

## LEGISLATIVE BILL 198

Approved by the Governor March 18, 2024

Introduced by McDonnell, 5; Conrad, 46; Vargas, 7.

A BILL FOR AN ACT relating to retirement; to amend sections 4-108, 4-111, 4-112, 23-2306, 24-703.01, 60-1304, 79-955, 79-9,118, 81-2016, 84-1503.03, and 84-1504, Reissue Revised Statutes of Nebraska, sections 79-901, 79-915, 79-978, 79-992, 79-9,117, 81-1316, 84-1307, and 84-1501, Revised Statutes Cumulative Supplement, 2022, and sections 79-902 and 79-920, Revised Statutes Supplement, 2023; to change provisions relating to participation in retirement programs by noncitizens; to change provisions relating to returning to work after termination and contributions under the School Employees Retirement Act and the Class V School Employees Retirement Act; to define and redefine terms; to change provisions relating to the preretirement planning program, the State Personnel System, and the members of the Public Employees Retirement Board; to provide for the hiring of assistant directors and deputies of the Nebraska Public Employees Retirement Systems and to authorize compensation for such employees to be determined by the director; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

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

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

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

(3) ~~No On and after October 1, 2009, no~~ employee of a state agency or political subdivision of the State of Nebraska shall be authorized to participate in any retirement system, including, but not limited to, the systems provided for in the Class V School Employees Retirement Act, 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, 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. The employing state agency or political subdivision of the State of Nebraska and the employee shall maintain at least one of the following documents which shall be unexpired, if applicable to the particular document, to demonstrate United States citizenship or lawful presence in the United States as of the employee's date of hire and produce any such document so maintained upon request of the Public Employees Retirement Board or the Nebraska Public Employees Retirement Systems:~~

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

(b) A state-issued identification card;

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

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

(e) A United States passport;

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

(g) A United States Certificate of Naturalization;

(h) A United States Certificate of Citizenship;

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

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

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

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

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

4-111 (1) Verification of lawful presence in the United States pursuant to section 4-108 requires, in addition to any requirements imposed by section 4-108, that the applicant for public benefits attest in a format prescribed by the Department of Administrative Services that such applicant : ~~(a) He or she is a United States citizen; or (b) He or she 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.~~

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

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

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

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

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

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

Sec. 3. Section 4-112, Reissue Revised Statutes of Nebraska, is amended to read:

4-112 For any applicant who is not a United States citizen but who has attested that such applicant is lawfully present in the United States as provided in ~~who has executed a document described in subdivision (1)(b) of~~ section 4-111, eligibility for public benefits shall be verified through the Systematic Alien Verification for Entitlements Program operated by the United States Department of Homeland Security or an equivalent program designated by the United States Department of Homeland Security. Until such verification of eligibility is made, such attestation may be presumed to be proof of lawful presence for purposes of sections 4-108 to 4-113 unless such verification is required before providing the public benefit under another provision of state or federal law.

Sec. 4. Section 23-2306, Reissue Revised Statutes of Nebraska, 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 who have attained the age of eighteen years 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) ~~No 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.~~ The employing member county and the employee shall maintain at least one of the following documents which shall be unexpired, if applicable to the particular document, to demonstrate United States citizenship or lawful presence in the United States as of the employee's date of hire and produce any such document so maintained upon request of the retirement board or the Nebraska Public Employees Retirement Systems:

- (a) A state-issued driver's license;
- (b) A state-issued identification card;
- (c) A certified copy of a birth certificate or delayed birth certificate issued in any state, territory, or possession of the United States;
- (d) A Consular Report of Birth Abroad issued by the United States Department of State;

- (e) A United States passport;
- (f) A foreign passport with a United States visa;
- (g) A United States Certificate of Naturalization;
- (h) A United States Certificate of Citizenship;
- (i) A tribal certificate of Native American blood or similar document;
- (j) A United States Citizenship and Immigration Services Employment

Authorization Document, Form I-766;

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

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

(4)(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 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 24-703.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~24-703.01 No On and after July 1, 2010, no judge shall be authorized to participate in the retirement system provided for in the Judges Retirement Act unless the judge (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. The court and the judge shall maintain at least one of the following documents which shall be unexpired, if applicable to the particular document, to demonstrate United States citizenship or lawful presence in the United States as of the judge's date of hire and produce any such document so maintained upon request of the board or the Nebraska Public Employees Retirement Systems:~~

- ~~(1) A state-issued driver's license;~~
- ~~(2) A state-issued identification card;~~
- ~~(3) A certified copy of a birth certificate or delayed birth certificate issued in any state, territory, or possession of the United States;~~
- ~~(4) A Consular Report of Birth Abroad issued by the United States Department of State;~~
- ~~(5) A United States passport;~~
- ~~(6) A foreign passport with a United States visa;~~
- ~~(7) A United States Certificate of Naturalization;~~
- ~~(8) A United States Certificate of Citizenship;~~
- ~~(9) A tribal certificate of Native American blood or similar document;~~
- ~~(10) A United States Citizenship and Immigration Services Employment Authorization Document, Form I-766;~~
- ~~(11) A United States Citizenship and Immigration Services Permanent Resident Card, Form I-551; or~~
- ~~(12) Any other document issued by the United States Department of Homeland Security or the United States Citizenship and Immigration Services granting employment authorization in the United States and approved by the board.~~

Sec. 6. Section 60-1304, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) An officer who elects to become a member of the Nebraska State Patrol Retirement System pursuant to this section shall (a) receive eligibility and vesting credit pursuant to subsection (3) (2) of section 81-2016 for his or her years of participation in the State Employees Retirement System of the State of Nebraska, (b) be vested in the employer account with the State Employees Retirement System of the State of Nebraska regardless of his or her period of participation in the State Employees Retirement System, and (c) be treated for all other purposes of the Nebraska State Patrol Retirement Act as a new member of the Nebraska State Patrol Retirement System.

(3) Transferring participation from the State Employees Retirement System of the State of Nebraska to the Nebraska State Patrol Retirement System

pursuant to this section does not constitute a termination for purposes of the State Employees Retirement Act.

Sec. 7. Section 79-901, Revised Statutes Cumulative Supplement, 2022, is amended to read:

79-901 Sections 79-901 to 79-977.03 and section 9 of this act shall be known and may be cited as the School Employees Retirement Act.

Sec. 8. Section 79-902, Revised Statutes Supplement, 2023, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

Retirement Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15)(a) Final average compensation means:

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

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

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

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

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

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

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

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

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

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

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

Fund;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(35) School employee means a contributing member who earns service credit pursuant to section 79-927. For purposes of this section, contributing member means the following persons who receive compensation from a public school: (a) Regular employees; (b) regular employees having retired pursuant to the School Employees Retirement Act who subsequently provide compensated service on a

regular basis in any capacity; and (c) regular employees hired by a public school on an ongoing basis to assume the duties of other regular employees who are temporarily absent. Substitute employees, temporary employees, and employees who have not attained the age of eighteen years shall not be considered school employees;

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

(37) 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;

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

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

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

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

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

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

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

(45)(a) ~~Termination of employment or termination occurs on the date on which the member experiences a bona fide separation from service of employment with the member's employer. The , the date of the 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, as determined by the employer.~~

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

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

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

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

~~(c) A member who experiences a separation from service must comply with the return-to-work provisions of section 9 of this act if the member is subsequently employed by an employer participating in the retirement system.~~

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

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

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



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

~~(d) Nothing in this subdivision precludes an employer from adopting a policy which limits or denies employees who have experienced a separation from service with the employer terminated employment from working as a volunteer providing voluntary or substitute employee service within one hundred eighty days after the employee experiences such separation from service termination; and~~

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

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

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

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

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

(b)(i) A member as described in subdivision (1)(a) of this section who becomes a regular employee for an employer participating in the retirement system shall immediately begin making contributions pursuant to section 79-958 on all compensation paid by such employer and accrue service credit pursuant to section 79-927 for all such service performed for such employer, including any work as a temporary employee or substitute employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 10. Section 79-915, Revised Statutes Cumulative Supplement, 2022, 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) ~~No 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.~~ The employing public school and the school employee shall maintain at least one of the following documents which shall be unexpired, if applicable to the particular document, to demonstrate United States citizenship or lawful presence in the United States as of the employee's date of hire and produce any such document so maintained upon request of the retirement board or the Nebraska Public Employees Retirement Systems:

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

(b) A state-issued identification card;

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

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

(e) A United States passport;

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

(g) A United States Certificate of Naturalization;

(h) A United States Certificate of Citizenship;

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

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

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

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

(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. 11. Section 79-920, Revised Statutes Supplement, 2023, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

any employer participating in the school plan for at least one hundred twenty days after ceasing employment.

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

(a) A school district or an educational service unit participating in the school plan or a state agency school plan employer within one hundred eighty days after terminating employment except for intermittent work as a volunteer or substitute employee as described in subdivision (2)(a) of section 9 of this ~~act (45)(b)(i) of section 79-902~~; or

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

Sec. 12. Section 79-955, Reissue Revised Statutes of Nebraska, is amended to read:

79-955 (1) Upon termination of employment for any cause other than death or retirement, the retirement board shall, upon the member's request ~~demand~~, terminate his or her membership in the retirement system and distribute ~~cause to be paid~~ to such member the member's accumulated contributions ~~standing to the credit of his or her individual account~~ in the School Retirement Fund.

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

Sec. 13. Section 79-978, Revised Statutes Cumulative Supplement, 2022, is amended to read:

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

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

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

(3) Actuarial tables means:

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

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

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

(b) For joint and survivorship annuities:

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

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

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

(5) Annuitant means any member receiving an allowance;

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

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

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

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

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

(11) Board of trustees means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(22) Member means any employee included in the membership of the

retirement system or any former employee who has made contributions to the system and has not received a refund;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(37) 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;

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

(39) State investment officer means the person appointed by the council

pursuant to section 72-1240 and acting pursuant to the Nebraska State Funds Investment Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Shall not be deemed to have incurred a termination of employment for purposes of this section or section 79-992.01, 79-9,105, or 79-9,106, or for any other purposes under the Class V School Employees Retirement Act, and shall not be eligible to receive a retirement benefit, disability retirement benefit, or distribution pursuant to this section, until the member incurs a termination of employment as described in subdivision (42) of section 79-978; and

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

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

(A) Bona fide unpaid voluntary service;

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

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

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

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

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

(iii) The one-hundred-eighty-day period described in subdivision (2)(d)(i) of this section begins on the later of:

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



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

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

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

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

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

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

Sec. 15. Section 79-9,117, Revised Statutes Cumulative Supplement, 2022, is amended to read:

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

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

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

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

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

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

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

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

Sec. 16. Section 79-9,118, Reissue Revised Statutes of Nebraska, is amended to read:

79-9,118 ~~No On and after July 1, 2011, no~~ employee shall be authorized to participate in the retirement system unless the employee ~~(1)~~ is a United States citizen or ~~(2)~~ 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. The employing public school and the school employee shall maintain at least one of the following documents which shall be unexpired, if applicable to the particular document, to demonstrate United States citizenship or lawful presence in the United States as of the employee's date of hire, and, beginning September 1, 2024, produce any such document so maintained upon request of the retirement board or the Nebraska Public Employees Retirement Systems:

- (1) A state-issued driver's license;
- (2) A state-issued identification card;
- (3) A certified copy of a birth certificate or delayed birth certificate issued in any state, territory, or possession of the United States;
- (4) A Consular Report of Birth Abroad issued by the United States Department of State;
- (5) A United States passport;

- (6) A foreign passport with a United States visa;
- (7) A United States Certificate of Naturalization;
- (8) A United States Certificate of Citizenship;
- (9) A tribal certificate of Native American blood or similar document;
- (10) A United States Citizenship and Immigration Services Employment Authorization Document, Form I-766;
- (11) A United States Citizenship and Immigration Services Permanent Resident Card, Form I-551; or
- (12) Any other document issued by the United States Department of Homeland Security or the United States Citizenship and Immigration Services granting employment authorization in the United States and approved (a) until September 1, 2024, by the board of trustees and (b) beginning September 1, 2024, by the retirement board.

Sec. 17. Section 81-1316, Revised Statutes Cumulative Supplement, 2022, is amended to read:

81-1316 (1) All agencies and personnel of state government shall be covered by sections 81-1301 to 81-1319 and shall be considered subject to the State Personnel System, except the following:

- (a) All personnel of the office of the Governor;
- (b) All personnel of the office of the Lieutenant Governor;
- (c) All personnel of the office of the Secretary of State;
- (d) All personnel of the office of the State Treasurer;
- (e) All personnel of the office of the Attorney General;
- (f) All personnel of the office of the Auditor of Public Accounts;
- (g) All personnel of the Legislature;
- (h) All personnel of the court systems;
- (i) All personnel of the Board of Educational Lands and Funds;
- (j) All personnel of the Public Service Commission;
- (k) All personnel of the Nebraska Brand Committee;
- (l) All personnel of the Commission of Industrial Relations;
- (m) All personnel of the State Department of Education;
- (n) All personnel of the Nebraska state colleges and the Board of Trustees of the Nebraska State Colleges;
- (o) All personnel of the University of Nebraska;
- (p) All personnel of the Coordinating Commission for Postsecondary Education;
- (q) All personnel of the Governor's Policy Research Office;
- (r) All personnel of the Commission on Public Advocacy;
- (s) All agency heads;
- (t)(i) The Director of Behavioral Health of the Division of Behavioral Health; (ii) the Director of Children and Family Services of the Division of Children and Family Services; (iii) the Director of Developmental Disabilities of the Division of Developmental Disabilities; (iv) the Director of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term Care; and (v) the Director of Public Health of the Division of Public Health;
- (u) The chief medical officer established under section 81-3115, the Administrator of the Office of Juvenile Services, and the chief executive officers of the Beatrice State Developmental Center, Lincoln Regional Center, Norfolk Regional Center, Hastings Regional Center, Grand Island Veterans' Home, Norfolk Veterans' Home, Eastern Nebraska Veterans' Home, Western Nebraska Veterans' Home, and each youth rehabilitation and treatment center;
- (v) The chief executive officers of all facilities operated by the Department of Correctional Services and the medical director for the department appointed pursuant to section 83-4,156;
- (w) All personnel employed as pharmacists, physicians, psychiatrists, or psychologists by the Department of Correctional Services;
- (x) All personnel employed as pharmacists, physicians, psychiatrists, psychologists, service area administrators, or facility operating officers of the Department of Health and Human Services or the Department of Veterans' Affairs;
- (y) Deputies and examiners of the Department of Banking and Finance and the Department of Insurance as set forth in sections 8-105 and 44-119, except for those deputies and examiners who remain in the State Personnel System;
- (z) All personnel of the Tax Equalization and Review Commission; ~~and~~
- (aa) The associate director of the Conservation Division of the Nebraska State Historical Society and all personnel employed as a Conservator I or Conservator II of the Conservation Division of the Nebraska State Historical Society; ~~and~~ -
- (bb) Assistant directors and deputies of the Nebraska Public Employees Retirement Systems.

(2) At each agency head's discretion, up to the following number of additional positions may be exempted from the State Personnel System, based on the following agency size categories:

Number of Agency Employees	Number of Noncovered Positions
less than 25	0
25 to 100	1

101 to 250	2
251 to 500	3
501 to 1000	4
1001 to 2000	5
2001 to 3000	8
3001 to 4000	11
4001 to 5000	40
over 5000	50

The purpose of having such noncovered positions shall be to allow agency heads the opportunity to recruit, hire, and supervise critical, confidential, or policymaking personnel without restrictions from selection procedures, compensation rules, career protections, and grievance privileges. Persons holding the noncovered positions shall serve at the pleasure of the agency head and shall be paid salaries set by the agency head. An agency with over five thousand employees shall provide notice in writing to the Health and Human Services Committee of the Legislature when forty noncovered positions have been filled by the agency head pursuant to this subsection.

(3) No changes to this section or to the number of noncovered positions within an agency shall affect the status of personnel employed on the date the changes become operative without their prior written agreement. A state employee's career protections or coverage by personnel rules and regulations shall not be revoked by redesignation of the employee's position as a noncovered position without the prior written agreement of such employee.

Sec. 18. Section 81-2016, Reissue Revised Statutes of Nebraska, is amended to read:

81-2016 (1) Every member of the Nebraska State Patrol who was employed by the State of Nebraska as such, on September 7, 1947, and every person employed as a member of such patrol thereafter, shall be a member of the system, 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.

~~(2) No~~ ~~On and after July 1, 2010,~~ ~~no~~ employee shall be authorized to participate in the retirement system provided for in the Nebraska State Patrol 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. The employing state agency and the employee shall maintain at least one of the following documents which shall be unexpired, if applicable to the particular document, to demonstrate United States citizenship or lawful presence in the United States as of the employee's date of hire and produce any such document so maintained upon request of the board or the Nebraska Public Employees Retirement Systems:

- (a) A state-issued driver's license;
- (b) A state-issued identification card;
- (c) A certified copy of a birth certificate or delayed birth certificate issued in any state, territory, or possession of the United States;
- (d) A Consular Report of Birth Abroad issued by the United States Department of State;
- (e) A United States passport;
- (f) A foreign passport with a United States visa;
- (g) A United States Certificate of Naturalization;
- (h) A United States Certificate of Citizenship;
- (i) A tribal certificate of Native American blood or similar document;
- (j) A United States Citizenship and Immigration Services Employment Authorization Document, Form I-766;
- (k) A United States Citizenship and Immigration Services Permanent Resident Card, Form I-551; or

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

(3) ~~(2)~~ Within the first one hundred eighty days of employment, a member may apply to the board for eligibility and 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.

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

system.

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

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

Sec. 19. Section 84-1307, Revised Statutes Cumulative Supplement, 2022, is amended to read:

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

(2) The following employees of the State of Nebraska are authorized to participate in the retirement system: (a) All permanent full-time employees who have attained the age of eighteen years shall begin participation in the retirement system upon employment; and (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. An employee who exercises the option to begin participation in the retirement system pursuant to this section shall remain in the retirement system until his or her termination of employment or retirement, regardless of any change of status as a permanent or temporary employee.

(3) ~~No~~ ~~On~~ ~~and~~ ~~after~~ ~~July~~ ~~1,~~ ~~2010,~~ no employee shall be authorized to participate in the retirement system provided for in the State 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. The employing state agency and the employee shall maintain at least one of the following documents which shall be unexpired, if applicable to the particular document, to demonstrate United States citizenship or lawful presence in the United States as of the employee's date of hire and produce any such document so maintained upon request of the retirement board or the Nebraska Public Employees Retirement Systems:

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

(b) A state-issued identification card;

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

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

(e) A United States passport;

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

(g) A United States Certificate of Naturalization;

(h) A United States Certificate of Citizenship;

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

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

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

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

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

(5)(a) 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.

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

(6) Any employee who qualifies for membership in the retirement system pursuant to this section may not be disqualified for 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 ~~employment~~ system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

(7) State agencies 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. 20. Section 84-1501, Revised Statutes Cumulative Supplement, 2022, is amended to read:

84-1501 (1) The Public Employees Retirement Board is hereby established.

(2)(a) ~~The board shall consist of eight appointed members until September 1, 2024, and nine appointed members beginning September 1, 2024, as described in this subsection, and the state investment officer as a nonvoting, ex officio member. Seven ~~Six~~ of the appointed members until September 1, 2024, and seven of the appointed members beginning September 1, 2024, shall be active or retired participants in the retirement systems administered by the board, and two of the appointed members (i) shall not be employees of the State of Nebraska or any of its political subdivisions and (ii) shall have at least ten years of experience in the management of a public or private organization or have at least five years of experience in the field of actuarial analysis or the administration of an employee benefit plan.~~

(b) The appointed members who are participants in the retirement systems shall be as follows:

(i) Two of the appointed members shall be participants in the School Employees Retirement System of the State of Nebraska and shall include one administrator and one teacher;

(ii) One of the appointed members shall be a participant in the Nebraska Judges Retirement System as provided in the Judges Retirement Act;

(iii) One of the appointed members shall be a participant in the Nebraska State Patrol Retirement System;

(iv) One of the appointed members shall be a participant in the Retirement System for Nebraska Counties;

(v) One of the appointed members shall be a participant in the State Employees Retirement System of the State of Nebraska; and

(vi) Beginning September 1, 2024, one of the appointed members shall be a participant who is a teacher in a retirement system established under the Class V School Employees Retirement Act. Prior to September 1, 2024, such member shall be a nonvoting, ex officio member.

(c) Appointments to the board shall be made by the Governor and shall be subject to the approval of the Legislature. All appointed members shall be citizens of the State of Nebraska.

(3)(a) Except as otherwise provided in this subsection, all members shall serve for terms of five years or until a successor has been appointed and qualified. The terms shall begin on January 1 of the appropriate year.

(b) To ensure an experienced and knowledgeable board, the terms of the appointed members shall be staggered as follows:

(i) One of the two members described in subdivisions (2)(a)(i) and (ii) of this section shall be appointed to serve for a five-year term which begins in 2017;

(ii) One of the two members described in subdivisions (2)(a)(i) and (ii) of this section shall be appointed to serve for a five-year term which begins in 2018;

(iii) The participant in the School Employees Retirement System of the State of Nebraska who is a teacher shall be appointed for a five-year term which begins in 2019;

(iv) The participant in the School Employees Retirement System of the State of Nebraska who is an administrator and the participant in the State Employees Retirement System of the State of Nebraska shall be appointed for a five-year term which begins in 2020;

(v) The participant in the Retirement System for Nebraska Counties and the participant in the Nebraska Judges Retirement System shall be appointed to serve for a five-year term which begins in 2021;

(vi) The participant in the Nebraska State Patrol Retirement System shall be appointed to serve for a three-year term which begins in 2020, and his or her successor shall be appointed to serve for a five-year term which begins in 2023; and

(vii) The participant in a retirement system established under the Class V School Employees Retirement Act shall be appointed to serve for a fifty-two-month term which begins September 1, 2024, and his or her successor shall be appointed to serve for a five-year term which begins in 2029.

(4) In the event of a vacancy in office, the Governor shall appoint a person to serve the unexpired portion of the term subject to the approval of the Legislature.

(5) The appointed members of the board may be removed by the Governor for cause after notice and an opportunity to be heard.

Sec. 21. Section 84-1503.03, Reissue Revised Statutes of Nebraska, is amended to read:

84-1503.03 (1) The director of the Nebraska Public Employees Retirement Systems shall employ qualified personnel as may be required to carry out the duties and responsibilities required under sections 84-1501 to 84-1513. Except for the personnel described in subsection (2) of this section, such ~~Such~~ employees shall be deemed state employees and covered by the State Personnel System pursuant to sections 81-1301 to 81-1368 and other personnel rules or regulations. The positions of the internal auditor and the attorney hired by the board pursuant to section 84-1503 shall be classified positions covered by the State Personnel System and shall not be noncovered positions under subsection (2) of section 81-1316.

(2) The director may hire assistant directors and deputies to assist the director in administering the Nebraska Public Employee Retirement Systems. Each assistant director and deputy shall be exempt from the State Personnel System

and shall receive a salary as set by the director.

(3) The director shall be exempt from the State Personnel System.

(4) All employees shall comply with state accounting regulations and applicable state and federal laws in the discharge of their duties.

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

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

(2) The compensation to be deferred at the election of the individual and any other amount credited on behalf of such individual by the Legislative Council shall not exceed the total compensation to be received by the individual from the employer or exceed the limits established by the Internal Revenue Code for such a plan.

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

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

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

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

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

(8) ~~No On and after July 1, 2010, no~~ employee of the state or any political subdivision of the state shall be authorized to participate in a deferred compensation plan 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.~~ The employing state agency or political subdivision of the State of Nebraska and the employee shall maintain at least one of the following documents which shall be unexpired, if applicable to the particular document, to demonstrate United States citizenship or lawful presence in the United States as of the employee's date of hire and produce any such document so maintained upon request of the Public Employees Retirement Board or the Nebraska Public Employees Retirement Systems:

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

(b) A state-issued identification card;

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

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

(e) A United States passport;

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

(g) A United States Certificate of Naturalization;

(h) A United States Certificate of Citizenship;

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

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

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

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

(9) For purposes of this section, individual means (a) any state employee, whether employed on a permanent or temporary basis, full-time or part-time, (b) a person under contract providing services to the state who is not employed by the University of Nebraska or any of the state colleges or community colleges and who has entered into a contract with the state to have compensation deferred prior to August 28, 1999, and (c) any county employee designated as a permanent part-time or full-time employee or elected official whose employer does not offer a deferred compensation plan and who has entered into an agreement pursuant to section 48-1401.

Sec. 23. Original sections 4-108, 4-111, 4-112, 23-2306, 24-703.01, 60-1304, 79-955, 79-9,118, 81-2016, 84-1503.03, and 84-1504, Reissue Revised Statutes of Nebraska, sections 79-901, 79-915, 79-978, 79-992, 79-9,117, 81-1316, 84-1307, and 84-1501, Revised Statutes Cumulative Supplement, 2022, and sections 79-902 and 79-920, Revised Statutes Supplement, 2023, are repealed.

Sec. 24. Since an emergency exists, this act takes effect when passed and approved according to law.