid to a local system pursuant to sections 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022, and 79-1022.02;

(15) Fall membership means the total membership in kindergarten through grade twelve attributable to the local system as reported on the fall school district membership reports for each district pursuant to section 79-528;

(16) Fiscal year means the state fiscal year which is the period from July 1 to the following June 30;

(17) Formula students means:

(a) For state aid certified pursuant to section 79-1022, the sum of the product of fall membership from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid multiplied by the average ratio of average daily membership to fall membership for the second school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and the prior two school fiscal years plus sixty percent of the qualified early childhood education fall membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which aid is to be paid minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the fall membership multiplied by 0.5; and

(b) For the final calculation of state aid pursuant to section 79-1065, the sum of average daily membership plus sixty percent of the qualified early childhood education average daily membership plus tuitioned students minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the average daily membership multiplied by 0.5 from the school fiscal year immediately preceding the school fiscal year in which aid was paid;

(18) Free lunch and free milk calculated students means, using the most recent data available on November 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, (a) for schools that did not provide free meals to all students pursuant to the community eligibility provision, students who individually qualified for free lunches or free milk pursuant to the federal Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq., and the federal Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq., as such acts and sections existed on January 1, 2015, and rules and regulations adopted thereunder, plus (b) for schools that provided free meals to all students pursuant to the community eligibility provision, (i) for school fiscal year 2016-17, the product of the students who attended such school multiplied by the identified student percentage calculated pursuant to such federal provision or (ii) for school fiscal year 2017-18 and each school fiscal year thereafter, the greater of the number of students in such school who individually qualified for free lunch or free milk using the most recent school fiscal year for which the school did not provide free meals to all students pursuant to the community eligibility provision or one hundred ten percent of the product of the students who qualified for free meals at such school pursuant to the community eligibility provision multiplied by the identified student percentage calculated pursuant to such federal provision, except that the free lunch and free milk students calculated for any school pursuant to subdivision (18)(b)(ii) of this section shall not exceed one hundred percent of the students qualified for free meals at such school pursuant to the community eligibility provision;

(19) Free lunch and free milk student means, for school fiscal years prior to school fiscal year 2016-17, a student who qualified for free lunches or free milk from the most recent data available on November 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid;

(20) Full-day kindergarten means kindergarten offered by a district for at least one thousand thirty-two instructional hours;

(21) General fund budget of expenditures means the total budget of disbursements and transfers for general fund purposes as certified in the budget statement adopted pursuant to the Nebraska Budget Act, except that for purposes of the limitation imposed in section 79-1023 and the calculation

pursuant to subdivision (2) of section 79-1027.01, the general fund budget of expenditures does not include any special grant funds, exclusive of local matching funds, received by a district;

(22) General fund expenditures means all expenditures from the general fund;

(23) General fund operating expenditures means for state aid calculated for school fiscal years 2012-13 and each school fiscal year thereafter, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (a) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, federal impact aid, and levy override elections pursuant to section 77-3444, (b) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (c) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, (d) any legal expenses in excess of fifteen-hundredths of one percent of the formula need for the school fiscal year in which the expenses occurred, (e)(i) for state aid calculated for school fiscal years prior to school fiscal year 2018-19, expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination occurring prior to July 1, 2009, occurring on or after the last day of the 2010-11 school year and prior to the first day of the 2013-14 school year, or, to the extent that a district has demonstrated to the State Board of Education pursuant to section 79-1028.01 that the agreement will result in a net savings in salary and benefit costs to the school district over a five-year period, occurring on or after the first day of the 2013-14 school year or (ii) for state aid calculated for school fiscal year 2018-19 and each school fiscal year thereafter, expenditures to pay for incentives agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment for which the State Board of Education approved an exclusion pursuant to subdivision subdivisions (1)(h), (i), (j), or (k) of section 79-1028.01, (f)(i) expenditures to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Employees Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent or (ii) expenditures to pay for school district contributions pursuant to subdivision (1)(c)(i) or (1)(d)(i) of section 79-9,113 to the retirement system established pursuant to the Class V School Employees Retirement Act to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent, and (g) any amounts paid by the district for lobbyist fees and expenses reported to the Clerk of the Legislature pursuant to section 49-1483.

For purposes of this subdivision (23) of this section, receipts from levy override elections shall equal ninety-nine percent of the difference of the total general fund levy minus a levy of one dollar and five cents per one hundred dollars of taxable valuation multiplied by the assessed valuation for school districts that have voted pursuant to section 77-3444 to override the maximum levy provided pursuant to section 77-3442;

(24) High school district means a school district providing instruction in at least grades nine through twelve;

(25) Income tax liability means the amount of the reported income tax liability for resident individuals pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

(26) Income tax receipts means the amount of income tax collected pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

(27) Limited English proficiency students means the number of students with limited English proficiency in a district from the most recent data available on November 1 of the school fiscal year preceding the school fiscal year in which aid is to be paid plus the difference of such students with limited English proficiency minus the average number of limited English proficiency students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

(28) Local system means a learning community for purposes of calculation of state aid for each school fiscal year prior to school fiscal year 2017-18, a unified system, a Class VI district and the associated Class I districts, or a Class II, III, IV, or V district and any affiliated Class I districts or portions of Class I districts. The membership, expenditures, and resources of Class I districts that are affiliated with multiple high school districts will be attributed to local systems based on the percent of the Class I valuation that is affiliated with each high school district;

(29) Low-income child means (a) for school fiscal years prior to 2016-17,

a child under nineteen years of age living in a household having an annual adjusted gross income for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated equal to or less than the maximum household income that would allow a student from a family of four people to be a free lunch and free milk student during the school fiscal year immediately preceding the school fiscal year for which aid is being calculated and (b) for school fiscal year 2016-17 and each school fiscal year thereafter, a child under nineteen years of age living in a household having an annual adjusted gross income for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated equal to or less than the maximum household income pursuant to sections 9(b)(1) and 17(c)(4) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1758(b)(1) and 42 U.S.C. 1766(c)(4), respectively, and sections 3(a)(6) and 4(e)(1)(A) of the Child Nutrition Act of 1966, 42 U.S.C. 1772(a)(6) and 42 U.S.C. 1773(e)(1)(A), respectively, as such acts and sections existed on January 1, 2015, for a household of that size that would have allowed the child to meet the income qualifications for free meals during the school fiscal year immediately preceding the school fiscal year for which aid is being calculated;

(30) Low-income students means the number of low-income children within the district multiplied by the ratio of the formula students in the district divided by the total children under nineteen years of age residing in the district as derived from income tax information;

(31) Most recently available complete data year means the most recent single school fiscal year for which the annual financial report, fall school district membership report, annual statistical summary, Nebraska income tax liability by school district for the calendar year in which the majority of the school fiscal year falls, and adjusted valuation data are available;

(32) Poverty students means (a) for school fiscal years prior to 2016-17, the number of low-income students or the number of students who are free lunch and free milk students in a district plus the difference of the number of low-income students or the number of students who are free lunch and free milk students in a district, whichever is greater, minus the average number of poverty students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero and (b) for school fiscal year 2016-17 and each school fiscal year thereafter, the unadjusted poverty students plus the difference of such unadjusted poverty students minus the average number of poverty students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

(33) Qualified early childhood education average daily membership means the product of the average daily membership for school fiscal year 2006-07 and each school fiscal year thereafter of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the actual instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

(34) Qualified early childhood education fall membership means the product of membership on the last Friday in September 2006 and each year thereafter of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the planned instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

(35) Regular route transportation means the transportation of students on regularly scheduled daily routes to and from the attendance center;

(36) Reorganized district means any district involved in a consolidation and currently educating students following consolidation;

(37) School year or school fiscal year means the fiscal year of a school district as defined in section 79-1091;

(38) Sparse local system means a local system that is not a very sparse local system but which meets the following criteria:

(a)(i) Less than two students per square mile in the county in which each high school is located, based on the school district census, (ii) less than one formula student per square mile in the local system, and (iii) more than ten miles between each high school attendance center and the next closest high school attendance center on paved roads;

(b)(i) Less than one and one-half formula students per square mile in the local system and (ii) more than fifteen miles between each high school attendance center and the next closest high school attendance center on paved roads;

(c)(i) Less than one and one-half formula students per square mile in the local system and (ii) more than two hundred seventy-five square miles in the

local system; or

(d)(i) Less than two formula students per square mile in the local system and (ii) the local system includes an area equal to ninety-five percent or more of the square miles in the largest county in which a high school attendance center is located in the local system;

(39) Special education means specially designed kindergarten through grade twelve instruction pursuant to section 79-1125, and includes special education transportation;

(40) Special grant funds means the budgeted receipts for grants, including, but not limited to, categorical funds, reimbursements for warrants of the court, short-term borrowings including, but not limited to, registered warrants and tax anticipation notes, interfund loans, insurance settlements, and reimbursements to county government for previous overpayment. The state board shall approve a listing of grants that qualify as special grant funds;

(41) State aid means the amount of assistance paid to a district pursuant to the Tax Equity and Educational Opportunities Support Act;

(42) State board means the State Board of Education;

(43) State support means all funds provided to districts by the State of Nebraska for the general fund support of elementary and secondary education;

(44) Statewide average basic funding per formula student means the statewide total basic funding for all districts divided by the statewide total formula students for all districts;

(45) Statewide average general fund operating expenditures per formula student means the statewide total general fund operating expenditures for all districts divided by the statewide total formula students for all districts;

(46) Teacher has the definition found in section 79-101;

(47) Temporary aid adjustment factor means (a) for school fiscal years before school fiscal year 2007-08, one and one-fourth percent of the sum of the local system's transportation allowance, the local system's special receipts allowance, and the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping and (b) for school fiscal year 2007-08, one and one-fourth percent of the sum of the local system's transportation allowance, special receipts allowance, and distance education and telecommunications allowance and the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping;

(48) Tuition receipts from converted contracts means tuition receipts received by a district from another district in the most recently available complete data year pursuant to a converted contract prior to the expiration of the contract;

(49) Tuitioned students means students in kindergarten through grade twelve of the district whose tuition is paid by the district to some other district or education agency;

(50) Unadjusted poverty students means, for school fiscal year 2016-17 and each school fiscal year thereafter, the greater of the number of low-income students or the free lunch and free milk calculated students in a district; and

(51) Very sparse local system means a local system that has:

(a)(i) Less than one-half student per square mile in each county in which each high school attendance center is located based on the school district census, (ii) less than one formula student per square mile in the local system, and (iii) more than fifteen miles between the high school attendance center and the next closest high school attendance center on paved roads; or

(b)(i) More than four hundred fifty square miles in the local system, (ii) less than one-half student per square mile in the local system, and (iii) more than fifteen miles between each high school attendance center and the next closest high school attendance center on paved roads.

Sec. 34. Section 79-1028.01, Revised Statutes Supplement, 2017, is amended to read:

79-1028.01 (1) For each school fiscal year, a school district may exceed its budget authority for the general fund budget of expenditures as calculated pursuant to section 79-1023 for such school fiscal year by a specific dollar amount for the following exclusions:

(a) Expenditures for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act;

(b) Expenditures for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a school district which require or obligate a school district to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a school district;

(c) Expenditures pursuant to the Retirement Incentive Plan authorized in section 79-855 or the Staff Development Assistance authorized in section 79-856;

(d) Expenditures of amounts received from educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities;

(e) Expenditures to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Employees Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent;

(f) Expenditures to pay for school district contributions pursuant to subdivision (1)(c)(i) or (1)(d)(i) of section 79-9,113 to the retirement system established pursuant to the Class V School Employees Retirement Act to the

extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent;

(g) Expenditures for incentives agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment occurring prior to July 1, 2009, occurring on or after the last day of the 2010-11 school year and prior to the first day of the 2013-14 school year, or, to the extent that a district demonstrates to the State Board of Education pursuant to subsection (3) of this section that the agreement will result in a net savings in salary and benefit costs to the school district over a five-year period, occurring on or after the first day of the 2013-14 school year and prior to September 1, 2017;

(h) Expenditures by a school district with budgeted expenditures otherwise equal to the budget authority for the general fund budget of expenditures for such school district as calculated pursuant to section 79-1023 for such school fiscal year for current and future qualified voluntary termination incentives for certificated teachers pursuant to subsection (3) of section 79-8,142 that are not otherwise included in an exclusion pursuant to this subsection;

(i) Expenditures by a school district with budgeted expenditures otherwise equal to the budget authority for the general fund budget of expenditures for such school district as calculated pursuant to section 79-1023 for such school fiscal year for seventy-five percent of incentives agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2017, and August 31, 2018, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to this subsection;

(j) Expenditures by a school district with budgeted expenditures otherwise equal to the budget authority for the general fund budget of expenditures for such school district as calculated pursuant to section 79-1023 for such school fiscal year for fifty percent of incentives agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2018, and August 31, 2019, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to this subsection;

(k) Expenditures by a school district with budgeted expenditures otherwise equal to the budget authority for the general fund budget of expenditures for such school district as calculated pursuant to section 79-1023 for such school fiscal year for twenty-five percent of incentives agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2019, and August 31, 2020, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to this subsection;

(l) The special education budget of expenditures;

(m) Expenditures of special grant funds; and

(n) Expenditures of funds received as federal impact aid pursuant to 20 U.S.C. 7701 to 7714, as such sections existed on January 1, 2016, due to a district having land within its boundaries that is federal property classified as Indian lands under 20 U.S.C. 7713(7), as such section existed on January 1, 2016, and funds received as impact aid due to children in attendance who resided on Indian lands in accordance with 20 U.S.C. 7703(a)(1)(C), as such section existed on January 1, 2016.

(2) For each school fiscal year, a school district may exceed its budget authority for the general fund budget of expenditures as calculated pursuant to section 79-1023 for such school fiscal year by a specific dollar amount and include such dollar amount in the budget of expenditures used to calculate budget authority for the general fund budget of expenditures pursuant to section 79-1023 for future years for the following exclusions:

(a) The first school fiscal year the district will be participating in Network Nebraska for the full school fiscal year, for the difference of the estimated expenditures for such school fiscal year for telecommunications services, access to data transmission networks that transmit data to and from the school district, and the transmission of data on such networks as such expenditures are defined by the department for purposes of the distance education and telecommunications allowance minus the dollar amount of such expenditures for the second school fiscal year preceding the first full school fiscal year the district participates in Network Nebraska;

(b) Expenditures for new elementary attendance sites in the first year of operation or the first year of operation after being closed for at least one school year if such elementary attendance site will most likely qualify for the elementary site allowance in the immediately following school fiscal year as determined by the state board;

(c) For the first school fiscal year for which early childhood education membership is included in formula students for the calculation of state aid, expenditures for early childhood education equal to the amount the school district received in early childhood education grants pursuant to section 79-1103 for the prior school fiscal year, increased by the basic allowable growth rate; and

(d) For school fiscal year 2013-14, an amount not to exceed two percent over the previous school year if such increase is approved by a seventy-five percent majority vote of the school board of such district.

(3) The state board shall approve, deny, or modify the amount allowed for any exclusions to the budget authority for the general fund budget of expenditures pursuant to this section.

Sec. 35. Section 81-2014, Revised Statutes Supplement, 2017, is amended to read:

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

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

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

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

(2) Board means the Public Employees Retirement Board;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Standards Advisory Council;

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

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

(15) 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;

(16) 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;

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

(18) Service means employment as a member of the Nebraska State Patrol and shall not be deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the board. Service does not include any period of disability for which disability retirement benefits are received under subsection (1) of section 81-2025;

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

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

Sec. 36. Section 81-2019, Reissue Revised Statutes of Nebraska, is amended to read:

81-2019 The general administration of the Nebraska State Patrol Retirement System, except the investment of funds, is hereby vested in the board. The board ~~may shall~~ adopt and promulgate rules and regulations as may be necessary to carry out the Nebraska State Patrol Retirement Act. The board shall employ a director and such assistants and employees as may be necessary to efficiently discharge the duties imposed by the act.

Sec. 37. Section 81-2019.01, Revised Statutes Cumulative Supplement, 2016, is amended to read:

81-2019.01 (1)(a) If the board determines that the retirement system has previously received contributions or distributed benefits which for any reason are not in accordance with the statutory provisions of sections 81-2014 to 81-2036, the board shall refund contributions, require additional contributions, adjust benefits, or require repayment of benefits paid. In the event of an overpayment of a benefit, the board may, in addition to other remedies, offset future benefit payments by the amount of the prior overpayment, together with regular interest thereon. In the event of an underpayment of a benefit, the board shall immediately make payment equal to the deficit amount plus regular interest.

(b) The board shall have the power, through the director of the Nebraska Public Employees Retirement Systems or the director's designee, to make a thorough investigation of any overpayment of a benefit, when in the judgment of the retirement system 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.

(2) The board ~~may shall~~ adopt and promulgate rules and regulations implementing this section, which shall include, but not be limited to, the following: (a) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (b) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment of contributions or benefits; and (c) notice provided to all affected persons. All notices shall be sent prior to an adjustment and shall describe the process for disputing an adjustment of contributions or benefits.

Sec. 38. Section 81-2026, Revised Statutes Cumulative Supplement, 2016, is amended to read:

81-2026 (1)(a) Any officer qualified for an annuity as provided in section 81-2025 for reasons other than disability shall be entitled to receive a monthly annuity for the remainder of the officer's life. The annuity payments shall continue until the end of the calendar month in which the officer dies. The amount of the annuity shall be a percentage of the officer's final average monthly compensation. For retirement on or after the fifty-fifth birthday of the member or on or after the fiftieth birthday of a member who has been in the employ of the state for twenty-five years, as calculated in section 81-2033, the percentage shall be three percent multiplied by the number of years of creditable service, as calculated in section 81-2033, except that the percentage shall never be greater than seventy-five percent.

(b) For retirement pursuant to subsection (2) of section 81-2025 on or after the fiftieth birthday of the member but prior to the fifty-fifth birthday of the member who has been in the employ of the state for less than twenty-five years, as calculated in section 81-2033, the annuity which would apply if the member were age fifty-five at the date of retirement shall be reduced by five-ninths of one percent for each month by which the early retirement date precedes age fifty-five or for each month by which the early retirement date precedes the date upon which the member has served for twenty-five years, whichever is earlier. Any officer who has completed thirty years of creditable service with the Nebraska State Patrol shall have retirement benefits computed as if the officer had reached age fifty-five.

(c) For purposes of this computation:

(i) For an officer who became a member prior to July 1, 2016, final average monthly compensation means the sum of the officer's total compensation during the three twelve-month periods of service as an officer in which compensation was the greatest divided by thirty-six and:

(A) For any officer employed on or before January 4, 1979, the officer's total compensation includes payments received for unused vacation and sick leave accumulated during the final three years of service; or

(B) For any officer employed after January 4, 1979, and prior to July 1, 2016, the officer's total compensation includes payments received for unused holiday compensatory time and unused compensatory time; and

(ii) For an officer who became a member on or after July 1, 2016, final average monthly compensation means the sum of the officer's total compensation during the five twelve-month periods of service as an officer in which compensation was the greatest divided by sixty and does not include payments received for unused sick leave, unused vacation leave, unused holiday compensatory time, unused compensatory time, or any other type of unused leave, compensatory time, or similar benefits, converted to cash payments. The five twelve-month periods used for calculating an officer's final average monthly compensation ends with the month during which the officer's final compensation is paid. In the determination of compensation, that part of an officer's compensation for the plan year which exceeds the officer's compensation for the preceding plan year by more than eight percent during the capping period shall be excluded. Such officer's compensation for the first plan year of the capping period shall be compared to the officer's compensation received for the plan year immediately preceding the capping period. For purposes of this subdivision, capping period means the five plan years preceding the officer's retirement date. The board ~~may shall~~ adopt and promulgate rules and regulations for the implementation of this section, including rules and regulations related to prorating, annualizing, or recalculating an officer's final average monthly compensation for each plan year in the capping period.

(2) Any officer qualified for an annuity as provided in section 81-2025 for reasons of disability shall be entitled to receive a monthly annuity for the remainder of the period of disablement as provided in sections 81-2028 to 81-2030. The amount of the annuity shall be fifty percent of the officer's monthly compensation at the date of disablement if the officer has completed seventeen or fewer years of creditable service. If the officer has completed more than seventeen years of creditable service, the amount of the annuity shall be three percent of the final monthly compensation at the date of disablement multiplied by the total years of creditable service but not to exceed seventy-five percent of the final average monthly compensation as defined in subsection (1) of this section. The date of disablement shall be the date on which the benefits as provided in section 81-2028 have been exhausted.

(3) Upon the death of an officer after retirement for reasons other than

disability, benefits shall be provided as a percentage of the amount of the officer's annuity, calculated as follows:

(a) If there is a surviving spouse but no dependent child or children of the officer under nineteen years of age, the surviving spouse shall receive a benefit equal to seventy-five percent of the amount of the officer's annuity for the remainder of the surviving spouse's life;

(b) If there is a surviving spouse and the surviving spouse has in his or her care a dependent child or children of the officer under nineteen years of age and there is no other dependent child or children of the officer not in the care of the surviving spouse under nineteen years of age, the benefit shall be equal to one hundred percent of the officer's annuity. When there is no remaining dependent child of the officer under nineteen years of age, the benefit shall be seventy-five percent of the amount of the officer's annuity to the surviving spouse for the remainder of the surviving spouse's life;

(c) If there is a surviving spouse and the surviving spouse has in his or her care a dependent child or children of the officer under nineteen years of age or there is another dependent child or children of the officer under nineteen years of age not in the care of the surviving spouse, the benefit shall be twenty-five percent of the amount of the officer's annuity to the surviving spouse and seventy-five percent of the amount of the officer's annuity to the dependent children of the officer under nineteen years of age to be divided equally among such dependent children but in no case shall the benefit received by a surviving spouse and dependent children residing with such spouse be less than fifty percent of the amount of the officer's annuity. At such time as any dependent child of the officer attains nineteen years of age, the benefit shall be divided equally among the remaining dependent children of the officer who have not yet attained nineteen years of age. When there is no remaining dependent child of the officer under nineteen years of age, the benefit shall be seventy-five percent of the amount of the officer's annuity to the surviving spouse for the remainder of the surviving spouse's life;

(d) If there is no surviving spouse and a dependent child or children of the officer under nineteen years of age, the benefit shall be equal to seventy-five percent of the officer's annuity to the dependent children of the officer under nineteen years of age to be divided equally among such dependent children. At such time as any dependent child of the officer attains nineteen years of age, the benefit shall be divided equally among the remaining dependent children of the officer who have not yet attained nineteen years of age; and

(e) If there is no surviving spouse or no dependent child or children of the officer under nineteen years of age, the amount of benefit such officer has received under the Nebraska State Patrol Retirement Act shall be computed. If such amount is less than the contributions to the State Patrol Retirement Fund made by such officer, plus regular interest, the difference shall be paid to the officer's designated beneficiary or estate.

(4) Upon the death of an officer after retirement for reasons of disability, benefits shall be provided as if the officer had retired for reasons other than disability.

(5) Upon the death of an officer before retirement, benefits shall be provided as if the officer had retired for reasons of disability on the date of such officer's death, calculated as follows:

(a) If there is a surviving spouse but no dependent child or children of the officer under nineteen years of age, the surviving spouse shall receive a benefit equal to seventy-five percent of the amount of the officer's annuity for the remainder of the surviving spouse's life;

(b) If there is a surviving spouse and the surviving spouse has in his or her care a dependent child or children of the officer under nineteen years of age and there is no other dependent child or children of the officer not in the care of the surviving spouse under nineteen years of age, the benefit shall be equal to one hundred percent of the officer's annuity. When there is no remaining dependent child of the officer under nineteen years of age, the benefit shall be seventy-five percent of the amount of the officer's annuity to the surviving spouse for the remainder of the surviving spouse's life;

(c) If there is a surviving spouse and the surviving spouse has in his or her care a dependent child or children of the officer under nineteen years of age or there is another dependent child or children of the officer under nineteen years of age not in the care of the surviving spouse, the benefit shall be twenty-five percent of the amount of the officer's annuity to the surviving spouse and seventy-five percent of the amount of the officer's annuity to the dependent children of the officer under nineteen years of age to be divided equally among such dependent children but in no case shall the benefit received by a surviving spouse and dependent children residing with such spouse be less than fifty percent of the amount of the officer's annuity. At such time as any dependent child of the officer attains nineteen years of age, the benefit shall be divided equally among the remaining dependent children of the officer who have not yet attained nineteen years of age. When there is no remaining dependent child of the officer under nineteen years of age, the benefit shall be seventy-five percent of the amount of the officer's annuity to the surviving spouse for the remainder of the surviving spouse's life;

(d) If there is no surviving spouse and a dependent child or children of the officer under nineteen years of age, the benefit shall be equal to seventy-five percent of the officer's annuity to the dependent children of the officer

under nineteen years of age to be divided equally among such dependent children. At such time as any dependent child of the officer attains nineteen years of age, the benefit shall be divided equally among the remaining dependent children of the officer who have not yet attained nineteen years of age; and

(e) If no benefits are paid to a surviving spouse or dependent child or children of the officer, benefits will be paid as described in subsection (1) of section 81-2031.

(6) A lump-sum death benefit paid to the member's beneficiary, other than the member's estate, that is an eligible distribution may be distributed in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code.

(7) For any member whose death occurs on or after January 1, 2007, while performing qualified military service as defined in section 414(u) of the Internal Revenue Code, the member's beneficiary shall be entitled to any additional death benefit that would have been provided, other than the accrual of any benefit relating to the period of qualified military service. The additional death benefit shall be determined as if the member had returned to employment with the Nebraska State Patrol and such employment had terminated on the date of the member's death.

(8) Any changes made to this section by Laws 2004, LB 1097, shall apply only to retirements, disabilities, and deaths occurring on or after July 16, 2004.

Sec. 39. Section 81-2031.03, Reissue Revised Statutes of Nebraska, is amended to read:

81-2031.03 (1) For purposes of this section and section 81-2031.04:

(a) Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee ~~Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code;~~

(b) Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code ~~Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee;~~

(c) Eligible retirement plan means (i) an individual retirement account described in section 408(a) of the Internal Revenue Code, (ii) an individual retirement annuity described in section 408(b) of the code, except for an endowment contract, (iii) a qualified plan described in section 401(a) of the code, (iv) an annuity plan described in section 403(a) or 403(b) of the code, (v) except for purposes of section 81-2031.04, an individual retirement plan described in section 408A of the code, and (vi) a plan described in section 457(b) of the code and maintained by a governmental employer. For eligible rollover distributions to a surviving spouse, an eligible retirement plan means subdivisions (1)(c)(i) through (vi) of this section; and

(d) Eligible rollover distribution means any distribution to a distributee of all or any portion of the balance to the credit of the distributee in the plan, except such term shall not include any distribution which is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life of the distributee or joint lives of the distributee and the distributee's beneficiary or for the specified period of ten years or more and shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

(2) For distributions made to a distributee on or after January 1, 1993, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee.

(3) A member's surviving spouse or former spouse who is an alternate payee under a qualified domestic relations order and, on or after July 1, 2010, any designated beneficiary of a member who is not a surviving spouse or former spouse who is entitled to receive an eligible rollover distribution from the retirement system may, in accordance with such rules, regulations, and limitations as may be established by the board, elect to have such distribution made in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code.

(4) An eligible rollover distribution on behalf of a designated beneficiary of a member who is not a surviving spouse or former spouse of the member may be transferred to an individual retirement account or annuity described in section 408(a) or section 408(b) of the Internal Revenue Code that is established for the purpose of receiving the distribution on behalf of the designated beneficiary and that will be treated as an inherited individual retirement account or individual retirement annuity described in section 408(d)(3)(C) of the Internal Revenue Code.

(5) The board ~~may~~ shall adopt and promulgate rules and regulations for direct rollover procedures which are consistent with section 401(a)(31) of the Internal Revenue Code and which include, but are not limited to, the form and time of direct rollover distributions.

Sec. 40. Section 81-2031.04, Reissue Revised Statutes of Nebraska, is amended to read:

81-2031.04 (1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to section 81-2031 if the contributions do not exceed the amount of payment required for the service credits purchased by the member pursuant to such section and the

contributions represent (a) all or any portion of the balance of the member's interest in a qualified plan under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, the entire amount of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified plan under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days from the date of the distribution from the qualified plan, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments for service credits.

(3) Under the same conditions as provided in subsection (1) of this section, the retirement system may accept eligible rollover distributions from (a) an annuity contract described in section 403(b) of the Internal Revenue Code, (b) a plan described in section 457(b) of the code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or (c) the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the code that is eligible to be rolled over and would otherwise be includible in gross income. Amounts accepted pursuant to this subsection shall be deposited as all other payments under this section.

(4) The retirement system may accept direct rollover distributions made from a qualified plan pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

(5) The board ~~may shall~~ adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Sec. 41. Section 84-1301, Revised Statutes Supplement, 2017, is amended to read:

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

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

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

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

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

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

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

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

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

as in effect on July 1, 1993;

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

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

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

(9) Employee means any employee of the State Board of Agriculture who is a member of the state retirement system on July 1, 1982, and any person or officer employed by the State of Nebraska whose compensation is paid out of state funds or funds controlled or administered by a state department through any of its executive or administrative officers when acting exclusively in their respective official, executive, or administrative capacities. Employee does not include (a) judges as defined in section 24-701, (b) members of the Nebraska State Patrol, except for those members of the Nebraska State Patrol who elected pursuant to section 60-1304 to remain members of the State Employees Retirement System of the State of Nebraska, (c) employees of the University of Nebraska, (d) employees of the state colleges, (e) employees of community colleges, (f) employees of the Department of Labor employed prior to July 1, 1984, and paid from funds provided pursuant to Title III of the federal Social Security Act or funds from other federal sources, except that if the contributory retirement plan or contract let pursuant to section 48-609, as such section existed prior to January 1, 2018, is terminated, such employees shall become employees for purposes of the State Employees Retirement Act on the first day of the first pay period following the termination of such contributory retirement plan or contract, (g) employees of the State Board of Agriculture who are not members of the state retirement system on July 1, 1982, (h) the Nebraska National Guard air and army technicians, (i) persons eligible for membership under the School Employees Retirement System of the State of Nebraska who have not elected to become members of the retirement system pursuant to section 79-920 or been made members of the system pursuant to such section, except that those persons so eligible and who as of September 2, 1973, are contributing to the State Employees Retirement System of the State of Nebraska shall continue as members of such system, or (j) employees of the Coordinating Commission for Postsecondary Education who are eligible for and have elected to become members of a qualified retirement program approved by the commission which is commensurate with retirement programs at the University of Nebraska. Any individual appointed by the Governor may elect not to become a member of the State Employees Retirement System of the State of Nebraska;

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

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

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

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

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

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

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

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

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

(19) Interest credits means the amounts credited to the employee cash balance account and the employer cash balance account at the end of each day. Such interest credit for each account shall be determined by applying the daily portion of the interest credit rate to the account balance at the end of the previous day. Such interest credits shall continue to be credited to the employee cash balance account and the employer cash balance account after a member ceases to be an employee, except that no such credit shall be made with respect to the employee cash balance account and the employer cash balance

account for any day beginning on or after the member's date of final account value. If benefits payable to the member's surviving spouse or beneficiary are delayed after the member's death, interest credits shall continue to be credited to the employee cash balance account and the employer cash balance account until such surviving spouse or beneficiary commences receipt of a distribution from the plan;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 42. Section 84-1305, Reissue Revised Statutes of Nebraska, is amended to read:

84-1305 The general administration of the retirement system shall be vested in the retirement board. The board ~~may shall~~ adopt and promulgate rules and regulations to carry out the State Employees Retirement Act. The board shall maintain records and may employ such assistants and employees any assistance as may be necessary to carry out the act.

Sec. 43. Section 84-1305.02, Revised Statutes Cumulative Supplement, 2016, is amended to read:

84-1305.02 (1)(a) If the board determines that the retirement system has previously received contributions or distributed benefits which for any reason are not in accordance with the statutory provisions of the State Employees Retirement Act, the board shall refund contributions, require additional contributions, adjust benefits, credit dividend amounts, or require repayment of benefits paid. In the event of an overpayment of a benefit, the board may, in addition to other remedies, offset future benefit payments by the amount of the prior overpayment, together with regular interest or interest credits, whichever is appropriate, thereon. In the event of an underpayment of a benefit, the board shall immediately make payment equal to the deficit amount plus regular interest or interest credits, whichever is appropriate.

(b) The board shall have the power, through the director of the Nebraska Public Employees Retirement Systems or the director's designee, to make a thorough investigation of any overpayment of a benefit, when in the judgment of the retirement system 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.

(2) The board ~~may shall~~ adopt and promulgate rules and regulations implementing this section, which shall include, but not be limited to, the following: (a) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (b) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment of contributions or benefits; and (c) notice provided to all affected persons. All notices shall be sent prior to an adjustment and shall describe the process for disputing an adjustment of contributions or benefits.

Sec. 44. Section 84-1310.01, Reissue Revised Statutes of Nebraska, is amended to read:

84-1310.01 (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 his or her employee account to various investment options. Such investment options shall include, but not be limited to, the following:

(a) 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;

(b) 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;

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

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

(e) 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;

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

(g) 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

(h) 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, all of his or her funds shall be placed in the option described in subdivision (b) 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.

(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 his or her beneficiary may transfer any portion of 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 shall~~ adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after 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. 45. Section 84-1311.03, Reissue Revised Statutes of Nebraska, 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 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 his or her funds in the employer account shall be placed in the balanced account option described in subdivision (1)(d) of section 84-1310.01. 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 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 his or her beneficiary may transfer any portion of his or her funds among the options. The board ~~may shall~~ adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after 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. 46. Section 84-1312, Reissue Revised Statutes of Nebraska, is amended to read:

84-1312 (1) For purposes of this section and section 84-1313:

(a) Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee ~~Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code;~~

(b) Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code ~~Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee;~~

(c) Eligible retirement plan means (i) an individual retirement account described in section 408(a) of the Internal Revenue Code, (ii) an individual retirement annuity described in section 408(b) of the code, except for an endowment contract, (iii) a qualified plan described in section 401(a) of the code, (iv) an annuity plan described in section 403(a) or 403(b) of the code, (v) except for purposes of section 84-1313, an individual retirement plan described in section 408A of the code, and (vi) a plan described in section 457(b) of the code and maintained by a governmental employer. For eligible rollover distributions to a surviving spouse, an eligible retirement plan means subdivisions (1)(c)(i) through (vi) of this section; and

(d) Eligible rollover distribution means any distribution to a distributee of all or any portion of the balance to the credit of the distributee in the plan, except such term shall not include any distribution which is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life of the distributee or joint lives of the distributee and the distributee's beneficiary or for the specified period of

ten years or more and shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

(2) For distributions made to a distributee on or after January 1, 1993, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee.

(3) A member's surviving spouse or former spouse who is an alternate payee under a qualified domestic relations order and, on or after January 1, 2010, any designated beneficiary of a member who is not a surviving spouse or former spouse who is entitled to receive an eligible rollover distribution from the retirement system may, in accordance with such rules, regulations, and limitations as may be established by the board, elect to have such distribution made in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code.

(4) An eligible rollover distribution on behalf of a designated beneficiary of a member who is not a surviving spouse or former spouse of the member may be transferred to an individual retirement account or annuity described in section 408(a) or section 408(b) of the Internal Revenue Code that is established for the purpose of receiving the distribution on behalf of the designated beneficiary and that will be treated as an inherited individual retirement account or individual retirement annuity described in section 408(d)(3)(C) of the Internal Revenue Code.

(5) The board ~~may shall~~ adopt and promulgate rules and regulations for direct rollover procedures which are consistent with section 401(a)(31) of the Internal Revenue Code and which include, but are not limited to, the form and time of direct rollover distributions.

Sec. 47. Section 84-1313, Reissue Revised Statutes of Nebraska, is amended to read:

84-1313 (1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to section 84-1322 or 84-1325 if the contributions do not exceed the amount of payment authorized to be paid by the member pursuant to section 84-1322 or 84-1325 and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified plan under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, the entire amount of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified plan under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days from the date of the distribution from the qualified plan, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments made under section 84-1322 or 84-1325.

(3) Under the same conditions as provided in subsection (1) of this section, the retirement system may accept eligible rollover distributions from (a) an annuity contract described in section 403(b) of the Internal Revenue Code, (b) a plan described in section 457(b) of the code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or (c) the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the code that is eligible to be rolled over and would otherwise be includible in gross income. Amounts accepted pursuant to this subsection shall be deposited as all other payments under this section.

(4) The retirement system may accept direct rollover distributions made from a qualified plan pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

(5) The board ~~may shall~~ adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Sec. 48. Section 84-1325, Revised Statutes Supplement, 2017, is amended to read:

84-1325 (1)(a) For military service beginning on or after December 12, 1994, but before January 1, 2018, any employee who, while an employee, entered into and served in the armed forces of the United States and who within ninety days after honorable discharge or honorable separation from active duty again became an employee shall be credited, for the purposes of the provisions of section 84-1317, with all the time actually served in the armed forces as if such person had been an employee throughout such service in the armed forces pursuant to the terms and conditions of subdivision (b) of this subsection.

(b) Under such rules and regulations as the retirement board may adopt and promulgate ~~adopts and promulgates~~, any employee who is reemployed pursuant to 38 U.S.C. 4301 et seq., may pay to the retirement system an amount equal to the sum of all deductions which would have been made from the employee's compensation during such period of military service. Payment shall be made within the period required by law, not to exceed five years. To the extent that payment is made, (i) the employee shall be treated as not having incurred a break in service by reason of the employee's period of military service, (ii) the period of military service shall be credited for the purposes of determining the nonforfeitability of the employee's accrued benefits and the accrual of benefits under the plan, and (iii) the employer shall allocate the amount of employer contributions to the employee's employer account in the same manner and to the same extent the allocation occurs for other employees during

the period of service. For purposes of employee and employer contributions under this subsection, the employee's compensation during the period of military service shall be the rate the employee would have received but for the military service or, if not reasonably determinable, the average rate the employee received during the twelve-month period immediately preceding military service.

(c) The employer shall pick up the employee contributions made through irrevocable payroll deduction authorizations pursuant to this subsection, and the contributions so picked up shall be treated as employer contributions in the same manner as contributions picked up under subsection (1) of section 84-1308.

(2)(a) For military service beginning on or after January 1, 2018, any employee who is reemployed pursuant to 38 U.S.C. 4301 et seq., shall be treated as not having incurred a break in service by reason of the employee's period of military service. Such military service shall be credited for purposes of determining the nonforfeitability of the employee's accrued benefits and the accrual of benefits under the plan.

(b) The agency employing the employee shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service. To satisfy the liability, the agency employing the employee shall pay to the retirement system an amount equal to:

(i) The sum of the employee and employer contributions that would have been paid during such period of military service; and

(ii) Any actuarial costs necessary to fund the obligation of the plan to provide benefits based upon such period of military service. For the purposes of determining the amount of such liability and obligation of the plan, earnings and forfeitures, gains and losses, regular interest, interest credits, or dividends that would have accrued on the employee and employer contributions that are paid by the employer pursuant to this section shall not be included.

(c) The amount required pursuant to subdivision (b) of this subsection shall be paid to the retirement system as soon as reasonably practicable following the date of reemployment, but must be paid within eighteen months of the date the board notifies the employer of the amount due. If the employer fails to pay the required amount within such eighteen-month period, then the employer is also responsible for any actuarial costs and interest on actuarial costs that accrue from eighteen months after the date the employer is notified by the board until the date the amount is paid.

(d) The retirement board may adopt and promulgate rules and regulations to carry out this subsection, including, but not limited to, rules and regulations on:

(i) How and when the employee and employer must notify the retirement system of a period of military service;

(ii) The acceptable methods of payment;

(iii) Determining the service and compensation upon which the contributions must be made;

(iv) Accelerating the payment from the employer due to unforeseen circumstances that occur before payment is made pursuant to this section, including, but not limited to, the employee's termination or retirement or the employer's reorganization, consolidation, merger, or closing; and

(v) The documentation required to substantiate that the individual was reemployed pursuant to 38 U.S.C. 4301 et seq.

(3) This section only applies to military service that falls within the definition of uniformed service under 38 U.S.C. 4301 et seq. Military service does not include service provided pursuant to sections 55-101 to 55-181.

Sec. 49. Section 84-1503, Revised Statutes Supplement, 2017, 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, and the State 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. 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;

(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;

(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~~ shall 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 three additional years. 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, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services, auditing services for a separate compliance audit of the retirement systems to be completed by December 31, 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) 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

(k) 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 shall~~ 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, 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 businessday 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.

Sec. 50. Section 85-122, Reissue Revised Statutes of Nebraska, is amended to read:

85-122 The several funds for the support of the university shall be constituted and designated as follows: (1) The Permanent Endowment Fund; (2) the Temporary University Fund; (3) the University Cash Fund; (4) the United States Morrill Fund; (5) the United States Experiment Station Fund; (6) the University Trust Fund; (7) the United States Agricultural Extension Fund; (8) the Veterinary School Fund; (9) the University of Nebraska at Omaha Cash Fund; (10) the University of Nebraska at Omaha Trust Fund; (11) the University of Nebraska at Kearney Cash Fund; (12) the University of Nebraska at Kearney Trust Fund; (13) the Agricultural Field Laboratory Fund; (14) the Animal Research and Diagnosis Revolving Fund; (15) the University Facility Improvement Fund; (16) the University of Nebraska Eppley Science Hall Construction Fund; and (17) the University Facilities Fund. No portion of the funds designated above derived

from taxation shall be disbursed for mileage or other traveling expenses except as authorized by sections 81-1174 to 81-1177. No expenditures shall be made for or on behalf of the School of Veterinary Medicine and Surgery except from money appropriated to the Veterinary School Fund. Any money in the funds designated in this section 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 except as provided in sections 85-123.01, 85-125, 85-192, and 85-1,123.

Sec. 51. Section 85-123.01, Reissue Revised Statutes of Nebraska, is amended to read:

85-123.01 (1) The University Trust Fund shall consist of all property, real or personal, acquired by the Board of Regents of the University of Nebraska by donation or bequest to it, including money derived as principal from the sale of land or other property so acquired or derived.

(2) The University Trust Fund shall be held, ~~and managed, and invested~~ in such manner as ~~directed by~~ the Board of Regents of the University of Nebraska ~~shall determine. No money in the fund shall be held, managed, or invested by the State Treasurer or the state investment officer pursuant to the Nebraska Capital Expansion Act or the Nebraska State Funds Investment Act where such funds are to be invested, they shall be invested by the state investment officer for the Board of Regents in such investments as are authorized by section 72-1246, subject to the following exceptions: (a) No such investment need be made if, according to the terms of the donation or bequest, the Board of Regents is not limited to the expenditure of only the interest or income of the fund; and (b) no such investment need be made if the will, deed or instrument, making such donation or bequest, makes other provisions or directions as to investments and in such cases the state investment officer for the Board of Regents shall comply with the provisions of said will, deed or instrument.~~

Sec. 52. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 36, 37, 38, 39, 40, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, and 54 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 53. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 54. Original sections 23-2302, 23-2305, 23-2306.02, 23-2306.03, 23-2310.05, 23-2323.02, 23-2323.03, 23-3527, 24-704, 24-704.01, 24-710, 24-710.05, 24-710.06, 79-904, 79-905, 79-907, 79-915, 79-924, 79-933.01, 79-933.02, 79-933.03, 79-933.04, 79-933.07, 81-2019, 81-2031.03, 81-2031.04, 84-1305, 84-1310.01, 84-1311.03, 84-1312, 84-1313, 85-122, and 85-123.01, Reissue Revised Statutes of Nebraska, sections 23-2305.01, 23-2306, 23-2309.01, 81-2019.01, 81-2026, and 84-1305.02, Revised Statutes Cumulative Supplement, 2016, and sections 23-2323.01, 79-904.01, 79-926, 84-1325, and 84-1503, Revised Statutes Supplement, 2017, are repealed.

Sec. 55. Original section 79-9,113, Revised Statutes Cumulative Supplement, 2016, and sections 79-902, 79-978, 79-1003, 79-1028.01, 81-2014, and 84-1301, Revised Statutes Supplement, 2017, are repealed.

Sec. 56. Since an emergency exists, this act takes effect when passed and approved according to law.