

NEBRASKA RETIREMENT SYSTEMS COMMITTEE

2022 SUMMARY AND DISPOSITION OF BILLS

NEBRASKA LEGISLATURE
One Hundred Seventh Legislature, Second Session

Committee Members

Senator Mark Kolterman, Chairman
Senator Brett Lindstrom, Vice-Chairman
Senator Robert Clements
Senator Mike McDonnell
Senator Julie Slama
Senator John Stinner

Committee Staff

Kate Allen, Committee Legal Counsel
Katie Quintero, Committee Clerk

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*Nebraska Retirement Systems Committee Report –
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Appendix B

*Rules and Regulations of Douglas County School
District 001 Board of Education on the Operation
And Management of the Omaha School Employees
Retirement System – Updated January 20, 2022*

I. Numerical Bill Index

- LB 700e (Kolterman) Change provisions related to retirement systems
- LB 1043e (Kolterman) Change provisions related to School and State Employees retirement systems

II. Bills Listed by Retirement Plan, Political Subdivision or State Agency

CLASS V (OMAHA) SCHOOL EMPLOYEES RETIREMENT ACT

- LB 700e (Kolterman) Change provisions related to retirement systems

COUNTY EMPLOYEES RETIREMENT ACT

- LB 700e (Kolterman) Change provisions related to retirement systems

PUBLIC EMPLOYEES RETIREMENT BOARD

- LB 700e (Kolterman) Change provisions related to retirement systems

SCHOOL EMPLOYEES RETIREMENT ACT

- LB 700e (Kolterman) Change provisions related to retirement systems
- LB 1043e (Kolterman) Change provisions related to School and State Employees retirement systems

STATE EMPLOYEES RETIREMENT ACT

- LB 700e (Kolterman) Change provisions related to retirement systems
- LB 1043e (Kolterman) Change provisions related to School and State Employees retirement systems

STATE INVESTMENT OFFICER DUTIES

- LB 700e (Kolterman) Change provisions related to retirement systems

III. Status of Retirement Bills

ENACTED

LB 700e (Kolterman) Change provisions related to retirement systems
[Incorporated LB 1043 as amended]

AMENDED INTO BILLS AND ENACTED

LB 1043e (Kolterman) Change provisions related to School and State Employees retirement systems [Amended into LB 700e and enacted]

CARRYOVER BILLS -- DIED AT THE END OF SESSION WITHOUT ACTION

LB 144 (Kolterman) Define terms under the Class V School Employees Retirement Act

LB 184 (Brewer) Provide for an insurance premium deduction from the retirement annuity of certain Nebraska State Patrol employees

LB 478 (Blood) Adopt the Cities of the First Class Firefighters Cash Balance Retirement Act

LB 586 (Clements) Require an annual report regarding police and firefighter retirement plans in certain cities

IV. Summary of Retirement Bills

ENACTED

LB 700e (Kolterman) Change provisions related to retirement systems

Status:	Signed by the Governor, March 3, 2022
Operative Date:	March 4, 2022
Plan/Agency:	County, State Investment Officer, Schools, Class V Schools, State, Public Employees Retirement Board
Repeals/Amends:	23-2309.01, 23-2310.05, 72-1243, 79-902, 79-920, 79-921, 79-978, 79-9,117, 84-1301, 84-1503, 84-1310.01, 84-1311.03, and 84-1322

LB 700 as Introduced

LB 700, as introduced, strikes a number of obsolete provisions, inserts language that was inadvertently omitted in a previous bill, amends the Nebraska Public Employees Retirement Systems (NPERS) director qualifications and requirements for the NPERS and Public Employees Retirement Board (PERB) attorney, eliminates the mandated early retirement incentive reporting to NPERS, and broadens the retirement education and training opportunities provided by NPERS to plan members. Changes include:

- Eliminates obsolete investment options language in the County and State plans.
- Adds template investment language to the County and State Equal Retirement Fund provisions.
- In the State Plan, adds vesting language that was inadvertently left out in the re-employment provisions adopted in 2019 under LB 34.
- Eliminates obsolete date for NIC and the PERB to file their annual reports with the Nebraska Retirement Systems Committee.
- Eliminates the obsolete requirement for NPERS to create annual reporting forms for political subdivisions.
- Eliminates obsolete language regarding the Legislative Council Retirement Study Fund.
- Updates the deadline for the next Compliance Audit to be conducted no later than December 31, 2028.
- Broadens the job qualifications for the NPERS director

- Strikes requirement for the NPERS attorney to be a member in the voluntary Nebraska Bar Association. Authorizes the PERB to hire an attorney for a 6-month probationary period pending licensure to practice law in Nebraska
- Amends retirement education training provisions in Judges, State Patrol and School plans to allow members to also attend live webinar sessions during regular work hours
- Eliminates the distinction in the State and County plans between under age 50 and over age 50 education programs. Instead of authorizing 2 paid work days to attend under age 50 sessions and 2 paid work days to attend over age 50 sessions, State and County Plan members authorized to receive 3 days of paid work days to either attend in-person or live webinar training sessions during regular work hours
- Eliminates the requirement for school districts and school members, upon termination or retirement, to certify to NPERS whether the member was paid an early retirement incentive by the school district.

Background on Early Retirement Incentive Reporting

Early retirement incentives are also known as early retirement inducements or voluntary termination agreements. They are offered and funded solely by individual school districts to departing employees and are not part of the retirement benefit in the School Employees Retirement Plan.

This early retirement incentive reporting requirement was enacted in 2017 as part of the Retirement Committee's effort to identify and document School plan members receiving income from multiple publicly funded sources such as retirement, early retirement incentives, and paychecks from returning to work for a public entity after retirement – also known as double and triple dipping.

The following year Senator Briese introduced LB 457, which was amended into LB 512 by the Revenue Committee. It limited the amount school districts could exclude from the levy and budget lids for voluntary termination agreements. As enacted, it also capped the early retirement incentive amount to \$35,000 that could be paid to each employee as awarded by the school district. It included a requirement that the incentive could not extend payments beyond 5 years.

The reporting provisions of LB 512 as enacted were codified at 79-8,142. The provisions require school districts to report to the Nebraska Department of Education if the district grants voluntary termination agreements. All incentives paid by a district in exchange for voluntary termination of employment are required to be reported as part of the district's annual financial report to the Department. The school district is also required to demonstrate to the Department of Education that the payment of the incentives in exchange for these agreements will result in a new savings in salary and benefit costs to the school district over a 5-year period.

The Nebraska Retirement Systems Committee issued a report that summarizes the data on the payment of early retirement incentives that has been compiled by NPERS and OPS. The NPERS data reflects that the amount of early retirement incentives awarded by school districts in 2018 through 2020 has decreased each year. In addition to the data submitted by OPS, the Omaha

school district also reported that it removed the payment of early retirement incentives from its collective bargaining agreement after 2018. The data indicates that the caps and levy and budget lid exemption changes are having an impact.

The Report is available on the Legislature's website and is also incorporated in this Session Summary.

[SEE Appendix A -- Nebraska Retirement Systems Committee Report – *Early Retirement Incentives Reported to the Nebraska Public Employees Retirement Systems and Issued by Omaha Public Schools*]

LB 700 Hearing

The Public Hearing on LB 700 was held February 2, 2022

Proponents:

Senator Mark Kolterman, Legislative District 24
Orron Hill, Legal Counsel to Nebraska Public Employees Retirement Systems
and the Public Employees Retirement Board
Jason Hayes, Nebraska State Education Association
Blair Macdonald, Omaha Public Schools

Opponents: NONE

Neutral: NONE

Committee AM 1704

AM 1704 becomes the bill. It incorporates LB 700 as amended and LB 1043 as amended. The Committee voted to adopt AM 1704 on a 6-0 vote and to advanced LB 700 as amended on a 6-0 vote.

As amended by AM 1583, LB 700 also eliminates the mandated early retirement incentive reporting to the Omaha School Employees Retirement System (OSERS) and re-alphabetizes the definition sections in the School Employees Retirement Act and the Class V School Employees Retirement Act.

LB 1043

The Committee voted to include LB 1043, as amended by AM 1667, as part of the Committee Amendment, AM 1704 to LB 700.

Vote Results: 6-0

Voting Aye: Clements, Kolterman, Lindstrom, McDonnell, Slama and Stinner

Voting Nay: NONE

Present Not Voting: NONE

The Public Hearing on LB 1043 was held February 2, 2022

Proponents:

Senator Mark Kolterman, Legislative District 24
Orron Hill, Legal Counsel to Nebraska Public Employees Retirement Systems
and the Public Employees Retirement Board
Jason Hayes, Nebraska State Education Association

Opponents: NONE

Neutral: NONE

Summary of LB 1043 as amended:

LB 1043 codifies the current practices and rules for certificated teachers covered by the State Code Agency Teachers Association (SCATA) contract who are employed by either the Department of Health and Human Services (DHHS) or the Department of Correction Services (DCS) and for state school officials employed by the Nebraska Department of Education (NDE).

In addition, it addresses rules for NDE state school officials as well as DHHS and DCS certificated teachers covered by the SCATA contract who previously or subsequently are employed by a school district, educational service unit, or any other state agency. It also eliminates the election option for a state school official employed by the NDE to remain in, or become a member of the School Plan or the State Plan upon employment by NDE. LB 1043 provisions appear in section 6 of the bill, which amends 79-920 and in section 11, which amends 84-1301.

Section-by-Section Summary of Committee Amendment, AM 1704

County Employees Retirement Act

- Section 1 [amends 23-2309.01] Strikes obsolete defined contribution investment options
- Section 2 [amends 23-2310.05] Internal reference and technical revisor changes
- Section 3 [amends 23-2317.01] Adds template investment language referencing the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act to the County Equal Retirement Benefit Fund

State Investment Officer Duties

- Section 4 [amends 72-1243] Strikes obsolete language

School Employees Retirement Act

- Section 5 [amends 79-902] Re-alphabetizes the definition section; revisor internal reference change to reflect change in 79-920; no substantive changes
- Section 6 [LB 1043][amends 79-920]

- (1)(a) Adds definitions of “association”, “eligible school plan state employee”, “school plan”, “state agency school plan employer” and “state plan” for purposes of this section.
- (2) (a) Outlines who is eligible to become or remain a member of the school plan, except as provided in subdivision (3).
(b) Specifies termination and subsequent service requirements for individuals covered under subdivision (2)(a).
- (3) (a) Specifies individuals who shall become a member of the state plan
(b) Specifies termination and subsequent service requirements for individuals covered in s subdivision (3)(a)
- (4) Specifies termination and subsequent service requirements for individuals who elected to participate in the school plan prior to July 1, 2022 as a state school official with NDE or in a SCATA covered position with a state agency with SCATA positions.

The current language in section 79-920 is completely stricken which eliminates the option for state school officials employed by the NDE to elect whether to participate in the school or state plan.

Section 7 [amends 79-921] Strikes notification and reporting requirement for employer and member to certify whether the member received an early retirement inducement

Class V School Employees Retirement Act

Section 8 [amends 79-978] Re-alphabetizes the definition section -- no substantive changes

Section 9 [amends 79-992.01] Strikes notification and reporting requirement for the employer and member to certify whether the member received an early retirement inducement

Section 10 [amends 79-9,117] Amends preretirement planning program beginning September 1, 2024. After transfer of the OSERS plan to NPERS, the PERB will establish preretirement sessions as provided in section 84-1511 for OSERS members

State Employees Retirement Act

Section 11 [LB 1043] [amends 84-1301] Amends definitions to correspond with language changes in 79-920 regarding eligibility for State and School plan membership; technical revisor changes

Section 12 [amends 84-1310.01] Strikes obsolete defined contribution investment options

Section 13 [amends 84-1311.03] Internal reference and technical revisor changes

Section 14 [amends 84-1319.01] Adds template investment language referencing the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act to the State Equal Retirement Benefit Fund

Section 15 [amends 84-1322] Inserts language regarding vesting that was inadvertently omitted in the passage of LB 34 in 2019

PERB

Section 16 [amends 84-1503] Broadens NPERS director job qualifications
Strikes requirement for the NPERS attorney to be a dues-paying member in the Nebraska Bar Association. Authorizes the PERB to hire an attorney for a 6-month probationary period pending authorization to practice law in Nebraska

Strikes obsolete requirement for NPERS to prescribe and furnish forms for annual political subdivision plan reports

Strikes obsolete Legislative Council Retirement Study Fund language

Strikes obsolete language concerning the Compliance Audit and inserts the deadline of December 31, 2028 for the next Compliance Audit

Strikes obsolete date concerning presentation NPERS' annual report to the Nebraska Retirement Systems Committee

Section 17 [amends 84-1511] Inserts definitions for the retirement education sessions provided by PERB to members of each of the retirement systems under its jurisdiction to provide information prior to retirement.

Sessions are available to all vested members. Strikes age eligibility requirement for type of retirement education; also strikes requirement for member to be within 5 years of qualifying for early retirement to participate in certain education sessions.

Beginning September 1, 2024, PERB will also provide retirement education sessions to OSERS members

Employers of County and State plan members shall provide each member paid leave to attend up to 3 days of in-person or live webinar sessions offered during the member's normal work day, rather than 4 days.

Employers of Judges, State Patrol or School plan members shall provide each member paid leave to attend up to 2 days of in-person or live webinar sessions offered during the member's normal work day

Rearranges language regarding funding to cover expenses and members ability to attend additional sessions at the expense of the member

Final Reading Section-by-Section Summary of LB 700e

County Employees Retirement Act

- Section 1 [amends 23-2309.01] Strikes obsolete defined contribution investment options [pages 2-5]
- Section 2 [amends 23-2310.05] Internal reference and technical revisor changes [pages 5-6]
- Section 3 [amends 23-2317.01] Adds template investment language referencing the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act to the County Equal Retirement Benefit Fund [page 6]

State Investment Officer Duties

- Section 4 [amends 72-1243] Strikes obsolete language [page 6-7]

School Employees Retirement Act

- Section 5 [amends 79-902] Re-alphabetizes the definition section; revisor internal reference change; no substantive changes [pages 7-19]
- Section 6 [LB 1043][amends 79-920]
- (1) (a) adds definitions of “association”, “eligible school plan state employee”, “school plan”, “state agency school plan employer” and “state plan” for purposes of this section.
 - (2) (a) outlines who is eligible to become or remain a member of the school plan, except as provided in (3).
(b) specifies termination and subsequent service requirements for individuals covered under (2)(a).
 - (3) (a) specifies individuals who shall become a member of the state plan
(b) specifies termination and subsequent service requirements for individuals covered in (3)(a)
 - (4) specifies termination and subsequent service requirements for individuals who elected to participate in the school plan prior to July 1, 2022 as a state school official with NDE or in a SCATA covered position with a state agency with SCATA positions. [pages 19-21]

The current language in section 79-920 is completely stricken, which eliminates the ability for state school officials employed by the NDE to elect whether to participate in the school or state plan. [pages 21-22]

- Section 7 [amends 79-921] Strikes notification and reporting requirement for employer and member to certify whether the member received an early retirement inducement [pages 22-25]

Class V School Employees Retirement Act

- Section 8 [amends 79-978] Re-alphabetizes the definition section -- no substantive changes [pages 25-35]
- Section 9 [amends 79-992.01] Strikes notification and reporting requirement for employer and member to certify whether the member received an early retirement inducement [pages 35-36]
- Section 10 [amends 79-9,117] Amends preretirement planning program beginning September 1, 2024. After transfer of the OSERS plan to NPERS, the PERB will establish preretirement sessions as provided in section 84-1511 for OSERS members [pages 36-38]

State Employees Retirement Act

- Section 11 [LB 1043] Amends definitions to correspond with language changes in 79-920 regarding eligibility for State and School plan membership; revisor changes [pages 38-46]
- Section 12 [amends 84-1310.01] Strikes obsolete defined contribution investment options [pages 46-49]
- Section 13 [amends 84-1311.03] Internal reference and technical revisor changes [pages 49-50]
- Section 14 [amends 84-1319.01] Adds template investment language referencing the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act to the State Equal Retirement Benefit Fund [pages 50-51]
- Section 15 [amends 84-1322] Inserts language regarding vesting that was inadvertently omitted in the passage of LB 34 in 2019 [pages 51-55]

PERB

- Section 16 [amends 84-1503] Broadens NPERS director job qualifications [pages 55-55]
- Strikes requirement for NPERS attorney to be Nebraska Bar Association dues-paying member. Authorizes the PERB to hire an attorney for a 6-month probationary period pending authorization to practice law in Nebraska [page 55]
- Strikes obsolete requirement for NPERS to prescribe and furnish forms for annual political subdivision plan reports [page 56]
- Strikes Legislative Council Retirement Study Fund obsolete language [page 58]

Strikes obsolete language concerning the Compliance Audit and inserts the deadline of December 31, 2028 for the next Compliance Audit [page 58]

Strikes obsolete date concerning presentation NPERS' annual report to the Nebraska Retirement Systems Committee [page 60]

Section 17 [amends 84-1511] Inserts definitions for the sessions provided by PERB to members of each of the retirement systems under its jurisdiction to provide information prior to retirement. [page 62]

Sessions are available to all vested members. Strikes age requirement and requirement to be within 5 years of qualifying for early retirement. [page 63]

Beginning September 1, 2024, PERB will also provide sessions to OSERS members [page 63]

Employers of County and State plan members shall provide each member paid leave to attend up to 3 days of in-person or live webinar sessions offered during the member's normal work day, rather than 4 days [page 64]

Employers of Judges, State Patrol or School plan members shall provide each member paid leave to attend up to 2 days of in-person or live webinar sessions offered during the member's normal work day [page 64]

Rearranges language regarding funding to cover expenses and members ability to attend additional sessions at the expense of the member [pages 64-65]

Sec 13 -- 15 Repealers and emergency clause [page 65]

AMENDED INTO ANOTHER BILL AND ENACTED

LB 1043 Define terms under the Class V School Employees Retirement Act

LB 1043 was introduced at the request of NPERS to codify current practices and rules to ensure compliance with federal internal revenue code requirements. The IRS requires that an individual terminate employment with all employers covered by a multiple employer retirement plan before an individual can take a distribution from the retirement plan. The School Plan is a multiple employer retirement plan.

The State of Nebraska is an employer under the School Plan because state school officials employed by the Nebraska Department of Education are eligible for School Plan membership and certificated teachers employed by either the Nebraska Department of Health and Human Services (HHS) or Corrections who are covered by the State Code Agency Teacher Association (SCATA) contract are also eligible for School Plan membership. All other State of Nebraska employees participate in either the Judges, Patrol or State Employees Retirement Plans.

The language and the intent of this bill is to cover any agency of the state which may in the future also employ certificated teachers who are covered by the SCATA contract 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 state agency.

These provisions also address practices and rules for Department of Education state school officials and HHS and Corrections certificated teachers covered by the SCATA contract who previously or subsequently are employed by a school district, educational service unit, or any other state agency.

It eliminates the current election option for a state school official when beginning employment with NDE to remain in or become a member of the School Plan or the State Plan.

AM 1667

AM 1667 was filed prior to the hearing to provide sufficient notice and opportunity for review by stakeholders. It clarifies the use of the term "public school" to clarify that it means school districts and educational service units as used in section 79-920. There was no opposition testimony on either LB 1043 as introduced or amended by AM 1667.

LB 1043 Hearing

The Public Hearing on LB 1043 was held February 2, 2022. Testifiers included the following:

Proponents:

Senator Mark Kolterman, Legislative District 24

Orron Hill, Legal Counsel to Nebraska Public Employees Retirement Systems and the
Public Employees Retirement Board

Jason Hayes, Nebraska State Education Association

Opponents: NONE

Neutral: NONE

Committee Action

LB 1043 as amended by AM 1667 was amended into Committee AM 1704 to LB 700 and
advanced to General File.

Vote Results: 6-0

Voting Aye: Clements, Kolterman, Lindstrom, McDonnell, Slama and Stinner

Voting Nay: NONE

Present Not Voting: NONE

COMMITTEE CARRYOVER BILLS – DIED IN COMMITTEE AT END OF SESSION

LB 144 Define terms under the Class V School Employees Retirement Act

LB 144 was introduced as a shell bill as part of the OSERS package of bills. The intent was to introduce a placeholder bill that would be available in the 2022 legislative session in case any legislation is necessary following the IRS Legal Compliance Audit of the Omaha School Employees Retirement System. A shell bill was necessary because Legislative Rule 5, subsection 15, limits introduction of retirement bills that may affect the structure of a retirement system or have a funding impact, to be introduced only in the first ten days of a 90-day session.

The findings of the Compliance Audit of the Omaha School Employees Retirement System by Groom Law determined that required updates could be made to the OSERS Regulations adopted by Omaha Public Schools. The Regulations, as updated, were adopted by the OPS Board of Education at the January 20, 2022 OPS Board of Education Meeting.

[See Appendix B -- Rules and Regulations of Douglas County School District 001 Board of Education on the Operation and Management of the Omaha School Employees Retirement System – Updated January 20, 2022]

LB 184 Provide for an insurance premium deduction from the retirement annuity of certain Nebraska State Patrol employees

LB 184 would make state patrol officers eligible for Healthcare Enhancement for Local Public Safety Retirees (HELPS) benefits under the Public Pension Act of 2006. Under this program, state patrol officers who attain the normal retirement age of 55 or who separate from service due to disability, to have insurance premium costs – up to \$3,000 -- deducted by NPERS from the officer's retirement annuity.

HELPS Benefit under the Public Pension Act of 2006

- **Benefit:** Section 845(a) [Healthcare Enhancement for Local Public Safety Retirees (HELPS)] of the Public Pension Act of 2006 provides for an exclusion from gross income for distributions from certain retirement plans, used to pay qualified health insurance. It applies to the premiums of an eligible retired public safety officers who elect to have qualified health insurance premiums deducted from amounts distributed from an eligible government plan and paid directly to the insurer.

- **Optional Benefit:** The HELPS law is an optional benefit. Governmental entities are not required to make this benefit available to public safety officers and may place some limitations on it.
- **Eligible retirement plans:** State Patrol officers could apply this benefit to annuities from their State Patrol defined benefit plan, 457(b) deferred compensation, and DROP plans. All are to be treated as a single plan--meaning the total amount deducted from all eligible plans for medical premiums is capped at \$3,000.
- **Qualified Health Insurance Premiums:** Includes health, dental, vision, accident and long-term care insurance, for self, spouse, and dependents. At age 65 it would also include Medicare Part B, Medicare Advantage, Medicare Part D, and Medicare supplemental insurance.

LB 478 Adopt the Cities of the First-Class Firefighters Cash Balance Retirement Act

LB 478 creates a new statewide cash balance plan for all first class city firefighters. The plan would be administered by the PERB and follows many of the criteria for the existing State and County Cash Balance Plans, with the exception of the disability provisions which track current disability benefits in the First Class Cities Firefighters Retirement Act in chapter 16. Under LB 478 as introduced, if the Firefighter Cash Balance plan requires any ARC payments, the state is liable for payment of the ARCs, not the first class cities.

LB 586 Require an annual report regarding police and firefighter retirement plans in certain cities

Requires annual stress testing and risk assessment reporting to the Nebraska Retirement Systems Committee for Omaha and Lincoln police and firefighter defined benefit systems to identify major financial risks for employers, participants, and taxpayers.

V. Bills Monitored in Other Committees That May Impact Retirement Systems

LB 696 (Blood) Appropriate federal funds to the Nebraska Department of Education for school employee retention payments

Appropriations Committee

Appropriates xxxx amount of ARPA funds to the Nebraska Department of Education to issue grants to school districts to enhance funding for school employee retention. The amount of funding shall be based on the district's percentage of students in Nebraska. The grants would be required to be divided by the schools evenly to teachers, paraeducators, bus drivers, food service handlers, librarians, and other support staff. The bill died at the end of session.

LB 992 (Morfield) Appropriate money to provide self-service function to NPRIS for retired state patrol officers

Appropriations Committee

LB 992 appropriates \$310,500 from the General Fund for FY2022-23 to the Public Employees Retirement Board (PERB) to create a self-service function for retired members of the Nebraska State Patrol to add, remove, update & view payroll deductions on the Nebraska Public Employees Retirement System (NPERs). The bill died at the end of session.

LB 1018 (McKinney) Set a minimum wage for Class V school employees

Business & Labor Committee

Under LB 1018, all Class V school employees would be paid a salary or wages equal to at least 70% of the Nebraska statewide average hourly wage as defined in § 77-6814. According to the fiscal note provided by OPS, this would require OPS to pay all employees a minimum hourly wage of \$17.45. OPS has 4,149 hourly employees with 2,068 of those employees making less than \$17.45 per hour. To get those 2,068 employees to at least 70% of the statewide average, it would cost OPS \$46,362,949 for FY2022-23 and increase by 4.5% to \$48,449,282 for FY2023-24. Testimony was presented at the hearing by the Retirement Committee Legal Counsel on behalf of Retirement Chair, Senator Mark Kolterman that any mandated increase in compensation would have a secondary effect of increasing retirement benefits in the OSERS plan. It would impact the compensation and compensation growth actuarial assumption, which would impact the funding for Omaha School Employees Retirement System. Under Legislative Rule 5(15)(b)

any bill which may impact the funding status of a retirement system must have an actuarial analysis conducted on it to determine the costs of the proposed changes and the results must be shared with members of the legislature prior to a Final Reading vote. The bill failed to advance from Committee and died at the end of session.

LB 1131 (Morfield) State intent to appropriate federal funds for bonus payments for teachers, child care workers & health care workers

Appropriations Committee

The intent is to provide “bonus payments of \$1,000 each for every teacher, child care worker, and health care worker” from Federal Funds allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund pursuant to the federal America Rescue Plan Act of 2021. Bonus payments to the individual might be considered compensation for the School, State, and County plans. The bill died at the end of session.

LB 1182 (Pansing Brooks) Adopt the School Employees Pandemic Protection Act & state intent regarding federal funds

Appropriations Committee

Provides up to \$200 to school employees for personal protective equipment (PPE). This would be a reimbursement for an expense incurred and would not be compensation for retirement. Will need to make sure employers know not to report it, and inform NPERS staff (i.e., accounting, member services, benefits, education services, and internal audit) of the same to ensure it is not incorrectly reported to NPERS. Also allocates funds to cover the \$200. The bill died at the end of session.

LB 1217 (Walz) Appropriate federal funds for DAS to award incentive payments to eligible school employees

Appropriations Committee

Sets out guidance that DAS shall allocate \$1,000 per eligible school employee to each approved school (including public schools) which files an application with DAS. It limits the incentive payment to employees who provide early childhood education but excludes administrators. If incentives payments are considered compensation for the School Plan, it would impact the funding status. The bill died at the end of the session

LB 1220 (Morfield) Appropriate federal funds to NDE for premium payments to teachers in underserved communities

Appropriations Committee

Pays \$10,000 to each teacher working in underserved communities as determined by NDE, which if considered compensation for the School Plan, would impact the funding status. The bill died at the end of the session.

LB 1273 (Bostar) Provide income tax deduction for retired law enforcement officers for health insurance premiums

Revenue Committee

Beginning in tax year beginning in January 1, 2023 a retired individual who was employed as a certified law enforcement officer for a minimum of 20 years and who is at least 60 years of age may reduce federal adjusted gross income by the amount of health insurance premiums paid during each year. Law enforcement officer is defined in Nebraska statute in 81-1401 as follows:

(8)(a) Law enforcement officer means any person who has successfully completed an entry-level law enforcement certification from a training academy and who is responsible for the prevention or detection of crime or the enforcement of the penal, traffic, or highway laws of the state or any political subdivision of the state for more than one hundred hours per year and is authorized by law to make arrests and includes, but is not limited to:

- (i) A full-time or part-time member of the Nebraska State Patrol;
- (ii) A county sheriff;
- (iii) A full-time or part-time employee of a county sheriff's office;
- (iv) A full-time or part-time employee of a municipal or village police agency;
- (v) A full-time or part-time Game and Parks Commission conservation officer;
- (vi) A full-time or part-time deputy state sheriff;
- (vii) A full-time employee of an organized and paid fire department of any city of the metropolitan class who is an authorized arson investigator and whose duties consist of determining the cause, origin, and circumstances of fires or explosions while on duty in the course of an investigation;
- (viii) A member of a law enforcement reserve force appointed in accordance with section 81-1438; or

(ix) A full-time Class I railroad police officer;

LB 1273 was advanced to General File with Committee AM 2005, which also incorporated a provision of LB 1272 that proposes 100% tuition waivers for eligible law enforcement officers. LB 1273 was designated a Speaker Priority bill and was enacted.

CARRYOVER BILLS MONITORED IN OTHER COMMITTEES THAT MAY IMPACT RETIREMENT

LB 102 (Dorn) Provide for transfer of duties of clerks of the district court to clerk magistrates

Judiciary Committee

LB 102 would eliminate ex officio Clerks of the District Court and transfer their duties to Clerk Magistrates in each county per transition dates in the bill. County Clerks are currently performing the duties of ex officio Clerks of the District Court along with other county responsibilities.

LB 102 also provides a local option for consolidation of duties when a vacancy occurs in the Office of an elected Clerk of the District Court or when an incumbent Clerk of the District Court does not seek re-election. The bill gives local control to the county board and permits it to make the decision to either keep or eliminate the office of the elected Clerk of the District Court.

If the county board opts to eliminate this elected office, the Clerk Magistrate for the county court, which is a state employee, will fulfill the duties of the Clerk of the District Court. The employees of the Clerk of the District Court have the option of becoming state Judicial Branch employees at no loss of salary. The county board in conjunction with the State Court Administrator will review the Clerk of the Court's office space and determine what is best suited for the consolidated office.

The bill advanced to General File February 16, 2022 and died at the end of session.

LB 267 (McCollister) Change provisions relating to municipal counties

Government, Military and Veterans Affairs Committee

LB 267 updates and specifies the merger or consolidation process of a metropolitan municipality with one or more counties to form a municipal county. Any municipality not consolidated that is located within the municipal county may be annexed. Under LB 267, when county/counties and

the metropolitan municipality merge or consolidate into a municipal county, the laws applicable to the metropolitan city govern, including any home rule charter authority pursuant to Article XI, section 5, of the Constitution of Nebraska. (Omaha is a home rule charter city). There are many different retirement systems potentially impacted by a potential merger or consolidation under this bill. The bill was held in Committee.

Statutes that address transferring and receiving retirement benefits include 13-2401, and in the County Employees Retirement Act – sections 23-2306, 23-2306.02, 23-2306.03 and 23-2330.04. All of these statutes were enacted prior to the creation of cash balance benefits which are now available to county employees and Omaha civilian employees so there are no statutory provisions in the relevant statutes which outline the requirements for transferring from or to a cash balance plan. These statutes would need to be amended to cover transfer provisions and employees' rights if transferring between cash balance plans or transferred from or to a cash balance plan to defined benefit or defined contribution benefit. Senator McCollister and interested parties were notified about these issues prior to the hearing.

The bill was held in Committee and died at the end of session.

LB 290 (M. Cavanaugh) Adopt the Paid Family and Medical Leave Insurance Act

Business and Labor Committee

LB 290 adopts the Paid Family and Medical Leave Insurance Act. The act creates a paid family and medical leave insurance program to provide partial wage replacement for eligible workers to care for themselves or family members. Specifies that family and medical leave benefits shall not be considered compensation under the County Employees Retirement Act, the Judges Retirement Act, the Nebraska State Patrol Retirement Act, the School Employees Retirement Act, the State Employees Retirement Act, or any other retirement plan administered by the Public Employees Retirement Board and shall not be eligible for deferral under any deferred compensation plan administered by the Public Employees Retirement Board.

Advanced to General File April 13, 2021 and died at the end of session.

VI. Bills, Confirmations & Reports Status Chart

LB #	SUBJECT	STATUS
LB 700e	(Kolterman) Change provisions related to retirement systems	Enacted
LB 1043	(Kolterman) Change provisions in School & State Employees retirement systems	AM into LB 700
CARRYOVER BILLS – DIED AT THE END OF SESSION		
LB 144	(Kolterman) Define terms under the Class V School Employees Retirement Act	IPP end session
LB 184	(Brewer) Provide for an insurance premium deduction from the retirement annuity of certain Nebraska State Patrol employees	IPP end session
LB 478	(Blood) Adopt the Cities of the First Class Firefighters Cash Balance Retirement Act	IPP end session
LB 586	(Clements) Require annual report regarding police & firefighter retirement plans in certain cities	IPP end session
BILLS MONITORED IN OTHER COMMITTEES THAT MAY IMPACT RETIREMENT SYSTEMS		
LB 102	(Dorn) Transfer duties clerk of district courts to clerk magistrates	IPP end session
LB 267	(McCollister) Creation of a Municipal County	IPP end session
LB 290	(Cavanaugh, M.) Paid Family Medical Leave Act	IPP end session
LB 696	(Blood) Appropriate federal funds to the State Department of Education for school employee retention payments	IPP end session
LB 992	(Morfield) Appropriate money to provide self-service function to NPRIS for retired state patrol officers	IPP end session
LB 1018	(McKinney) Set a minimum wage for Class V school employees	IPP end session
LB 1131	(Morfield) State intent to appropriate federal funds for teachers, child care workers and health care workers	
LB 1182	(Pansing Brooks) Adopt the School Employees Pandemic Protection Act and state intent regarding federal funds	IPP end session
LB 1217	(Walz) Appropriate federal funds to DAS for incentive payments to eligible school employees	IPP end session
LB 1220	(Morfield) Appropriate federal funds to the Department of Education for teachers working in underserved communities	IPP end session
LB 1273	(Bostar) Provide income tax deduction for retired law enforcement officers for health insurance premiums	Enacted
CONFIRMATION HEARINGS		
	Richard DeFusco – NIC	Confirmed
	Jim Schulz-- PERB	Confirmed
PRESENTATION OF ANNUAL REPORTS		
	Nebraska Public Employees Retirement Systems	Mar 30, 2022
	Nebraska Investment Council	Mar 30, 2022

VII. Interim Study Resolutions

LR 294 Introduced by Kolterman

PURPOSE: The purpose of this study is to examine the public employees' retirement systems administered by the Public Employees Retirement Board, including the State Employees Retirement System, the County Employees Retirement System, the School Employees Retirement System, the Nebraska State Patrol Retirement System, and the Judges Retirement System. The study may also examine the Class V School Employees Retirement System administered under the Class V School Employees Retirement Act.

The study will examine issues as they relate to the funding needs, benefits, contributions, and the administration of each retirement system.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Nebraska Retirement Systems Committee is designated to conduct an interim study to carry out the purpose of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

LR 295 Introduced by Kolterman

PURPOSE: The purpose of this study is to carry out the provisions of Neb. Rev. Stat. 13-2402, which requires the Nebraska Retirement Systems Committee to monitor underfunded defined benefit plans administered by political subdivisions.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION

1. That the Nebraska Retirement Systems Committee is designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall conduct a public hearing for the presentation of reports by political subdivisions with underfunded defined benefit plans.
3. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Interim Study Resolutions in Other Committees That May Impact Retirement Systems

LR 380 Introduced by Day, 49.

PURPOSE: The purpose of this resolution is to propose an interim study to examine a potential limit on taxation of public and private pension income. In order to carry out the purpose of this resolution, the committee shall consider the input of interested individuals, public officials, and such entities as the committee deems necessary and appropriate.

This study shall include, but not be limited to:

- (1) Identifying the tax burden on retirees in Nebraska and surrounding states;
- (2) Examining the potential fiscal impact of limiting taxation on retiree pensions;
- (3) Compiling information about taxation of retirees in other states and creating a list of actionable steps on how to make Nebraska a more retiree friendly state as it relates to taxation;
- (4) Analyzing past proposals to limit taxation in Nebraska; and
- (5) Collaborating with individuals on other tax relief options for retirees.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

LR 393 Introduced by Cavanaugh, J., 9.

PURPOSE: The purpose of this resolution is to propose an interim study to examine the committee hearing procedures of the Legislature and explore changes that would improve access to participation from the public.

One of the advantages of a unicameral form of government is better transparency, accountability, and access to the legislative process for members of the public. To realize these

benefits, the Legislature should ensure committee procedures maximize opportunities for public input, especially during the committee hearing process where the goal is to allow for participation from the "second house".

The COVID-19 public health emergency led to changes in how the Legislature collects and records public comments on legislative bills, including implementation of an online public comment portal and the practice of accepting written testimony. It also allowed many to become more familiar with technology that facilitates virtual communication. These circumstances necessitate an examination of committee procedures and practices and potential improvements.

The issues addressed by this interim study shall include, but not be limited to:

- (1) An examination of current and past committee hearing procedures, including procedures on taking and recording testimony and written comments;
- (2) An overview of the public comment portal implemented in 2020 and its effectiveness;
- (3) A review of methods used in other states and other Nebraska government bodies for input from the public on policy issues; and
- (4) Potential improvements in committee hearing procedures that increase public participation and input from all Nebraskans, especially those often left out of the policy process.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Executive Board of the Legislative Council shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the board shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

LR 405 Introduced by Stinner, 48.

PURPOSE: The purpose of this resolution is to propose an interim study to examine the operation of the statewide financial systems by the Accounting Administrator of the accounting division of the Department of Administrative Services and ensure that internal controls are properly implemented.

The accounting division operates and maintains statewide financial systems, preaudits agency transactions, issues the statewide Comprehensive Annual Financial Report and budgetary

reports, coordinates the long-term financing needs of the State of Nebraska, and prepares the statewide cost allocation plan.

The mission statement of the accounting division is, "To lead State agencies through our customer-oriented management and support of the financial management systems; to be mindful of our responsibility to the taxpayers; and to establish and follow a well-constructed plan to maximize our future endeavors."

The Department of Administrative Services has the duty to fulfill the mission statement of the accounting division and the obligation to conform with generally accepted accounting principles for state and local governments, which are established by the Governmental Accounting Standards Board.

This study shall include, but not be limited to, the following:

- (1) Analysis of the accounting division's financial reports, including the Comprehensive Annual Financial Report and annual budgetary reports;
- (2) Assessment of the Department of Administrative Services compliance with generally accepted accounting principles;
- (3) Review of deficiencies identified by the Auditor of Public Accounts, including significant deficiencies and material weaknesses;
- (4) Review of improvements resulting from corrective actions identified by the Auditor of Public Accounts;
- (5) Review of existing significant deficiencies and material weaknesses still exhibited by the Department of Administrative Services; and
- (6) Recommendations for the improvement of internal controls to fulfill the accounting division's mission statement and comply with generally accepted accounting principles.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Appropriations Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

LR 406 Introduced by Stinner, 48.

PURPOSE: The purpose of this resolution is to propose an interim study to examine the implementation the office of Chief Information Officer's information technology consolidation initiative to ensure efficient use of Nebraska taxpayer resources.

The office of Chief Information Officer's website states "The Office of the Chief Information Officer was created to assure a coordinated, efficient, and cost-effective approach is taken on an enterprise level for the deployment of technology by the Nebraska State Government.

The Office of the CIO provides a wide range of technology services to state agencies, boards, and commissions, as well as political subdivisions. As the State continues to explore shared services, we have eliminated the duplication of several IT expenditures and services, lowered costs through enterprise purchases and agreements, and provided more efficient and effective ways to expand access to government services."

The office of Chief Information Officer has the duty to fulfill its mission statement and the obligation to ensure its stated purpose of coordinating a cost-effective operation of information technology services to Nebraska state agencies.

This study shall include, but not be limited to, the following:

- (1) Analysis of budget programs under the purview of the office of Chief Information Officer, including revolving funds and requests for full-time equivalent employees;
- (2) Analysis of agency revenues, including a list of billable services and fees;
- (3) Comparison of expenditures to agency revenues;
- (4) Review of historical increases in full-time equivalent employees compared with increases in revenue from billable services;
- (5) Evidence of improvements resulting from the consolidation initiative;
- (6) Existing needs for improvement in the consolidation initiative, where they exist; and
- (7) Recommendations for the improvement of implementation of the consolidation initiative.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Appropriations Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

LR 410 Introduced by Arch, 14; Cavanaugh, M., 6; Day, 49; Murman, 38; Walz, 15; Williams, 36.

PURPOSE: The purpose of this resolution is to propose an interim study to examine the long-term fiscal sustainability of the Nebraska Health Care Cash Fund. The Nebraska Health Care Cash Fund was initially created with a fifty million dollar endowment for health care programs using the principal and investment income from the Nebraska Tobacco Settlement Trust Fund and the Nebraska Medicaid Intergovernmental Trust Fund. The purpose of this endowment was to create an ongoing funding mechanism for health care in Nebraska.

This study shall include, but not be limited to:

- (1) A review of the annual Nebraska Health Care Cash Fund reports provided by the Department of Health and Human Services;
- (2) Input from interested parties regarding the funds necessary to continue using the Nebraska Health Care Cash Fund to pay for health care and related services; and
- (3) Recommendations as to any statutory or funding changes that the Legislature should make in order to protect the ongoing viability of the Nebraska Health Care Cash Fund.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Appropriations Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

APPENDICES

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Appendix A

Nebraska Retirement Systems Committee
Report – *Early Retirement Incentives Reported to the
Nebraska Public Employees Retirement Systems and
Issued by Omaha Public Schools*

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NEBRASKA RETIREMENT SYSTEMS COMMITTEE

2021

Early Retirement Incentives Reported to Nebraska Public Employees Systems and Early Retirement Incentives Issued by Omaha Public Schools

Committee Members

Senator Mark Kolterman, Chair
Senator Brett Lindstrom, Vice-Chair
Senator Robert Clements
Senator Mike McDonnell
Senator Julie Slama
Senator John Stinner

Kate Allen, Committee Legal Counsel
Katie Quintero, Committee Clerk

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Appendix A	LB 457 Hearing Transcript
Appendix B	Nebraska Public Employees Retirement Systems Early Retirement Inducements (ERIs) Data Report
Appendix C	Omaha Public School Spreadsheet on Early Retirement Incentives

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Overview of Early/Voluntary Retirement Incentives

In 2017; Senator Kolterman introduced LB 415 which included requirements for schools and plan members to report information upon a member's termination related to payment and receipt of an early retirement inducement (ERI).

In 2018, Senator Briese introduced LB 457 to remove the exemption from budget and levy limitations, voluntary termination agreements that were allowed under sections 77-3442, 79-1003, and 79-1028. LB 457 was amended into LB 512, further amended and enacted.

This Report provides background on the legislation which was enacted to require reporting of early retirement incentives and changes enacted to remove the exemption from budget and levy limitations for payment of voluntary termination agreements (early retirement incentives).

This Report includes data prepared by the Nebraska Public Employees Retirement System (NPERS) on reports submitted by schools and members in 2018, 2019 and 2020. It also includes data provided by Omaha Public School (OPS) on the early retirement incentives paid to members of the Omaha School Employees Retirement Plan (OSERS). The data from OPS is limited to 2018 because under collective bargaining, the payment of early retirement incentives was discontinued after 2018.

Legislative History

Reporting of Early Retirement Inducements

In 2017, LB 415 was introduced by Senator Kolterman, Chairman of the Nebraska Retirement Systems Committee to address a concern that School Plan members were receiving income from multiple sources at the same time (i.e., retirement benefits, early retirement incentives, and paychecks from returning to work after retirement). The bill as passed, in part, required school districts and plan members under the School Employees Retirement Act to report in writing to the Nebraska Public Employees Retirement System (NPERS) whether or not a member received an early retirement inducement. Employees of Omaha Public Schools (OPS) who were members of the Omaha School Employees Retirement System (OSERS) in the Class V School Employees Retirement System, also had the same reporting requirement. Below are the relevant statutory sections in the School Employees and Class V School Employees Retirement Acts which describe the reporting requirements enacted by LB 415.

79-921. – School Employees Retirement Act

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

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

79-992.01. – Class V School Employees Retirement Act [OSERS]

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

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

Removal of Budget and Levy Limitation Exemptions for Voluntary Termination Agreements

In 2018, Senator Briese introduced LB 457 to change exceptions to school district levy and budget exceptions for voluntary termination agreements. LB 457 removed the exemption from budget and levy limitations, voluntary termination agreements that are allowed under Nebraska Revised Statutes sections 77-3442, 79-1003, and 79-1028.

In Senator Briese's introduction of LB 457, he explained that he wanted to provide more control and accountability in the expenditure of tax dollars. Under section 77-3442, school districts are limited to a maximum levy of \$1.05 per \$100 of valuation. However, at that time, the statute took amounts levied to pay certificated employees for a voluntary termination outside of that limit. LB 457 put those amounts back within the total that is subject to the levy lid. Statutes also placed limitations on a school's budget authority. However, at that time section 79-1028.01 provided an exception to the limit for expenditures paid for voluntary termination, thereby taking such expenditures outside of the limits on a school's budget authority. LB457 put those expenditures back within the budget limits.

Senator Briese in his introduction explained that when incentive exceptions were originally enacted, they were described as necessary to encourage and incentivize voluntary terminations and the spending reductions that might subsequently occur. He questioned whether this incentive was effective in encouraging an employee to retire but were being used instead to simply provide extra compensation.

He stated that if school boards or administrators made a determination that these incentives were a justifiable use of taxpayer dollars, then he believed they should be subject to the levy and budget growth restrictions like the vast majority of other district outlays. He felt that this change would require districts to prioritize spending and look for alternative ways to fund such expenditures.

Finally, he explained that LB 457 does not take money away from school district or take away a district's ability to use this tool. [See Appendix A for the full transcript of the hearing on LB 457]

LB 457 was amended into LB 512 by the Education Committee. On Select File Senator Briese's AM970 was adopted which would exempt from budget and levy limits the amounts levied to pay for 75 percent of the funds used for voluntary termination agreements in fiscal year 2018-19 and would decrease to 50 percent for FY2019-20 and to 25 percent for FY2020-21.

AM1083, introduced by Senator Harr, was also adopted on select file to allow school districts already at their maximum levy to exempt from budget and levy limitations up to \$35,000 of payments for a teacher's voluntary termination agreement that is not part of a collective bargaining agreement. The provision would not apply to administrators.

On final reading, LB 512 was returned to Select File for a specific amendment, AM1346. AM1346 included the provisions contained in the previously adopted AM 970 and AM1083 and also returned the requirement that school districts demonstrate to the state board of education that the payment of incentives in exchange for a voluntary termination of employment will result in a net savings in salary and benefit costs to the district over a five-year period, as well as the requirement to report all incentives paid in exchange for voluntary terminations of employment on the annual financial report, which requirements were already in statute but had been removed under LB 457 as introduced. AM1346 was adopted by a 42-0 vote and was passed on Final Reading. LB 512 was signed by the governor on May 22, 2017.¹

Voluntary Termination Provisions Adopted under LB 512

79-8,142. Incentive for voluntary termination; school district; duties.

(1) A school district may agree to pay incentives to a certificated employee in exchange for a voluntary termination of employment.

(2) For purposes of this section, incentives paid in exchange for a voluntary termination of employment include any amount paid, except pursuant to the Retirement Incentive Plan or Staff Development Assistance agreement required under sections 79-854 to 79-856 for school districts involved in a unification or reorganization, to or on behalf of any certificated staff member in exchange for a voluntary termination of employment, including, but not limited to, early retirement inducements and costs to the school district for insurance coverage for such certificated staff member or any member of such certificated staff member's family.

(3) Incentives paid to a certificated teacher in exchange for a voluntary termination of employment shall be a qualified voluntary termination incentive for a certificated teacher for purposes of sections 77-3442 and 79-1028.01 if:

(a) All current and future incentives paid by the school district to such certificated teacher for such voluntary termination of employment do not exceed thirty-five thousand dollars in total and such school district has not and shall not pay any other incentives to such certificated teacher for any voluntary termination of employment;

¹ Legislative history is excerpted from the 2018 Education Committee Session Summary and Disposition of Bills, pages 22-23. https://nebraskalegislature.gov/pdf/reports/committee/education/2018_report.pdf

(b) All current and future incentives for such voluntary termination of employment are paid within five years after such voluntary termination of employment or prior to such certificated teacher becoming eligible for medicare, whichever occurs first;

(c) Such school district has, to the satisfaction of the State Board of Education, demonstrated that the payment of such incentives in exchange for a voluntary termination of employment will result in a net savings in salary and benefit costs to the school district over a five-year period; and

(d) Such incentives to be paid in exchange for a voluntary termination of employment were not included in any collective-bargaining agreement.

(4) Each school district shall report all incentives paid in exchange for voluntary terminations of employment on the annual financial report in the manner specified by the department.

(5) The State Board of Education may adopt and promulgate rules and regulations to carry out the purposes of this section.

Summary of Reported Early Retirement Incentive Data

NPERS was asked by Senator Kolterman, Chairman of the Nebraska Retirement Systems Committee to put together data on the Early Retirement Incentives (ERIs) reported by school district employers and members in 2018, 2019 and 2020.

OPS was also asked to report on ERIs paid out by OPS during that same time period. OPS reported that under collective bargaining, ERIs were discontinued after 2018 so their data only reflects the amounts paid in 2018.

	<u>NPERS Data</u> <u>2018 – 2020</u>	<u>OPS Data</u> <u>2018</u>	<u>Total</u>
Total School Districts Reporting ERIs	97	1	98
Total Reported ERIs Issued	522	27	549
Largest Single ERI Payment	\$197,747 *	\$100,000	
Average Dollar Value of All ERIs	\$38,565	\$71,248	
Average \$ Value by Top 5 Districts	\$94,255		
Dollar Value of All Reported ERIs	\$20,131,292	\$1,923,684	\$22,054,976

*The largest single ERI payment of \$197,757 was issued by Fremont school district

This is a list of the 97 schools/employers that issued ERI /ERIs in 2018, 2019 and/or 2020.

Arapahoe	Gering	Ralston
Arcadia	Gothenburg	Red Cloud
Arnold	Gretna	Rock County
Axtell	Hemingford	Sandhills
Bellevue	Hershey	Schuyler
Blair	High Plains	Scribner-Snyder
Blue Hill	Hitchcock	Seward
Boyd County	Holdrege	Shelby-Rising City
Broken Bow	Homer	Shelton
Bruning-Davenport	Howells-Dodge	Silver Lake
Burwell	Humboldt Table Rock Steinauer	St. Paul
Callaway	Kimball	Springfield Platteview
Cedar Bluffs	Laurel-Concord-Coleridge	Sterling
Centennial	Lincoln	Sumner Eddyville Miller
Chase	Logan View	Superior
Columbus	Lyons-Decatur	Syracuse-Dunbar-Avoca
Conestoga	Madison	Tekamah-Herman
Cozad	Malcolm	Thayer Central
Crawford	Medicine Valley	Twin River
Creek Valley	Millard	Valentine
Crofton	Mitchell	Wahoo
Doniphan-Trumbull	Morrill	Wakefield
Douglas County West	Nebraska City	Wayne
Dundy	Neligh-Oakdale	Weeping Water
Elkhorn	Newport	Westside
Elkhorn Valley	North Bend	Wheeler Central
Elwood	Northwest	Winnebago
Emerson-Hubbard	Omaha Nation	Wisner-Pilger
ESU #16	Papillion LaVista	York
ESU #7	Perkins	
Fairbury	Pierce	
Fremont	Plainview	
Fullerton	Potter-Dix	

The Report submitted by NPERS appears as Appendix B and provides a significant amount of detail broken down by several categories. Examples of categories include:

Types of payments made:

- Periodic payments to 403(b) Accounts
- Lump Sum Payments to Employees
- Lump Sum Payments to 403(b) Accounts
- Lump Sum Payment to 403(b) Accounts or Health Insurance
- Health Insurance Payments
- Payment Type Not Reported

Job classifications:

- Administrators
- Teachers
- Classified Employers
- Job Title Not Reported

Of the 97 school districts/employers that reported ERIs to NPERS, five districts issued 52 of the 522 reported ERIs. The 52 ERIs issued by these 5 school districts equaled nearly 25% of the total ERI payments made in 2018, 2019 and 2020 for a total dollar value of \$4,899,701, with an average dollar value of \$94,255. The five districts are: Fremont, Bellevue, Springfield Platteville, Centennial and Douglas County West. Fremont and Bellevue school districts issued the largest number of ERIs and the highest total dollar amounts.

Fremont School District:

Total Reported ERIs Issued	23
Largest Single ERI Payment	\$197,747
Average Dollar Value of All ERIs	\$105,507
Dollar Value of All Reported ERIs	\$2,426,652

Bellevue School District:

Total Reported ERIs Issued	22
Average Dollar Value of All ERIs	\$83,274
Dollar Value of All Reported ERIs	\$1,832,022

OPS Data Reported

The data provided by OPS appears as Appendix C. It includes the number of payments for each of the 27 members who were issued an ERI, the total ERI amount, and the amount of the monthly ERI payment to each of the 27 recipients. The length of time over which the payments were made ranges from 11 months to 81 months. The amounts of the monthly ERI payments range from \$1,083 to \$1,523 and the total ERI payments made to each of the 27 recipients range from \$11,110 to \$100,000.

Appendix A

LB 457 Hearing Transcript

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Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
January 31, 2017

ALEXI RICHMOND: You want us to call him? [LB457]

SENATOR KOLOWSKI: Yes, please. Senator Briese. We'll take a short break as we are making contact and bringing people here. Thank you. [LB457]

BREAK

SENATOR GROENE: I guess we will begin again. Senator Briese will introduce LB457. [LB457]

SENATOR BRIESE: Thank you, Senator Groene. And good afternoon, Senator Groene and members of the Education Committee. I apologize for being a little tardy here but had another hearing over there. I'm Tom Briese, T-o-m B-r-i-e-s-e. I come before you today to present to you LB457. LB457 is a common-sense effort intended to provide more control and accountability in the expenditure of our tax dollars. Under Nebraska Revised Statute 77-3442, school districts are limited to a maximum levy of \$1.05 per \$100 of valuation. This limitation is in place to provide some element of protection for our state's property taxpayers. However, section (2)(d) of the statute takes amounts levied to pay certificated employees for a voluntary termination outside of that limit, thereby erasing those protections for the taxpayers. LB457 puts those amounts back within the total that is subject to the levy lid. Statutes also place limitations on a school's budget authority. However, in its current form, Nebraska Revised Statute 79-1028.01 provides an exception to this limit for expenditures paid for voluntary termination, thereby taking such expenditures outside of the limits on a school's budget authority. LB457 puts those expenditures back within the budget limits. Why were these items at one time placed outside of the levy lids and budget constraints? First, because of the perception that these outlays are necessary to encourage voluntary terminations and the spending reductions that might occur because of it; second, because of the perception that these expenditures actually do encourage and incentivize termination. My reasons for attempting to place these levy and expenditures back within the limits are manifold. First, I served on a school board. We used these agreements to provide compensation for voluntary terminations. Did they incentivize employees to actually retire sooner? I often suspected that they did not. I often suspected they were not effective in encouraging an employee to retire but were, instead, simply extra compensation. But that decision lies in the hands of school districts and administrators and I don't want to second-guess what they're doing. But second, if a board makes a determination that...the board or administrators makes a determination that these are a justifiable use of taxpayer dollars, then I believe that they should be subject to the levy and budget growth restrictions, just like the vast majority of other district outlays. To the extent these restrictions are a factor, in other words, school is up against the levy limit, then these districts will have to prioritize spending and look for alternative ways to fund such expenditures. And finally here, we're not taking money away

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from a district's...or not taking away a district's ability to use this tool. In this environment of angst and concern over tax relief and spending, we're simply asking that the taxing and spending utilized here are subject to the same restraints as most other items. Thank you for your consideration of this. I'd be happy to answer any questions. [LB457]

SENATOR KOLOWSKI: Thank you. Any questions? Oh, sorry. [LB457]

SENATOR GROENE: Go ahead. [LB457]

SENATOR KOLOWSKI: Go ahead, sir. [LB457]

SENATOR GROENE: Any questions from the committee? Way I understand it, Senator Briese, the original idea for this bill was consolidations, right? Where two districts would consolidate and they might have 100 certified staff between them, and then when they consolidated they only needed 25. Your bill doesn't take that situation away, does it? [LB457]

SENATOR BRIESE: No. No. [LB457]

SENATOR GROENE: They can still do that outside the... [LB457]

SENATOR BRIESE: Right. Right. They can still do that. In the event of consolidation or mergers, I believe they can still do that. And like I said earlier, my bill doesn't take away the ability to enter into these agreements anyway. Simply, they have to be within the lid like the vast majority of other district expenditures. [LB457]

SENATOR GROENE: Senator Kolowski. [LB457]

SENATOR KOLOWSKI: Thank you, sir. Senator Briese, do you know how many districts are currently using the early retirement process? [LB457]

SENATOR BRIESE: I believe that roughly 40 districts applied for permission to do that as recently as...I'm not sure what year but very recently. It was about 40 districts, yes. [LB457]

SENATOR KOLOWSKI: Out of 245 districts in the state. [LB457]

SENATOR BRIESE: Yes. Yeah. [LB457]

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SENATOR KOLOWSKI: The information that I've collected from one district in the metro area shows the positive side of why the program is included and how well it does for the district. On the other side they also are concerned about the negative consequences of losing money and being up against very difficult budget times at the current time. So that's... [LB457]

SENATOR BRIESE: Sure. [LB457]

SENATOR KOLOWSKI: ...it's a mixed bag when you look at what they have been saving compared to what they could be losing. [LB457]

SENATOR BRIESE: Yeah. It's my understanding from our research that roughly six...outside of the Learning Community I think there's roughly six, maybe seven districts that are up against the lid that have...that utilize this. And so there are a handful of districts out there that, yeah, this would have an impact on and they would be negatively impacted. But to that point, I guess they would have to look for ways to prioritize their spending to try to bring these amounts back within the lid, like again the vast majority of other district expenditures that they make. But, yes, I can see it posing a little bit of a concern for a very small handful of districts, again, roughly six or seven, plus I think maybe some Learning Community districts. I'm not sure about them. [LB457]

SENATOR KOLOWSKI: Thank you. [LB457]

SENATOR BRIESE: You bet. [LB457]

SENATOR GROENE: Senator Linehan. [LB457]

SENATOR LINEHAN: Thank you, Mr. Chairman. Yesterday on the floor Senator Chambers suggested that I go back and read some history, so I did... [LB457]

SENATOR BRIESE: Okay. [LB457]

SENATOR LINEHAN: ...on TEEOSA. And, unfortunately, I didn't bring it with me but specifically when they...in the...whenever they were trying to consolidate schools and increase state funding to keep property taxes down, so it goes back to LB1059 in 1990, it was definitely, as the Chairman said, from what I read this morning, an opportunity for these to kind of push these schools to merge and to help them to be able to bonus-out teachers. [LB457]

SENATOR BRIESE: Yeah. [LB457]

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SENATOR LINEHAN: So that's the history that I read this morning by paper that Leg Research has for all of us if we want to read it. What has disturbed me about this bonus, I've been told, and no one told me I was wrong, that some school districts have...it's not just the \$10,000 bonus but some of the bonuses have been \$50,000 or \$100,000. Have you ever heard...? Do you have any idea what amounts of some of these bonuses are? [LB457]

SENATOR BRIESE: I'm not aware of those amounts. And you might be referring to retirement incentive programs, which maybe are very similar but, again, that's in the event of consolidation and mergers, those retirement incentive, which are still in place and still being able to be utilized outside of the levy limit. As far as these straight termination agreements and as far as amounts, I'm not very much aware of that. When I was on a board 10 or 12 years ago, we were maybe \$3,000 to \$4,000 a year, but I really don't know what those amounts are at this point. [LB457]

SENATOR LINEHAN: I don't think there's any limit on them, right? And it's outside... [LB457]

SENATOR BRIESE: Not to my understanding. [LB457]

SENATOR LINEHAN: ...right now and it doesn't have to...right now you can be outside the limit. [LB457]

SENATOR BRIESE: Yes. [LB457]

SENATOR LINEHAN: There's no limit on the amount of money that it can be. [LB457]

SENATOR BRIESE: Yeah. Yeah. [LB457]

SENATOR LINEHAN: And they don't have to include it in their expenditure in their levy. [LB457]

SENATOR BRIESE: Right. [LB457]

SENATOR LINEHAN: So it's a way to drive around the levy. [LB457]

SENATOR BRIESE: Yes, it is. Yes. Yes. [LB457]

SENATOR LINEHAN: Okay. Thank you. [LB457]

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SENATOR GROENE: Senator Erdman. [LB457]

SENATOR ERDMAN: Thank you, Senator Groene. Thank you, Senator Briese, for being concerned about taxpayers. I appreciate that. Do you know how many dollars that was spent outside that levy limit on those school districts that offered this? Do you have any idea what that was? [LB457]

SENATOR BRIESE: I probably have numbers here as to what was the dollar amount requested but not necessarily used. And so that's a good question. I don't really know what the answer to that would be. No, I don't. [LB457]

SENATOR ERDMAN: Okay. [LB457]

SENATOR BRIESE: But I have numbers for the amount requested, where their levy was, but that doesn't really answer that question. So, no, I can't answer that. [LB457]

SENATOR ERDMAN: I, too, was on the school board. I understand what the situation they're in. [LB457]

SENATOR BRIESE: Sure. [LB457]

SENATOR ERDMAN: Thank you for bringing this. [LB457]

SENATOR BRIESE: You bet. [LB457]

SENATOR GROENE: Any other questions from the committee? I have one more. [LB457]

SENATOR BRIESE: Sure. [LB457]

SENATOR GROENE: I've read the statute but there's no reporting mechanism of how much an individual employee is given, is there? [LB457]

SENATOR BRIESE: Not that I know of. I believe it's simply a contract between the district and the individual and they're free to do any amount they want, I believe. There's no report. [LB457]

SENATOR GROENE: And there's no documentation of proof that one individual was... [LB457]

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SENATOR BRIESE: As per individuals? No, I don't think so. [LB457]

SENATOR GROENE: ...retired and the person that they replaced them with was less money?
Just an assumption made? [LB457]

SENATOR BRIESE: I would say it would be an assumption, yes. [LB457]

SENATOR GROENE: Thank you. Any other questions? [LB457]

SENATOR KOLOWSKI: Yes. Thank you. Just wanted, Mr. Briese, the majority of the action
today is not in consolidation. [LB457]

SENATOR BRIESE: Right. [LB457]

SENATOR KOLOWSKI: It's in early retirement benefits to a district, which can accumulate
quite a bit of dollars between the people that are leaving and the new hires that are coming in.
And that's beneficial for the district to be able to find some additional cash to run their districts
and do the things that they're successfully doing. So I think our bent has been a little bit toward a
lot of consolidation discussion rather than the savings for the district... [LB457]

SENATOR BRIESE: Sure. [LB457]

SENATOR KOLOWSKI: ...and how that money could be used. The formula that I'm familiar
with would be uniform across a district depending on the job and the title and the salary where
that person is. But in every case they would bring someone in usually much, much below where
the person is leaving with a long tenure in the district. So I think our concentration should be on
that rather than consolidation, in my perspective... [LB457]

SENATOR BRIESE: Yes. [LB457]

SENATOR KOLOWSKI: ...in looking at that. [LB457]

SENATOR BRIESE: No. No, I don't disagree. And those assumed savings can be very
substantial... [LB457]

SENATOR KOLOWSKI: Yes. [LB457]

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SENATOR BRIESE: ...because typically a 30-year teacher is going to be at a much higher pay scale than that new person you replace them with. But we're also making the assumption there that these expenditures for voluntary termination incentivize that retiring teacher to leave. And, to me, it's a cause-and-effect issue, that the causation, I've always suspected, been suspect in my mind there. But, yeah, if it's true that these programs actually incentivize high-dollar folks to leave and get replaced by lower-dollar folks, yes, it can be a savings mechanism. But again, you have to assume causation there and, secondly, I think it's just being respectful of the taxpayers to bring these amounts back within the budget limit. But, no, that's a good point, you bet. [LB457]

SENATOR KOLOWSKI: Would you elaborate on the causation issues in your mind? [LB457]

SENATOR BRIESE: Oh, does the program actually incentivize or cause a teacher to retire? Is that what causes that teacher to retire at that time or are they just deciding to retire and may as well take advantage of the payment on my way out? [LB457]

SENATOR KOLOWSKI: I think most of the plans that I've seen, it doesn't match it in one year. It matches it in a number of years. Whatever the amount was they're retiring for would not be given in a single year. [LB457]

SENATOR BRIESE: Yeah. [LB457]

SENATOR KOLOWSKI: You'd spread that out over... [LB457]

SENATOR BRIESE: Sure. [LB457]

SENATOR KOLOWSKI: ...X, Y, or Z number of years. And that's the prerogative... [LB457]

SENATOR BRIESE: Yeah. [LB457]

SENATOR KOLOWSKI: ...of the district, which brings out that lower amount of payment. [LB457]

SENATOR BRIESE: Yeah, I think that's how we used to do it, too, spread over a handful of years, three to five years. But again, one of the issues there is, did that payment or that stream of payments actually cause that teacher to retire or are they just taking advantage of a perk when they decide to retire? That's what I'm referring to when I talk about causation. [LB457]

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SENATOR GROENE: Senator Walz. [LB457]

SENATOR WALZ: And I...thank you. [LB457]

SENATOR BRIESE: Sure. [LB457]

SENATOR WALZ: I'm just curious, is there any evidence that it doesn't? [LB457]

SENATOR BRIESE: I would say no. [LB457]

SENATOR WALZ: Okay. [LB457]

SENATOR BRIESE: That was...I suspected, I oftentimes suspected that it did not when I was in that role. But evidence of that, no, I couldn't point to it. No. [LB457]

SENATOR WALZ: Thank you. [LB457]

SENATOR BRIESE: Sure. [LB457]

SENATOR GROENE: Senator Briese, when you were on the school board, did you approach an employee and said, we will do this if you retire early? Or did the employee come to you and say, I'm retiring early? [LB457]

SENATOR BRIESE: That's a good question. On the board I guess I wasn't privy to the negotiations there. It was typically the superintendent who would deal with the employee in that situation. So that's a good question. I don't know for sure; can't answer that. [LB457]

SENATOR GROENE: Was that amount of money included in the collective bargaining because it was given to employees? [LB457]

SENATOR BRIESE: I don't recall that it was. [LB457]

SENATOR GROENE: Wouldn't it not be wiser, if you're going to award employees, to do that through the collective bargaining with the union? [LB457]

SENATOR BRIESE: It would seem so, yes. [LB457]

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SENATOR GROENE: Thank you. Any other questions for Senator Briese? Thank you. [LB457]

SENATOR BRIESE: Okay. [LB457]

SENATOR GROENE: You going to close? [LB457]

SENATOR BRIESE: I'll probably waive closing. [LB457]

SENATOR GROENE: Yeah, I mean...well, we'll see if you're here. [LB457]

SENATOR BRIESE: Oh, okay. [LB457]

SENATOR GROENE: Proponents. [LB457]

SENATOR BRIESE: I won't waive closing if I'm still here. (Laughter) I may have to take off. Thank you. [LB457]

SENATOR GROENE: Any proponents coming to the front of the room or...? Opponents? Any opponents to this legislation? [LB457]

RENEE HYDE: Oh, I didn't fill out a green sheet. I'll do it later. My name is Renee Sayler...Renee Hyde, I'm sorry, R-e-n-e-e H-y-d-e. I'm the assistant superintendent for human resources at Papillion-La Vista schools. And it was really not my intention to say anything but just to listen in a little bit. But there are a couple of things that I heard from the presenter's perspective that I think might be informative. Every single person who retires from our district sits across the table and has a conversation with me. The comment about this is not an incentive, they were going to retire anyway, I can tell you that that is absolutely not my experience. This is an incentive. They would not have been capable financially of retiring had this incentive not been there for them because typically when this occurs they're 55 years of age or older. Most of them go between 55 and 60. They may or may not have voluntary...or may not have NPERS benefits available to them but they're not yet eligible for Medicare. These plans typically give them an ability to pay for their insurance between the time they retire until they can get to Medicare age. Now not always is that the case, but that's the case the majority of the time. All of us in the metro district...in the metro area have recently revised our early separation programs, our voluntary separation programs, because they had gotten a bit out of hand in terms of what the benefit might be. But I would tell you, those large benefits that you hear in the news that make a great splash are far and few between compared to the number that are \$30,000 or \$40,000 or less. Those that are getting the large amounts typically are those people who have worked 30-33-35 years within

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a district. And so those big payouts are the splash that make a good headline, but they're not the manner in which they're typically used. We don't have a lot of tools in the world of HR in schools. This is one of the tools that's available to us to manage turnover. You might have noticed a few baby boomers retiring in recent years. This slows down or speeds up that process. We can manage that within a local school board procedure so that we can say, okay, we need to have a few more that go because we've got a supply that's good; or we need to slow it down, and people will stay another year so that they can get that benefit. And perhaps...it's just a really good tool to help us manage the rate of turnover as well as to help people that have been strongly dedicated in serving our students well to be able to walk away and not lose insurance. When...believe it or not, this job of teaching takes a bit of energy and occasionally as we age our energy ebbs, and they might not be the best person to be in that classroom. This gives them the financial ability to walk away and still care for themselves and their families. So I strongly discourage you from taking this out from under the levy limit because I think that it will discourage districts from being able to do this sort of thing. It takes away one more tool for us to manage our budgets and manage our work force. So I strongly encourage you to not approve this, not to move it forward. Thank you. [LB457]

SENATOR GROENE: Questions? Senator Linehan. [LB457]

SENATOR LINEHAN: So just...that's very helpful information. Thank you for jumping up here, appreciate it very much. And I understand, I'm in that age group and you do not have the same amount of energy. I get that. You said it helps them pay for their insurance until they get to Medicare, which is 65, so that's ten years if they retire at 55. Do they get to stay on the...generally, do they get...they have to go out and buy their own insurance. [LB457]

RENEE HYDE: They have to buy their own insurance or they can direct pay through Educator Health Alliance so they can... [LB457]

SENATOR LINEHAN: So is that a group rate? [LB457]

RENEE HYDE: It is a group rate. [LB457]

SENATOR LINEHAN: So about what would that be for a 55-, 60-year-old? [LB457]

RENEE HYDE: You're looking at about \$1,200 a month for a self and spouse. You're looking at about \$7,200 for a single. [LB457]

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SENATOR LINEHAN: Twelve hundred a month; seventy-two hundred would be annual. [LB457]

RENEE HYDE: Seventy-two hundred would be the annual for a single. [LB457]

SENATOR LINEHAN: Okay. So are you saying that the bonuses are enough to pay that for 10 years? [LB457]

RENEE HYDE: No, I'm not. [LB457]

SENATOR LINEHAN: Okay. [LB457]

RENEE HYDE: It helps with it but it doesn't...a lot of times it won't cover it. [LB457]

SENATOR LINEHAN: Okay. So the average amount, did you say \$30,000 to \$40,000 on these bonuses? [LB457]

RENEE HYDE: Thirty to forty would be a pretty typical amount. [LB457]

SENATOR LINEHAN: And it would be dependent upon what they were making when they retired? [LB457]

RENEE HYDE: It depends on how, in our district, it depends on how many years they've worked for the district and what their outgoing salary was. It's based off of those two factors. [LB457]

SENATOR LINEHAN: You're being very kind. Just one more question. So is it kind of automatic? [LB457]

RENEE HYDE: No. [LB457]

SENATOR LINEHAN: It's not? [LB457]

RENEE HYDE: No. [LB457]

SENATOR LINEHAN: So there's some... [LB457]

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RENEE HYDE: They apply for it each year... [LB457]

SENATOR LINEHAN: Okay. [LB457]

RENEE HYDE: ...and we have a limit of 15 that we allow. [LB457]

SENATOR LINEHAN: Okay. [LB457]

RENEE HYDE: We have a staff of about 900 employees. [LB457]

SENATOR LINEHAN: Okay. [LB457]

RENEE HYDE: And because we're a growing district, we have a number of young ones and we've got a number of those who are more experienced. I don't say older unless I have to. [LB457]

SENATOR LINEHAN: Okay. That's kind of you. So you're limited to 15. You'll only give 15 of them out a year. [LB457]

RENEE HYDE: By board policy we are limited to 15 teachers, yes. [LB457]

SENATOR LINEHAN: Okay. That's important information. Thank you very much. [LB457]

RENEE HYDE: Uh-huh. [LB457]

SENATOR GROENE: Any other questions? Senator Erdman. [LB457]

SENATOR ERDMAN: Thank you, Senator Groene. Thank you for coming. You may help me with this. In my district where we live, we don't get any of that information about these large sums that are in the news. So could you explain to me what you were talking about? [LB457]

RENEE HYDE: There have been times...I live in the Omaha area and we have a paper that buys ink by the barrel, and there are young and hungry reporters that are searching high and low for things that people like to read. We have had some superintendents in our metropolitan area who have retired with pretty big walk-out amounts of money available to them. And they've made a lot of hay over that. And we have been threatened with the loss of voluntary separation programs

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because oftentimes it was through one of those kinds of programs that those high-dollar amounts came. [LB457]

SENATOR ERDMAN: Define high-dollar. [LB457]

RENEE HYDE: Over \$100,000. [LB457]

SENATOR ERDMAN: Okay. So... [LB457]

RENEE HYDE: But those are very much the exception, not the rule. [LB457]

SENATOR ERDMAN: In your program, do you have to be a certain age before you can apply for this? [LB457]

RENEE HYDE: Yes, you must be a minimum of 55 years of age with at least 10 years in the district. Oftentimes they've got 20. [LB457]

SENATOR ERDMAN: Okay. So then at 55 do they get full retirement on top of that? [LB457]

RENEE HYDE: It depends on how many years they've got in NPERS. [LB457]

SENATOR ERDMAN: Do you have a rule of 85, is that what you have? [LB457]

RENEE HYDE: The rule of 85 is the NPERS rule, yes. [LB457]

SENATOR ERDMAN: Okay. So in your experience, those averages, 30 to 40 "k," is that over a period of time or is that one lump sum? How do we do that? [LB457]

RENEE HYDE: It's paid out over three years... [LB457]

SENATOR ERDMAN: Okay. [LB457]

RENEE HYDE: ...and it's typically going into a 403(b) account. [LB457]

SENATOR ERDMAN: Okay. Thank you. [LB457]

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SENATOR GROENE: Any other questions? Thirty to forty thousand? [LB457]

RENEE HYDE: Over a three-year period of time, yes. [LB457]

SENATOR GROENE: Is what you award. [LB457]

RENEE HYDE: In that neighborhood. There's a formula to calculate it and it depends on years of experience and their salary going out. [LB457]

SENATOR GROENE: I have a list here of the districts that did it in 2016 and Papillion isn't on here. Did you say Papillion? [LB457]

RENEE HYDE: Uh-huh. [LB457]

SENATOR GROENE: Just wondered. What I don't understand is this. The purpose of the program is to save money. [LB457]

RENEE HYDE: Absolutely. [LB457]

SENATOR GROENE: So why would you need to do it outside of the lid if you can do it and save money under the lid? [LB457]

RENEE HYDE: Because the lid is...the lid is...how do I describe this quickly and easily? When you are up against the \$1.05 lid, what you pay out for that is often hard to rationalize, for lack of a better word, with your public that you would be spending it on people who are retiring versus spending it on books and computers and teacher salaries for the young ones coming up. So I think it is... [LB457]

SENATOR GROENE: Well, plus also it calculates into the pay raise that you're able to calculate into the new bargaining agreement. [LB457]

RENEE HYDE: The \$1.05 is. [LB457]

SENATOR GROENE: Yes. [LB457]

RENEE HYDE: Yes. [LB457]

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SENATOR GROENE: Well, I mean if you can save money here, you can give higher raises to the rest of them because... [LB457]

RENEE HYDE: Absolutely you could. You could choose to spend it that way. It gives boards of education more choice if it doesn't have to be under the lid. I can tell you that we have property owners who are very vocal with us about not raising their taxes because we're still building buildings. So we have a building levy that people are paying as well. So we don't skate free if we increase the levy for whatever reason. [LB457]

SENATOR GROENE: Those administrators that used it, were given, did they actually hire a new administrator for less than the old one? I have a personal... [LB457]

RENEE HYDE: Yes. [LB457]

SENATOR GROENE: ...experience where that did not happen. [LB457]

RENEE HYDE: Yes, and depending upon your supply and demand. In the North Platte area, your supply is less than our metropolitan area. I can tell you our most recent superintendent is paid significantly less than our outgoing superintendent was. [LB457]

SENATOR GROENE: And your outgoing one took the...was given a bonus? [LB457]

RENEE HYDE: He did but it was not... [LB457]

SENATOR GROENE: How old was he? [LB457]

RENEE HYDE: ...even nearly \$100,000. Wasn't even close. [LB457]

SENATOR GROENE: How old was he? [LB457]

RENEE HYDE: I don't know for sure. I think he was more than 60 years of age. I don't... [LB457]

SENATOR GROENE: That's not the purpose, is it, of this program to give people already planning to retire a bonus? [LB457]

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RENEE HYDE: Oh, and I think he was...I think the incentive did incent him to retire. I don't think he would have retired without it. [LB457]

SENATOR GROENE: Do you, in your collective bargaining, when somebody retires, do you pay them for their sick days that have built up and... [LB457]

RENEE HYDE: We do. [LB457]

SENATOR GROENE: ...also their... [LB457]

RENEE HYDE: We do. [LB457]

SENATOR GROENE: ...also their personal days? [LB457]

RENEE HYDE: We do. We pay them at half the rate of a substitute teacher's pay, not at their per diem rate but half the rate of a substitute teacher's pay. [LB457]

SENATOR GROENE: So that amounts to pretty good, for good teachers who didn't...who showed up for work every day. [LB457]

RENEE HYDE: Who didn't abuse their leave. [LB457]

SENATOR GROENE: Yeah. [LB457]

RENEE HYDE: Yeah. Correct. [LB457]

SENATOR GROENE: It becomes a pretty nice bonus for them also. [LB457]

RENEE HYDE: It's...it would make a nice trip somewhere. [LB457]

SENATOR GROENE: All right. Well, thank you. You've been...could...one last thing. Could you provide this committee from some of your peers in the metro area the plans that you do have... [LB457]

RENEE HYDE: Sure. [LB457]

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SENATOR GROENE: ...so that we have some idea what we're...what the taxpayers are paying for? [LB457]

RENEE HYDE: Yeah, they're board policy. Yeah, they're board policy so you can... [LB457]

SENATOR GROENE: Yeah, that's fine. [LB457]

RENEE HYDE: ...you can see the... [LB457]

SENATOR GROENE: You seem to be a good public servant. I had no doubt you would share it with us. Thank you. [LB457]

RENEE HYDE: Certainly. [LB457]

SENATOR GROENE: Senator Erdman. [LB457]

SENATOR ERDMAN: Thank you again, Senator Groene. Just a follow-up question: So most of these programs that we're talking about...because it's not real prevalent in our area. We don't use it as much as they do in the Learning Community. And as I watched the Legislature last year, the Legislature contributed another \$30 million for state aid for the Learning Community. And so, consequently, about 85 percent of the state aid goes to 65 percent of the students, and they don't live in my district. And so, you know, to stay under the levy lid, you keep getting more state aid but yet you ask for more. And consequently, I think some of this has a contributing factor to that. So I'm having a difficult time understanding why you're struggling so much with your levy lid when you get as much state aid as you get. [LB457]

RENEE HYDE: We have a lot of kids to educate too. [LB457]

SENATOR GROENE: Any other questions? Thank you for deciding to step forward. [LB457]

RENEE HYDE: Thank you. [LB457]

SENATOR GROENE: That was good information from somebody who handles it directly. Any other opponents? [LB457]

LARRY SCHERER: (Exhibit 1) Good afternoon, Senator Groene, members of the Education Committee. For the record, my name is Larry Scherer, L-a-r-r-y S-c-h-e-r-e-r, and I'm

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representing the Nebraska State Education Association and its 28,000 members. We oppose this bill. I think the description of it that Senator Briese gave is fairly accurate that the levy cap exemption, the budget lid exemption, and it also takes this money out of General Fund operating expenditures for purposes of state aid, which means this money, when you have a comparable group of school districts, would not be used as a basis for what's called basic funding. So it does have a state aid impact as well, although fairly low. Just a little historical note: This came in when Senator Warner proposed the levy caps. And as you know, Senator Warner was a pretty wise man. He...I think the rationale that was given at the time was that if we're going to do something that will discourage districts from saving money, then while it comes out of the lid this year, over time it's going to save funds. And so that's been in there since whenever the levy caps came in, probably a good 15 or 20 years. I've attached this sheet from the Department of Education. I took a few liberties with it in terms of adding up the numbers, but there was...from this, the districts now, and in '13-14 this was about to run out and it's been sunsetted periodically. There was a bill to extend it, and the bill to extend it included this requirement that there be a showing of savings over a five-year period. In other words, you don't necessarily get the savings the same years that you get the...make the expenditure. So that's what you see on this. The first group were under the old law before they had to demonstrate the savings. It shows that they're...these districts turned in data to the department which, you know, they believed they could save \$26 million. The amount of the exemptions under the budget lid was \$11 million. So it's basically a 2:1 ratio there. So that's probably the number one reason that you should...school districts can still do this but there's, a lot of times, there's a first-year impact for the incentive money. I've also, working with the NSEA over the years, found...and there used to be a lot more of these in the negotiated agreement, Senator Groene, but we, you know, saw that school boards were using them strategically. They'd pass a policy one year, they needed to reduce staff or...and so they tended to work better when it was left to the board of education. There still are a few out there, I believe, and those would continue despite whatever happens in this law until they're taken out through negotiations. The second point is the loss in the levy cap. It's a little convoluted, but essentially, if you spend \$500,000 as a school district for this, and it would be a fairly large school that did that, that doesn't count for purposes of counting your levy under the lid so it would lower that amount. As I said before, the offset to that is if it does save money so does it actually raise the levy? You know, it's difficult to see that in practice. And I was glad to see the person from Papillion-La Vista come up. The other thing is if they're actually at \$1.05 levy and this is terminated, then this would probably mean a reduction in revenue, as Senator Briese mentioned. The other point, just morale-wise, it's always easier to offer some incentives rather than to have a forced termination, and this would tend to discourage school districts from doing that. There's a lot of expense, sometimes legal expense. NSEA provides legal support sometimes in these. But mostly, these are the early retirement, voluntary separation, not, you know, the firing situation. So it just, in terms of the staff, it's a much more...or much less volatile situation. And you know, we do believe it saves money and it does incentivize the teachers. I'm

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quite sure of that. Not sure about administrators--we don't represent them--and, you know, the sums they get are negotiated. [LB457]

SENATOR GROENE: Thank you. [LB457]

LARRY SCHERER: Are there any questions? I would be pleased to try to answer. Or if you need further information later on in terms of what our contracts provide or policies, I'd sure try to get that for you as well. [LB457]

SENATOR GROENE: I don't see Papillion on this list either. You... [LB457]

LARRY SCHERER: No, I didn't either. I didn't either. [LB457]

SENATOR GROENE: Forty districts out of two hundred and forty-five, so there's a lot of teachers out there that might want to retire at 55. What happens in that small town or community that isn't on this list? [LB457]

LARRY SCHERER: Well, they may still offer an incentive. They just haven't applied to the State Board of Education for exemption. There are...I mean that does happen. They might not need it, you know? If you're a district that has a 60-cent levy, they're not going to worry about the levy cap, and there are those out there. If you're a district that doesn't have a budget limitation problem, you're not going to worry about it. You're not even going to apply for that. So we don't actually know how many actually use it. [LB457]

SENATOR GROENE: Well, of these 40 districts that did report only 10 of them, what I would consider, is against the levy lid at \$1.05 or more. So what you're saying is--maybe Department of Ed or somebody will answer this--these other folks didn't even have to file it if they didn't want to. [LB457]

LARRY SCHERER: They...some of the smaller districts may have been against the budget limit. Generally speaking, their budget limits have been about 2.5 percent, whereas the larger districts it's based on state aid and needs, which is quite a bit higher percentage. So, yeah, it affects the smaller districts on the budget side... [LB457]

SENATOR GROENE: But limitation on the levy. [LB457]

LARRY SCHERER: ...but the larger districts on the levy side. [LB457]

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SENATOR GROENE: Yeah. So they report it to get around it. Do you know of any teacher in the state of Nebraska that walks into the office and says, I want to retire at 55, doesn't get a bonus? [LB457]

LARRY SCHERER: I don't know what goes on out there. I would guess... [LB457]

SENATOR GROENE: I'm just asking because... [LB457]

LARRY SCHERER: ...you know, it depends. I don't know. You know, I don't know the answer. [LB457]

SENATOR GROENE: ...it's become common practice. You know, some things just become common practice. [LB457]

LARRY SCHERER: I don't know the answer to that. I think it probably does happen a lot that they don't get a bonus. [LB457]

SENATOR GROENE: All right. Well, thank you. [LB457]

LARRY SCHERER: I mean they...I could easily imagine they have the rule of 85 and maybe a working spouse. [LB457]

SENATOR GROENE: Do you see the fear of some elected officials as this became common practice? It's no longer a management tool. It's just accepted that if you retire you're going to get it. And it has nothing to do with their budget; just take care of your employees. [LB457]

LARRY SCHERER: Yeah, I think it depends on how they want to use it. I see Millard especially was hit hard a few years ago with the changes in the state aid formula where the teacher education allowance, instructional time, millions of dollars, they used this tool quite a bit to reduce their costs. And I believe Fremont has used it quite a bit as well. Just the changes in state aid that, you know, come about, that it's been a tool for that. But, yeah, if it becomes a common practice, I'm not sure then you need an incentive to do it, if that's your point. [LB457]

SENATOR GROENE: Yes. [LB457]

LARRY SCHERER: But I think it still is in most cases a real incentive, as... [LB457]

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SENATOR GROENE: All right. Thank you. [LB457]

LARRY SCHERER: ...the woman from Papillion testified. [LB457]

SENATOR GROENE: Any other questions from the committee? [LB457]

LARRY SCHERER: Thank you. [LB457]

SENATOR GROENE: Any other opponents? Neutral? Senator Briese. Oh, letters, is there letters, Kristina? Did you give them to Senator Kolowski or...? Is it a handwritten note or is it a...? Oh, thank you. [LB457]

SENATOR KOLOWSKI: Yes, sir. [LB457]

SENATOR GROENE: (Exhibit 2) Senator Kolowski and I got to share these notes. They disappear. This is LB457. Letter of opposition from Nolan Beyer, Millard Public Schools . Thank you. And do you wish to close, Senator Briese? [LB457]

SENATOR BRIESE: Thank you again, Senator Groene and members of the committee. I believe that LB457 is a common-sense effort to add additional protections for the taxpayers of Nebraska. And although I can sympathize with the concerns of those districts who may be up against the levy lid, they're attempting to utilize voluntary termination agreements, I don't think it's too much to ask on behalf of our taxpayers that such expenditures are placed within the lids. Districts using these programs must ask themselves, number one, are they a sound use of the taxpayer dollars by actually incentivizing voluntary termination? And if so, I don't think it's too much to ask that such payments are within the limitations. But thank you. [LB457]

SENATOR GROENE: Thank you, Senator Briese. Are there questions? Thank you. [LB457]

SENATOR BRIESE: Yeah. Thank you. [LB457]

SENATOR GROENE: We will go to open the hearing on LB214. Senator Halloran, would you like to introduce your bill? [LB214]

SENATOR HALLORAN: May I stand? Good afternoon, Senator Groene and members of the Education Committee. For the record, thank you, for the record my name is Senator Steve Halloran, S-t-e-v-e H-a-l-l-o-r-a-n, and I represent the 33rd Legislative District. I'm here today to

Appendix B

Nebraska Public Employees Retirement Systems Early Retirement Inducements (ERIs) Data Report

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**NEBRASKA PUBLIC EMPLOYEES RETIREMENT SYSTEMS
EARLY RETIREMENT INDUCEMENT (ERI) DATA REPORT**

Prepared November 9, 2021

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Executive Summary

In 2017, the Legislature passed LB 415 that, amongst other things, required members and employers of the School Plan to certify in writing to NPERS whether the employer offered, and the member accepted and received an early retirement inducement (ERI). This legislation was passed to address a concern that School Plan members were receiving income from multiple sources at the same time (i.e., retirement benefits, ERIs, and paychecks from returning to work after retirement). NPERS gathered and analyzed ERI data from the 2018, 2019, and 2020 school years.

Overall Data Summary of All ERIs in 2018, 2019, and 2020

Largest Single ERI Payment \$197,747 (made in 2018)	Total ERIs Issued 522	Total Dollar Value of All ERIs \$20,131,292	Average Dollar Value of All ERIs \$38,565
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Five school districts paid out nearly 25% (\$4,889,701) of the \$20,131,292 total value of ERIs for 10% (52) of the total 522 ERIs issued.

ERIs Issued by Job Classification

Job Classification	ERIs Issued	Total Dollar Value	Average Dollar Value
Administrators	53	\$2,263,556	\$42,708
Teachers	408	\$15,665,803	\$38,396
Classified Employees	4	\$30,855	\$7,713
Job Title Not Reported	57	\$2,171,077	\$38,089

Types of ERI Benefits

- Periodic Payments to Employees were the most common with 172, followed by periodic payments to 403(b) accounts with 124.
- There were numerous lump sum payments with 70 to Employees, 41 to 403(b) accounts, and 38 to 403(b) accounts or health insurance.
- There were 49 payments to health insurance.
- There were 37 reports that did not identify the type of ERI payment.

Total and Average Dollar Value of Each Type of ERI Benefit

Type of Payment	Total Dollar Value	Average Dollar Value
Periodic Payments to Employees	\$5,807,518	\$33,764
Periodic Payments to 403(b) Accounts	\$6,168,613	\$49,746
Lump Sum Payment to Employees	\$1,618,725	\$23,124
Lump Sum Payment to 403(b) Accounts	\$1,441,685	\$35,163
Lump Sum Payment to 403(b) Accounts or Health Insurance	\$2,543,542	\$66,932
Health Insurance Payments	\$1,354,308	\$34,725
Payment Type Not Reported	\$1,161,190	\$31,383

Five school districts issued 52 of the 522 ERIs equaling nearly 25% of the total ERI payments made in 2018, 2019, and 2020

School District	# of ERI Payments (& % of Top 10%)	Total Dollar Value (& % of Top 10%)	Average Dollar Value
Fremont	23 (44%)	\$2,426,652 (50%)	\$105,507
Bellevue	22 (42%)	\$1,832,022 (37%)	\$83,274
Springfield Platteview	5 (10%)	\$466,189 (10%)	\$93,238
Centennial	1 (2%)	\$88,993 (2%)	\$88,993
Douglas County West	1 (2%)	\$75,844 (2%)	\$75,844
Total	52	\$4,899,701	\$94,255

Cost Analysis

Since 2018, if an ERI is granted, the employer/school district and member must submit a completed ERI and Termination Reporting Form to NPERS, who is statutorily required to maintain these records. The recordkeeping includes imaging and indexing the forms received from employers and members.

NPERS calculated the ongoing costs of maintaining these records beginning in 2018 through the third quarter of 2021. These costs only include the IT costs and do not include an estimate of staff time involved in this recordkeeping process.

- Since 2018 to date, a total of 34,944 forms have been imaged and indexed at a cost of \$17,190.
- If the cost growth of these tasks continues at the current rate, NPERS projects the cost over the next five years will be \$29,738.

Important Events

Two important events that have impacted this statutory assignment.

First, in 2018 the costs to load and view images in NPRIS was changed by the OCIO. These changes have resulted in \$17,190.17 in unanticipated imaging costs to the retirement systems for the ERIs, and we project that over the next five years an additional \$29,737.87 in imaging costs to accrue. Additionally, the ERIs are taking staff time to request (when the member and/or employer fails to provide them), load, review, audit, and approve prior to making a distribution from retirement. Eliminating this requirement will reduce the workload on School plan Employer Reporting Agents, Members, and NPERS' staff, and should have a positive effect on distribution processing timelines as there will be less forms that must be reviewed and audited, and less delays while NPERS waits for the forms to arrive. These costs and time savings cannot be accurately figured as we do not have a way to track the exact impact on staff or processing time.

Second, and perhaps more importantly, LB 147 changed the definition of termination of employment in the School plan. NPERS and employers covered by the School plan will need to implement new protocols to address this change. These protocol changes will make the termination of employment certification functionally obsolete. Thus, NPERS will receive little to no benefit from the termination certification requirement.

Request to Amend the Law

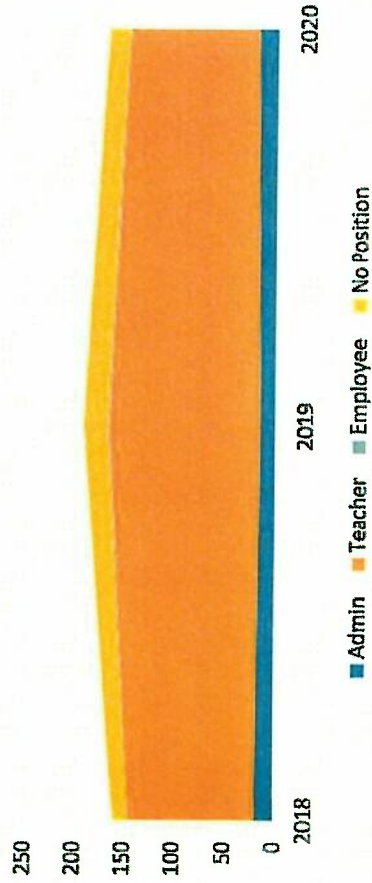
Based on the information provided below and the important events summarized above, NPERS requests that the Legislature remove the statutory reporting requirement for ERIs. NPERS provided sample language to the Legal Counsel for the Nebraska Retirement Systems Committee of the Legislature for consideration.

Highlights from the Data and Analysis - ERI Trends and Analytics from the 2018, 2019, and 2020 School Years

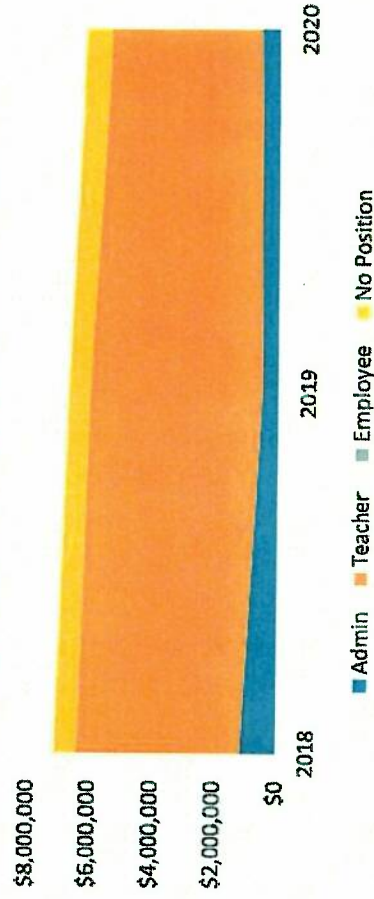
Overall Data on ERIs Initiated by Year (rounded down to nearest \$)

ERI Data	2018	2019	2020	Overall
Total #	161	192	169	522
Total \$ Value	\$7,135,762	\$6,753,408	\$6,242,120	\$20,131,292
Avg \$ Value	\$44,321	\$35,174	\$36,935	\$38,565
Highest \$ Value	\$197,747	\$103,600	\$103,874	\$197,747

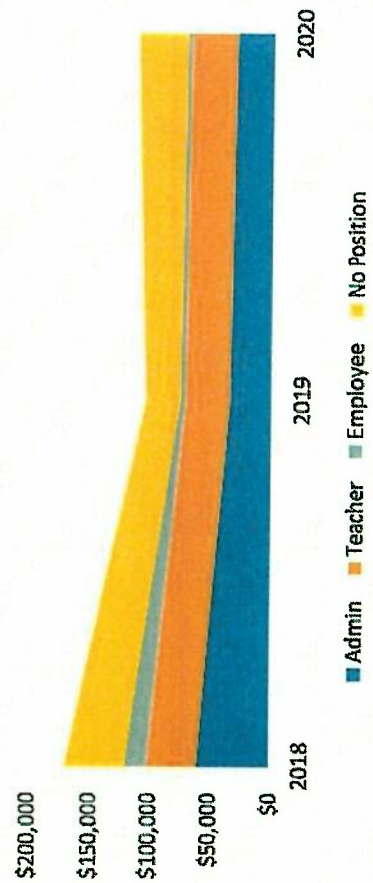
Total ERI Count by Year & Reported Position



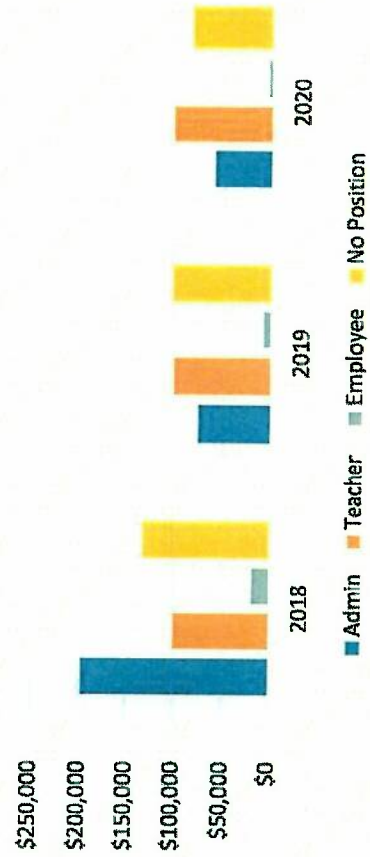
Total ERI Value by Year & Reported Position



Average ERI Value by Year & Reported Position



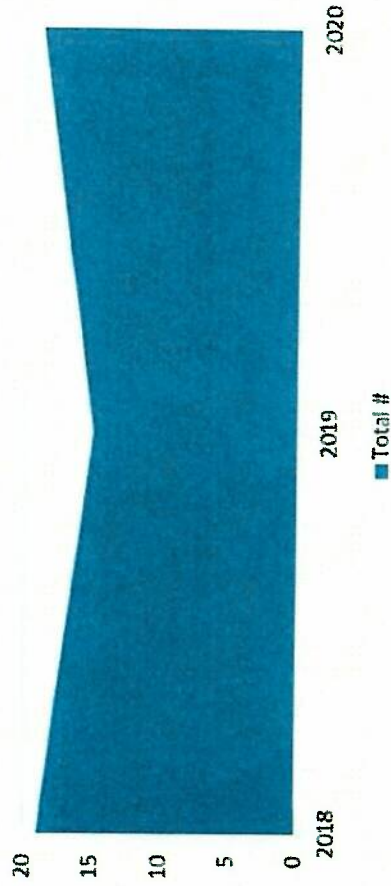
Highest Individual ERI Value by Year & Position



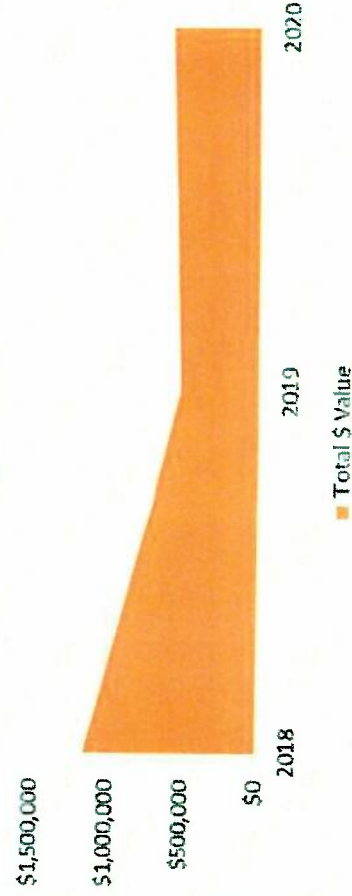
Administrator ERIs Initiated by Year (rounded down to the nearest \$)

ERI Data-Admin	2018	2019	2020	Overall
Total #	19	15	19	53
Total \$ Value	\$1,152,605	\$523,649	\$587,302	\$2,263,556
Avg \$ Value	\$60,663	\$34,910	\$30,910	\$42,708
Highest \$ Value	\$197,747	\$75,844	\$60,000	\$197,747

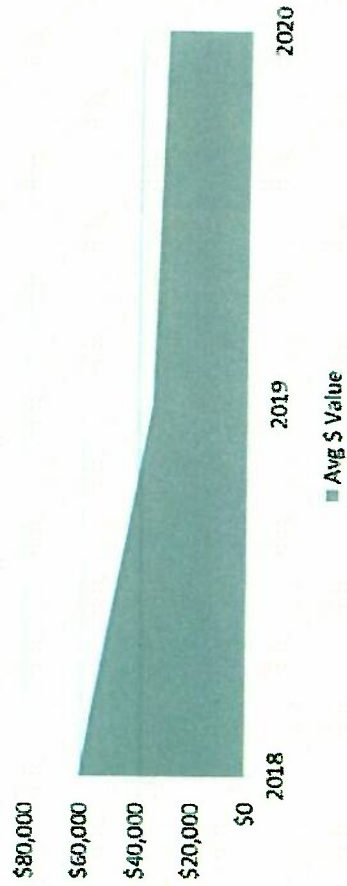
Admin ERI Count by Year & Reported Position



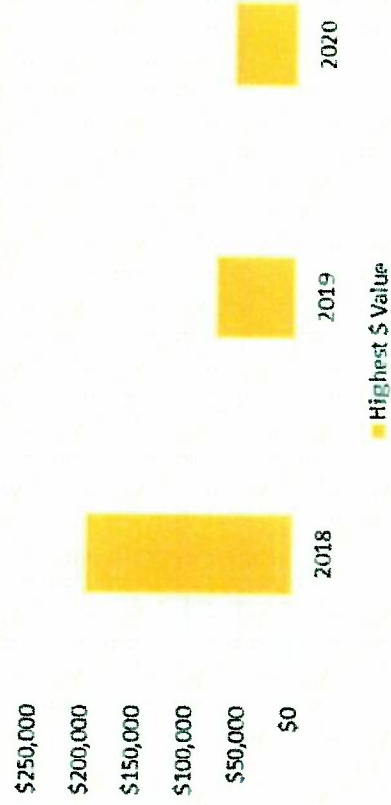
Total Admin ERI Value by Year & Reported Position



Average Admin ERI Value by Year & Reported Position



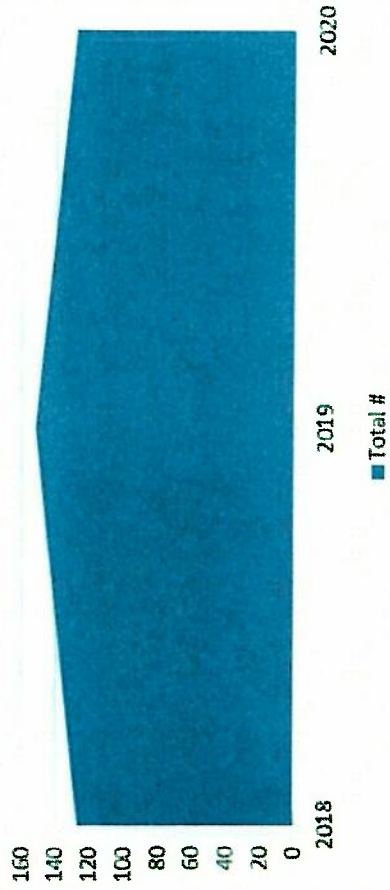
Highest Admin ERI Value by Year & Position



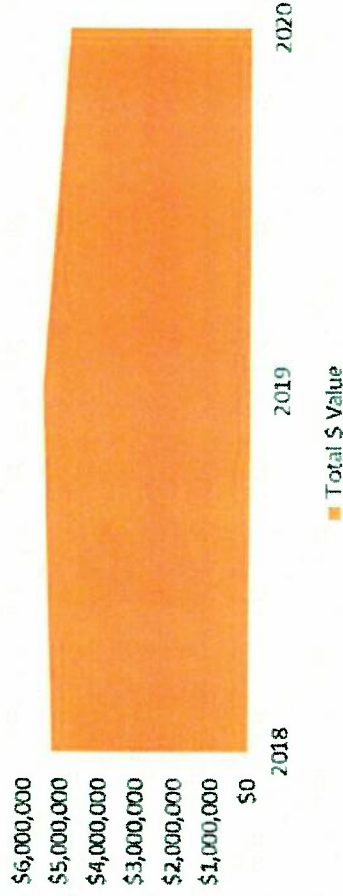
Teacher ERIs Initiated by Year (rounded down to the nearest \$)

ERI Data-Teacher	2018	2019	2020	Overall
Total #	127	152	129	408
Total \$ Value	\$5,263,552	\$5,565,814	\$4,836,436	\$15,665,803
Avg \$ Value	\$41,445	\$36,617	\$37,491	\$38,396
Highest \$ Value	\$101,024	\$102,498	\$103,874	\$103,874

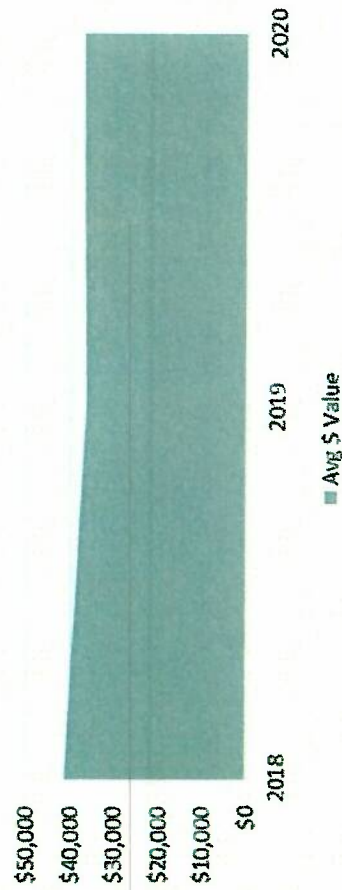
Teacher ERI Count by Year & Reported Position



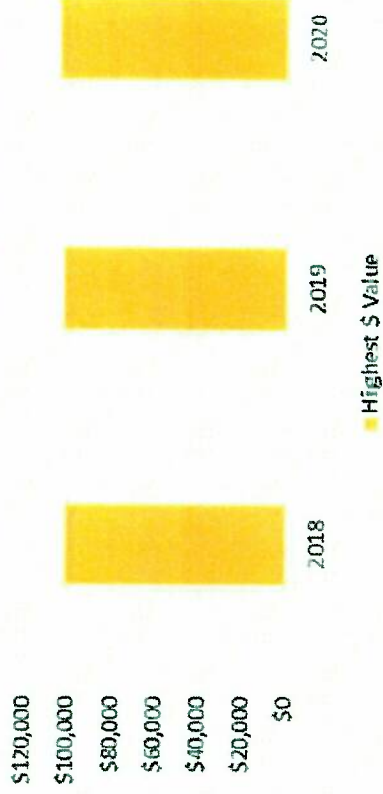
Total Teacher ERI Value by Year & Reported Position



Average Teacher ERI Value by Year & Reported Position



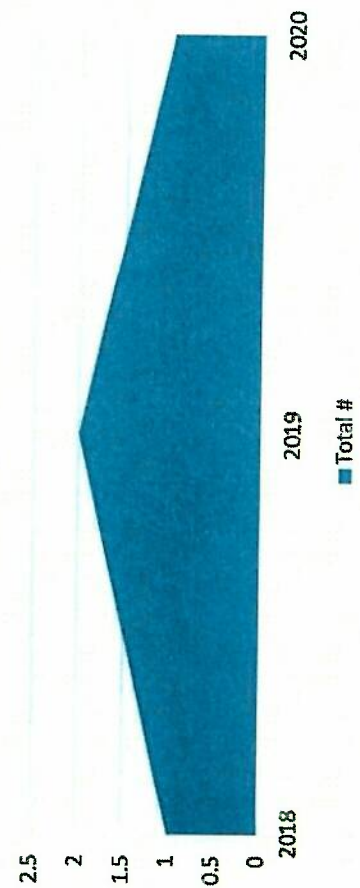
Highest Teacher ERI Value by Year & Position



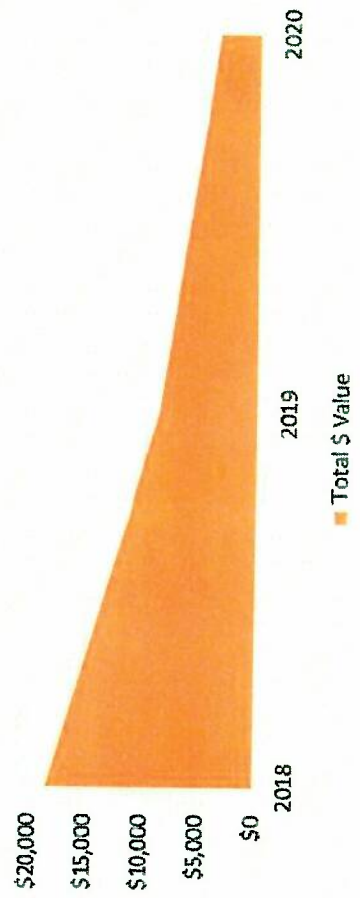
Classified Employee ERIs Initiated by Year (rounded down to the nearest \$)

ERI Data-Class	2018	2019	2020	Overall
Total #	1	2	1	4
Total \$ Value	\$18,481	\$8,774	\$3,600	\$30,855
Avg \$ Value	\$18,481	\$4,387	\$3,600	\$7,713
Highest \$ Value	\$18,481	\$7,933	\$3,600	\$18,481

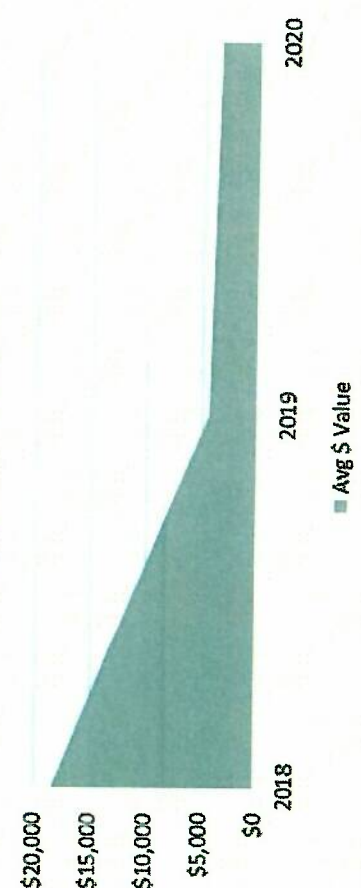
Classified Employee ERI Count by Year & Reported Position



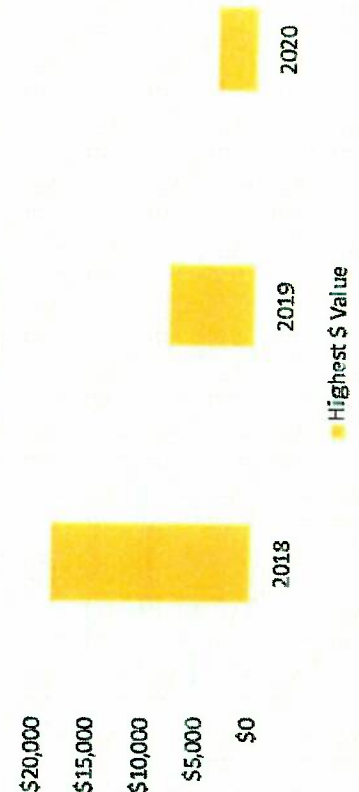
Total Classified Employee ERI Value by Year & Reported Position



Average Classified Employee ERI Value by Year & Reported Position



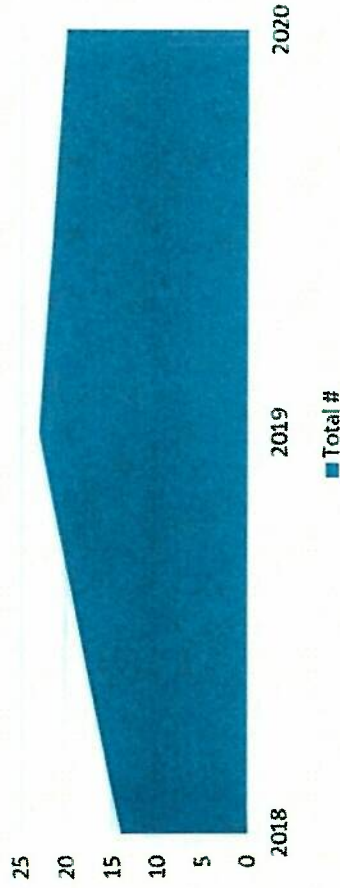
Highest Classified Employee ERI Value by Year & Position



ERIs for Employees Whose Position Was Not Reported Initiated by Year (rounded down to the nearest \$)

ERI Data-NR	2018	2019	2020	Overall
Total #	14	23	20	57
Total \$ Value	\$701,124	\$655,170	\$814,782	\$2,171,077
Avg \$ Value	\$50,080	\$28,485	\$40,739	\$38,089
Highest \$ Value	\$134,000	\$103,900	\$84,696	\$134,000

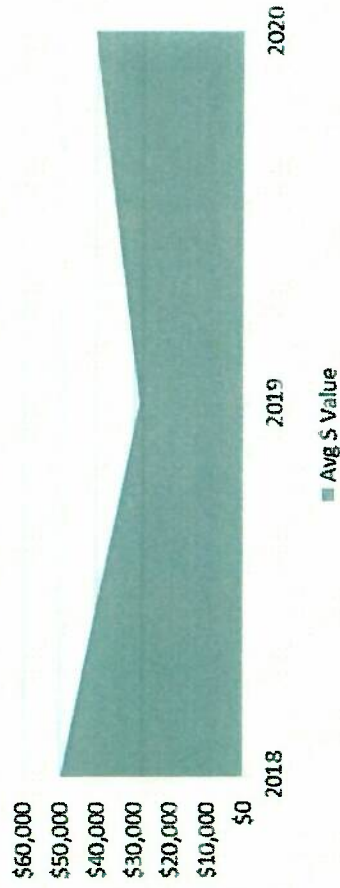
Non-reported Position ERI Count by Year & Reported Position



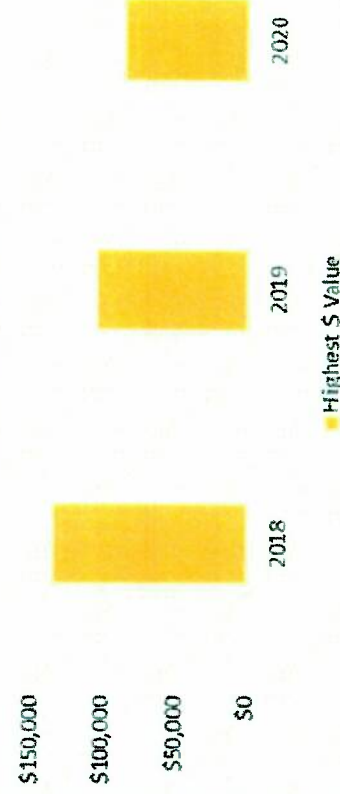
Total Non-reported Position ERI Value by Year & Reported Position



Average Non-reported Position ERI Value by Year & Reported Position

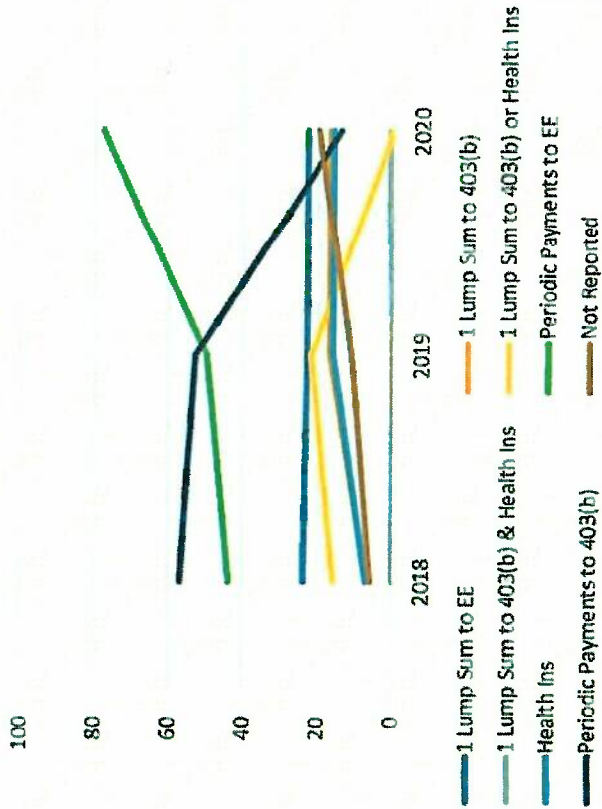


Highest Non-reported Position ERI Value by Year & Position



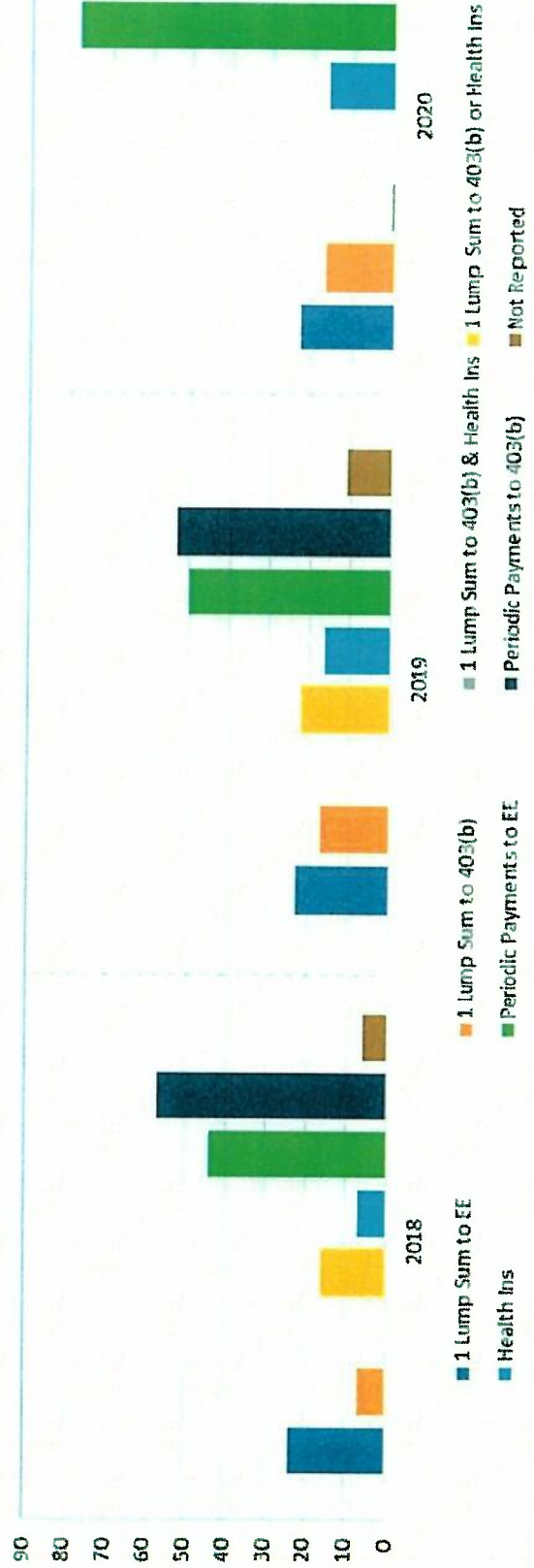
Types of ERIs Initiated by Year

Types of ERIs Initiated by Year



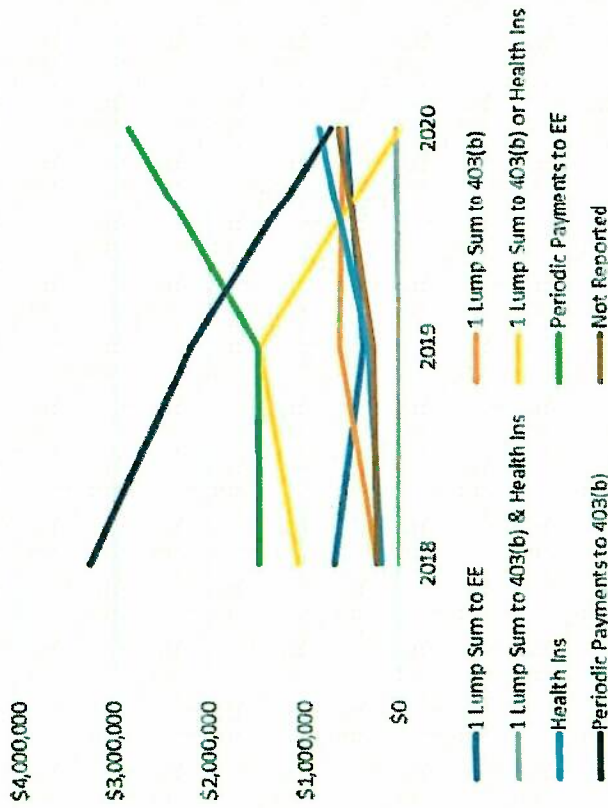
ERI Data-Types	2018	2019	2020	Total
1 Lump Sum to EE	24	23	23	70
1 Lump Sum to 403(b)	7	17	17	41
1 Lump Sum to 403(b) & Health Ins	0	0	1	1
1 Lump Sum to 403(b) or Health Ins	16	22	0	38
Health Ins	7	16	16	39
Periodic Payments to EE	44	50	78	172
Periodic Payments to 403(b)	57	53	14	124
Not Reported	6	11	20	37
Total	161	192	169	522

Types of ERIs Initiated by Year



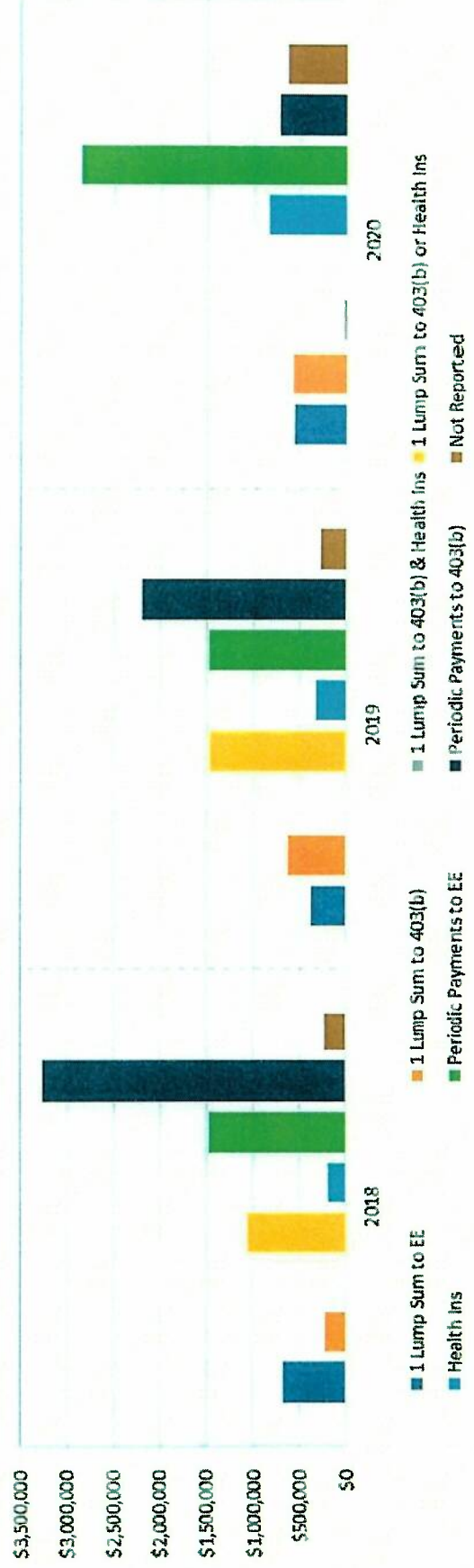
Total Dollar Value of Each Type of ERI Initiated by Year (rounded down to the nearest \$)

Total Value of ERIs Initiated by Year



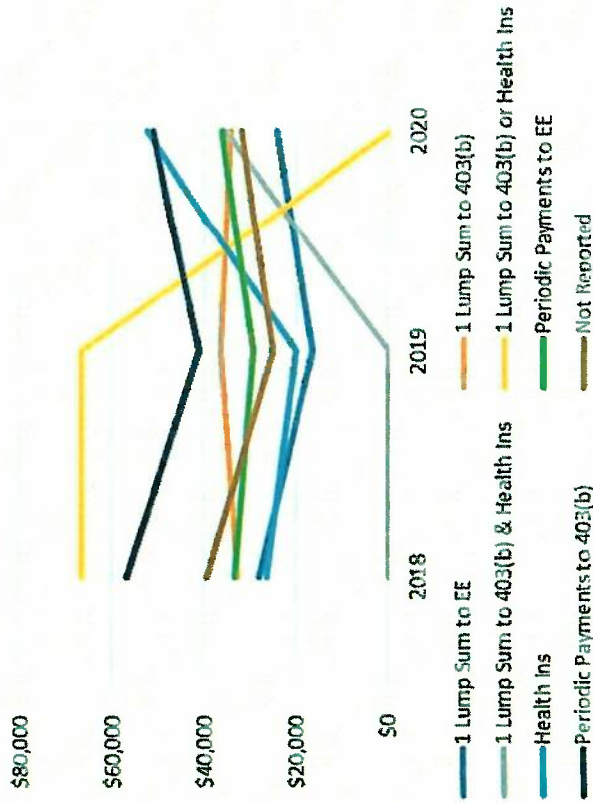
ERI Data-Types	2018	2019	2020	Overall
1 Lump Sum to EE	\$677,984	\$378,763	\$561,978	\$1,618,725
1 Lump Sum to 403(b) & Health Ins	\$231,000	\$623,504	\$587,181	\$1,441,685
Health Ins	\$0	\$0	\$35,795	\$35,795
Periodic Payments to EE	\$1,070,260	\$1,473,192	\$0	\$2,543,452
Not Reported	\$185,629	\$325,768	\$842,911	\$1,354,308
Total	\$3,257,526	\$2,191,303	\$719,783	\$6,168,613

Total Value of ERIs Initiated by Year



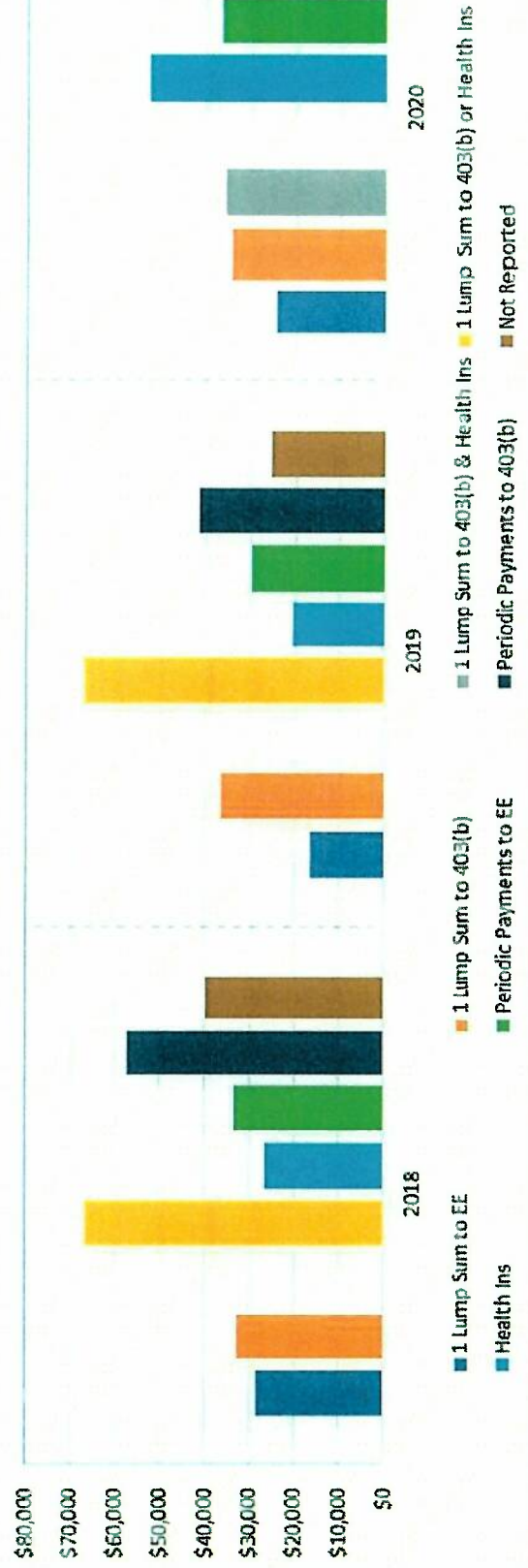
Average Dollar Value of Each Type of ERI Initiated by Year (rounded down to the nearest \$)

Average Value of ERIs Initiated by Year



ERI Data-Types	2018	2019	2020	Overall
1 Lump Sum to EE	\$28,249	\$16,467	\$24,433	\$23,124
1 Lump Sum to 403(b) & Health Ins	\$33,000	\$36,676	\$34,540	\$35,163
Health Ins	\$0	\$0	\$35,795	\$35,795
Periodic Payments to EE	\$66,891	\$66,963	\$0	\$66,932
Periodic Payments to 403(b)	\$26,518	\$20,360	\$52,682	\$34,725
Not Reported	\$33,527	\$29,629	\$36,549	\$33,764
Overall	\$57,149	\$41,345	\$51,413	\$49,746
Overall	\$39,688	\$25,402	\$32,181	\$31,383

Average Value of ERIs Initiated by Year

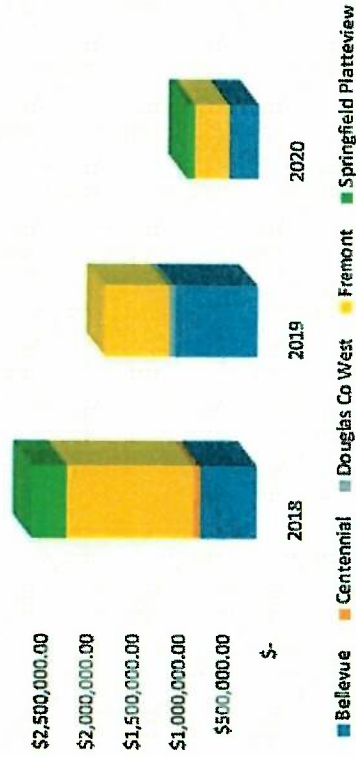


Top 10% of Individual ERI Values Categorized by Employer

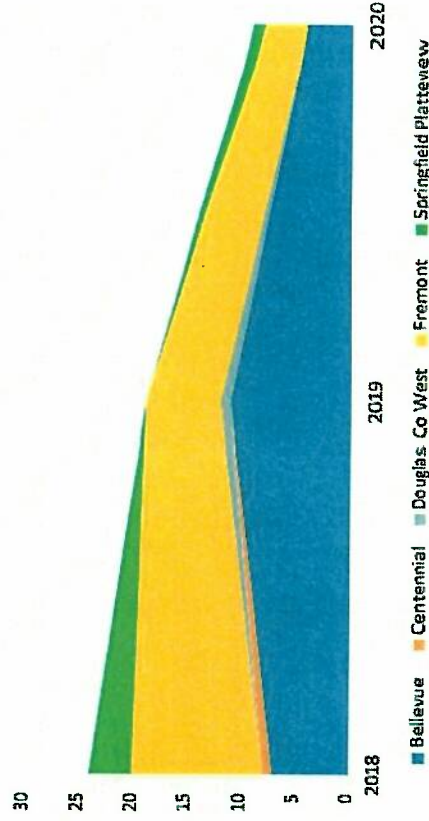
School	2018	2019	2020	Grand Total
Bellevue	\$ 615,199.12	\$ 896,553.00	\$ 320,270.36	\$ 1,832,022.48
Centennial	\$ 88,993.19			\$ 88,993.19
Douglas Co West		\$ 75,844.44		\$ 75,844.44
Fremont	\$ 1,364,648.95	\$ 686,627.50	\$ 375,375.75	\$ 2,426,652.20
Springfield Platteview	\$ 381,492.50		\$ 84,696.55	\$ 466,189.05
Grand Total	\$ 2,450,333.76	\$ 1,659,024.94	\$ 780,342.66	\$ 4,889,701.36

School	2018	2019	2020	Grand Total
Bellevue	7	11	4	22
Centennial	1			1
Douglas Co West		1		1
Fremont	12	7	4	23
Springfield Platteview	4		1	5
Grand Total	24	19	9	52

Total Value of Top 10% of ERI's Categorized by Employer



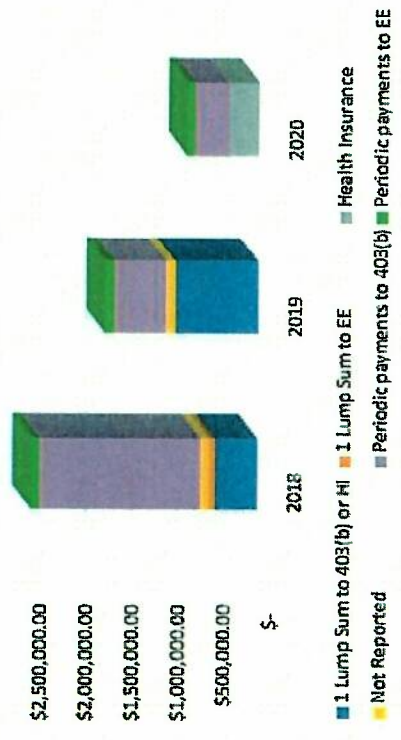
Count of Top 10% of ERI's Categorized by Employer



Top 10% of Individual ERI Values Categorized by ERI Type

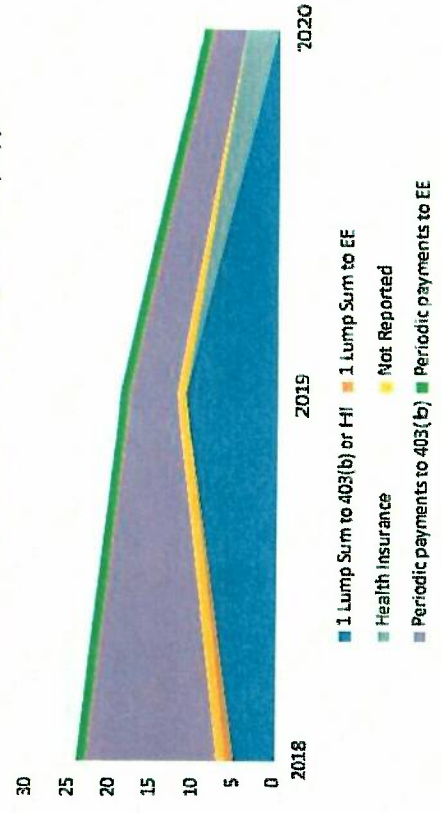
Type	2018	2019	2020	Grand Total
1 Lump Sum to 403(b) or HI	\$ 456,169.05	\$ 896,553.00		\$ 1,352,722.05
1 Lump Sum to EE	\$ 81,668.88			\$ 81,668.88
Health Insurance			\$ 320,270.36	\$ 320,270.36
Not Reported	\$ 77,361.19	\$ 95,835.35		\$ 173,196.54
Periodic payments to 403(b)	\$ 1,746,141.45	\$ 562,735.84	\$ 375,375.75	\$ 2,684,253.04
Periodic payments to EE	\$ 88,993.19	\$ 103,900.75	\$ 84,696.55	\$ 277,590.49
Grand Total	\$ 2,450,333.76	\$ 1,659,024.94	\$ 780,342.66	\$ 4,889,701.36

Total Value of Top 10% of ERI's Categorized by Type



Type	2018	2019	2020	Grand Total
1 Lump Sum to 403(b) or HI	5	11		16
1 Lump Sum to EE	1			1
Health Insurance			4	4
Not Reported	1	1		2
Periodic payments to 403(b)	16	6	4	26
Periodic payments to EE	1	1	1	3
Grand Total	24	19	9	52

Count of Top 10% of ERI's Categorized by Type



Cost Analysis

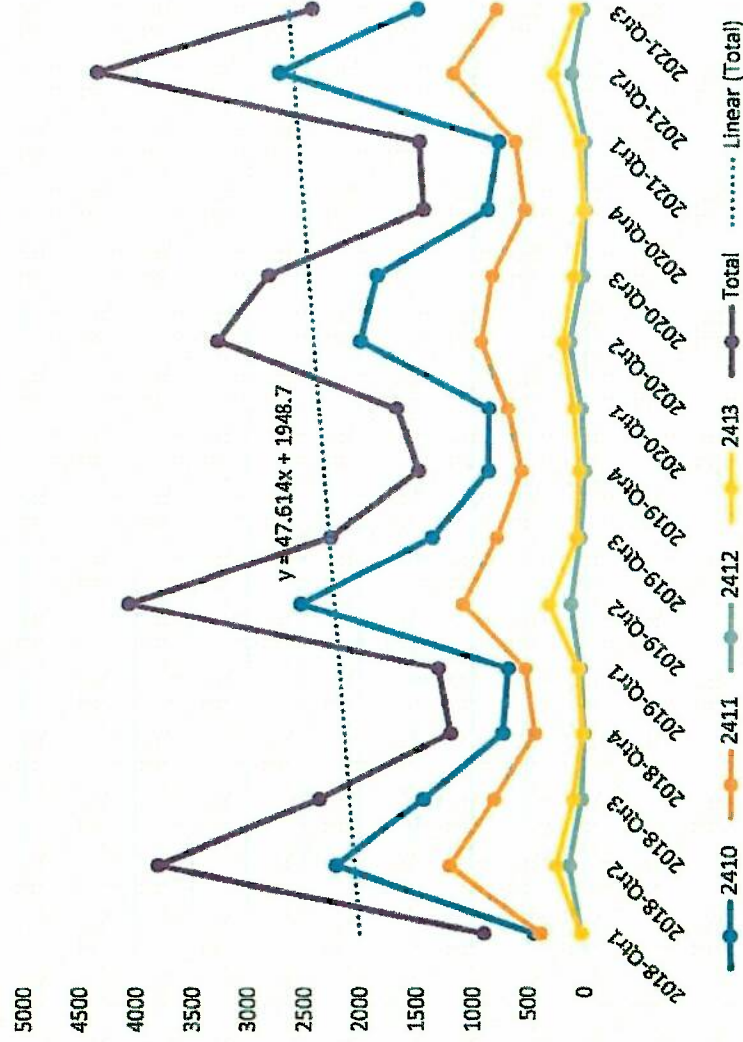
Methodology

NPERS queried its database to obtain a count of how many forms have been indexed and on which days they were imaged. Next, the cost of uploading these documents was calculated by factoring in the transaction cost, multiplier, and transaction count associated with NPERS ECM Billing. Finally, trend analysis was performed on the number of forms uploaded to obtain an estimate of how many documents will be uploaded over the next five years. Assuming ECM costs increase at the same rate at which they have in the past, a calculation of projected costs was developed.

Count of NPERS Receipt of ERI Forms (by quarter)

Count of Inducement Forms Received by Quarter

Quarter	2410	2411	2412	2413	Total Count
2018-Qtr1	442	391	27	34	894
2018-Qtr2	2214	1206	130	253	3803
2018-Qtr3	1434	804	25	104	2367
2018-Qtr4	723	445	2	24	1194
2019-Qtr1	677	530	37	62	1306
2019-Qtr2	2536	1093	122	321	4072
2019-Qtr3	1362	788	43	80	2273
2019-Qtr4	860	567	4	54	1485
2020-Qtr1	856	690	33	102	1681
2020-Qtr2	2005	934	141	200	3280
2020-Qtr3	1861	833	25	108	2827
2020-Qtr4	876	543	6	27	1452
2021-Qtr1	779	632	15	64	1490
2021-Qtr2	2742	1195	134	295	4366
2021-Qtr3	1513	805	36	100	2454
Total	20,880	11,456	780	1,828	34,944



Quarterly Direct Cost of Imaging and Indexing - Inducement and Termination Certs Following Transaction Based Billing Change for ECM

Quarter	Total Form Count	Cost Per Transaction	Transaction Count	Multiplier	Estimated Upload Cost
2018-Qtr1	894	0.0016	48	6.6	\$453.15
2018-Qtr2	3803	0.0016	48	6.6	\$1,927.66
2018-Qtr3	2367	0.0016	48	6.6	\$1,199.78
2018-Qtr4	1194	0.0016	48	6.6	\$605.21
2019-Qtr1	1306	0.0016	48	6.6	\$661.99
2019-Qtr2	4072	0.0016	48	6.6	\$2,064.02
2019-Qtr3	2273	0.0016	48	6.6	\$1,152.14
2019-Qtr4	1485	0.0016	48	6.6	\$752.72
2020-Qtr1	1681	0.0016	48	6.6	\$852.07
2020-Qtr2	3280	0.0016	48	6.6	\$1,662.57
2020-Qtr3	2827	0.0016	48	6.6	\$1,432.95
2020-Qtr4	1452	0.0016	48	6.6	\$735.99
2021-Qtr1	1490	0.0016	48	6.6	\$755.25
2021-Qtr2	4366	0.0016	48	6.6	\$2,213.04
2021-Qtr3	2454	0.0017	48	6.6	\$1,321.63
Total	34,944				\$17,190.17

5 Year Cost Projections at Current Growth Rate

Year	Total Count Projection $y = 47.614x + 1948.7$	Transaction Cost	Transaction Count	Multiplier	Estimated Total Cost
2022	10038	0.0017	48	6.6	\$5,406.31
2023	10229	0.0017/0.0018	48	6.6	\$5,670.91
2024	10419	0.0018	48	6.6	\$5,941.54
2025	10610	0.0018/0.0019	48	6.6	\$6,218.21
2026	10800	0.0019	48	6.6	\$6,500.90
Total	52096				\$29,737.87

Appendix C

Omaha Public Schools Spreadsheet on Early Retirement Incentives

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Early Leave Incentives 2018

Updated: November 30, 2021

ELI Start	ELI Term	Monthly Amt	# of Pmts	Total Incentive	Incentive Type
9/15/2018	6/15/2019	1,111.00	10	11,110.00	Monthly Payment to Employee
9/15/2018	10/15/2019	1,083.00	14	15,162.00	Monthly Payment to Employee
9/15/2018	10/15/2021	1,523.00	38	57,874.00	Monthly Payment to Employee
9/15/2018	11/15/2021	1,349.58	39	52,633.62	Monthly Payment to Employee
9/15/2018	1/15/2022	1,349.58	41	55,332.78	Monthly Payment to Employee
9/15/2018	2/15/2022	1,152.01	42	48,384.42	Monthly Payment to Employee
9/15/2018	9/15/2022	1,093.33	49	53,573.17	Monthly Payment to Employee
9/15/2018	12/15/2022	1,148.90	52	59,742.80	Monthly Payment to Employee
9/15/2018	12/15/2022	1,328.15	52	69,063.80	Monthly Payment to Employee
9/15/2018	12/15/2022	1,258.00	52	65,416.00	Monthly Payment to Employee
9/15/2018	12/15/2022	1,093.33	52	56,853.16	Monthly Payment to Employee
9/15/2018	1/15/2023	1,381.19	53	73,203.07	Monthly Payment to Employee
9/15/2018	3/15/2023	1,182.30	55	65,026.50	Monthly Payment to Employee
9/15/2018	4/15/2023	1,212.59	56	67,905.04	Monthly Payment to Employee
9/15/2018	7/15/2023	1,333.76	59	78,691.84	Monthly Payment to Employee
9/15/2018	9/15/2023	1,333.76	61	81,359.36	Monthly Payment to Employee
9/15/2018	1/15/2024	1,315.42	65	85,502.30	Monthly Payment to Employee
9/15/2018	2/15/2024	1,272.38	66	83,977.08	Monthly Payment to Employee
9/15/2018	3/15/2024	1,315.42	67	88,133.14	Monthly Payment to Employee
9/15/2018	3/15/2024	1,394.56	67	93,435.52	Monthly Payment to Employee
9/15/2018	8/15/2024	1,356.03	72	97,634.16	Monthly Payment to Employee
9/15/2018	8/15/2024	1,216.62	72	87,596.64	Monthly Payment to Employee
9/15/2018	9/15/2024	1,182.30	73	86,307.90	Monthly Payment to Employee
9/15/2018	9/15/2024	1,349.58	73	98,519.34	Monthly Payment to Employee
9/15/2018	11/15/2024	1,216.62	75	91,246.50	Monthly Payment to Employee
9/15/2018	1/15/2025	1,298.71	77	100,000.67	Monthly Payment to Employee
9/15/2018	5/15/2025	1,234.57	81	100,000.17	Monthly Payment to Employee
27 Approved Early Leave Incentives				<u>1,923,684.98</u>	

Note: Omaha Public Schools (OPS) Early Leave Incentive (ELI) program was discontinued after 2018.

Appendix B

Rules and Regulations of Douglas County
School District 001 Board of Education on the
Operation and Management of the Omaha
School Employees Retirement System

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Rules and Regulations
of the Douglas County
School District 0001 Board of
Education on the Operation
and Management of the
Omaha School Employees
Retirement System

Adopted January 20, 2022

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CHAPTER 1 – OMAHA SCHOOL EMPLOYEES' RETIREMENT SYSTEM MANAGEMENT

001 Scope of the Rule

This rule provides for the general management of the Omaha School Employees' Retirement System (OSERS) in its day-to-day operations.

002 General Authority

The general authority for the management of OSERS shall rest with the Board of Education of Douglas County School District 0001 (Board of Education) unless otherwise expressly delegated to the OSERS Transition Trustees (Transition Trustees) by Nebraska statute, by these Rules and Regulations, or by other action of the Board of Education.

003 Transition Trustees

003.01 Transition Trustees shall be appointed by the Board of Education.

003.02 Transition Trustees shall consist of the Superintendent or his or her designee to serve as a voting, ex officio member, two members of OSERS, one of whom shall be a teacher, two members of the Board of Education, and two members who are business persons qualified in financial affairs and who are not members of OSERS.

003.03 Except for the initial appointments made June 7, 2021 and effective July 1, 2021, the term of a Transition Trustee shall be one fiscal year except the terms of the two Transition Trustees who are not members of the Board of Education or OSERS shall each be three fiscal years or until September 1, 2024, whichever is later.

003.04 A Transition Trustee shall serve until a successor qualifies, except a Transition Trustee who is a member of the Board of Education shall be disqualified as a Transition Trustee immediately upon ceasing to be a member of the Board of Education.

003.05 No vacancy on the Transition Trustees shall impair the power of the remaining Transition Trustees to fulfill their statutory duties pending the filling of such vacancy.

003.06 The Board of Education shall fill any vacancy in the position of Transition Trustee.

003.07 Transition Trustees shall serve without compensation, but shall be reimbursed from the funds of OSERS for expenses that they may incur through service as a Transition Trustee as provided in NEB. REV. STAT. §§ 81-1174 to 81-1177.

004 Meetings of the Transition Trustees

004.01 The Transition Trustees shall meet annually and at such other times as may be requested by the Chairperson, Vice-Chairperson, or three Transition Trustees.

004.02 Except when it is necessary to hold an emergency meeting without reasonable advance public notice, notice of the time and place of Transition Trustees meetings shall be given by publication in the Daily Record and the OSERS website at least five days in advance of each meeting. The Administrator (as appointed in Section 007 below) shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting, including emergency meetings, and the subjects to be discussed at that meeting.

004.03 Every meeting of the Transition Trustees shall be open to the public and shall be conducted in accordance with the open meetings provisions set forth in NEB. REV. STAT. §§ 84-1408 through 84-1414, et seq.

004.04 A quorum of the Transition Trustees shall be required for the Transition Trustees to hold a meeting and to conduct business. Attendance at any meeting by four members of the Transition Trustees shall constitute a quorum.

004.05 All motions before the Transition Trustees shall require the affirmative vote of a majority of voting members present at the meeting to pass. All votes shall be taken by roll call.

005 Officers

005.01 The Transition Trustees shall elect a Chairperson, a Vice-Chairperson, and a Secretary at the Transition Trustees' July 2021 meeting following adoption of these Rules and Regulation and again annually in each meeting of the Transition Trustees held in July thereafter. Any duty imposed upon the Chairperson by these rules and regulations may be performed by the Vice-Chairperson in the absence of the Chairperson. In the absence of both the Chairperson and the Vice-Chairperson, the Secretary shall have the authority to call the meeting to order and conduct an election for a Chairperson Pro Tem.

005.02 Transition Trustees Chairperson and Secretary, in cooperation with the Administrator (as appointed in Section 007 below), shall be responsible for preparing the agenda for each meeting, publishing notice of the meeting, and preparing the minutes of the meeting. A preliminary agenda for all regular Transition Trustees meetings shall be distributed to the Transition Trustees at least seven days in advance of the meeting. The final agenda for each regular meeting shall be available for distribution and posted on the OSERS website with all relevant materials not less than 24 hours before the meeting.

006 Subcommittees

006.01 The following shall be standing subcommittees of the Transition Trustees:

006.01(a) Regulation and Policy Review Committee;

006.01(b) Audit Committee.

006.02 The Chairperson may organize additional ad hoc subcommittees as necessary.

006.03 Subcommittees shall be composed of not more than three Transition Trustees members. The Chairperson shall appoint Transition Trustees members to the various subcommittees and shall appoint a chairperson of each subcommittee. Subcommittees shall only serve as working subcommittees and may not take formal action on behalf of the Transition Trustees. All subcommittee proposals, findings and recommendations must come before the Transition Trustees for formal action to be binding upon the Transition Trustees.

007 Role of the Administrator

007.01 The Board of Education shall appoint an Administrator to administer OSERS under the direction of the Board of Education supervised by the Board of Education Secretary. The Board of Education shall conduct a performance evaluation of the Administrator at least annually.

007.02 Except as expressly provided by statute or regulation, the Board of Education delegates to the Administrator, under the supervision of the Board of Education Secretary, responsibility for all day to day operations and decisions. All actions and decisions of the Administrator shall be subject to review by the Board of Education Secretary and, if necessary, the Board of Education. The Administrator shall:

007.02(a) serve as chief administrative officer of OSERS, and is responsible for the overall planning, organization, development, supervision, directing, and coordination of the on-going operations of OSERS.

007.02(b) confer with the Board of Education when requested, the Secretary of the Board of Education, member groups, the Transition Trustees, the attorney, the auditors, and the consulting actuary for the Board of Education.

007.02(c) recommend rules and regulations to the Secretary of the Board of Education for possible presentation to the Board of Education, relating to the administration, interpretation, and construction of the retirement laws;

007.02(d) ensure compliance with Federal and State laws in the

management and operation of OSERS;

007.02(e) work with the Chairperson and Secretary of the Transition Trustees to establish the agenda and matters for consideration by the Transition Trustees, and oversee the preparation and maintenance of the minutes of the meetings of the Transition Trustees;

007.02(f) prepare recommendations and justifications to the Secretary of the Board of Education, for possible presentation to the Board of Education, for changes in procedures, budget requests, personnel, and office activities;

007.02(g) prepare and conduct of research required in support of the Board of Education directives;

007.02(h) collect, interpret, analyze, and summarize information used as the basis for recommendations to the Board of Education, through its Secretary, and the Transition Trustees;

007.02(i) direct, manage, and supervise the internal operations of OSERS staff to achieve the primary objectives set by the Board of Education and, as applicable, the Transition Trustees;

007.02(j) hire OSERS staff in accordance with the budget prescribed by the Board of Education and in accordance with OPS policies;

007.02(k) inform the Secretary of the Board of Education and the Transition Trustees of any development that may affect the operation of OSERS; and

007.02(l) work, under the supervision of the Secretary of the Board of Education, with the Nebraska Public Employees Retirement Board (NPERB) to facilitate the transition and transfer of management and general administration of OSERS, effective September 1, 2024, to the NPERB.

007.02(m) report to Transition Trustees monthly on such matters as requested by the Transition Trustees.

008 **General Administrative Review**

The Board of Education shall review and approve or disapprove all applications for disability retirement, annual budget requests, monthly expense disbursements and retirement benefit payments, administrative service contracts, actuarial service provider contracts, compliance audit contracts, and proposed rules and regulations. The Board of Education shall be provided with copies of all actuarial reports, and all financial and compliance audit reports.

009 **Travel Policy**

009.01 Except for routine travel to and from Transition Trustees meetings, Transition Trustees members, the Administrator and any OSERS employee shall submit travel requests to the Board of Education for consideration and approval in advance of such travel. The request shall state a business related reason for that travel and an estimate of the cost involved.

009.02 Travel by any Transition Trustee, the Administrator or any OSERS employee shall be approved upon an affirmative vote of a majority of voting members of the Board of Education. Any Transition Trustee who attends a conference paid for in whole or in part by OSERS shall present a written report to the Board of Education following such Transition Trustee's return.

009.03 All travel reimbursements shall be made in accordance with Board of Education Policy 8231.

ENABLING LEGISLATION: §79-980 and § 79-981

CHAPTER 2 – REMITTANCES

001 Scope of the Rule

This rule provides the method by which Douglas County School District 0001 (District) shall remit employee and employer contributions to the Nebraska State Treasurer.

002 Remittances for Employee and Employer Contributions.

002.01 Remittances for employee and employer contributions must be submitted to NPERS no later than ten (10) calendar days following the end of the month for which the remittances are due.

002.02 Remittances must be made to NPERS on a draft, money order, check, electronic transmittal, or other method approved by the NPERB.

002.03 The District shall submit a report listing individual salaries, contributions and hours worked to NPERS on forms approved by the NPERS. The report must be submitted to NPERS no later than ten (10) calendar days following the end of the month for which the remittances are due.

003 Final Pay Report

A final pay report must be submitted by the District only when requested by NPERS. This request will designate a due date for submission of the report.

004 Non-Contributing Member Report

A non-contributing member report must be submitted by the District within twenty (20) days of an interruption in retirement contributions or termination by the member.

ENABLING LEGISLATION: NEB. REV. STAT. § 79-981

CHAPTER 3 – MATERIALITY AMOUNTS FOR TRANSACTIONS

001 Scope of the Rule

The objective of this rule is to establish materiality amounts or tolerance levels for various accounting and processing procedures within OSERS. Materiality amounts addressed in this rule will not affect the reliability of the OSERS' financial statements due to the overall size of the plan. An auditor's consideration of materiality is a matter of professional judgment and is influenced by their perception of the needs of a reasonable person who will rely on the OSERS' financial statements. Materiality judgments are made in light of surrounding circumstances and necessarily involve both quantitative and qualitative considerations. An error or omission is considered material or significant if it changes a reader's interpretation of the financial statements.

002 Purpose

002.01 The following risks or inefficiencies could occur if a materiality policy is not established: (1) the cost plan members incur for staff time, data processing, materials, postage, etc. in processing transactions that may be more than the value of the transaction itself; (2) data processing cannot be timely or efficient if tolerance levels are not available for some editing and processing functions; and, (3) the District and OSERS could be subject to public criticism if such transactions amounts proposed to be reversed or refunded are immaterial.

002.02 The Board of Education has a fiduciary obligation to the OSERS members to spend members' funds wisely and efficiently. The need for materiality amounts within OSERS is apparent due to tolerance levels set within the District's computer system for various edits, parameters, etc.

003 Materiality Amounts for OSERS Transactions

003.01 Reporting. No receivable or payable will be created if remittances from the District for monthly contributions are within +/- \$10.00 per report of the required amount. OSERS will not be billed if the past due interest amount calculated on a monthly late remittance is less than \$10.00.

003.02 Purchase of Service. Payments from members or rollover payments for purchase of service or refunded service will be receipted as payment for contract completion if the payment is within +/- \$10 per report of the amount due.

003.03 Recalculation of a Final Benefit. The monthly retiree benefit payments that require recalculation will not be adjusted if the change in the monthly benefit amount is within +/- \$10.00 per report of the original calculated final benefit.

003.04 Make-up Contributions Agreements. In the case of a contribution error, if the calculation of the missed contribution for the employee and employer in total is \$30 or less, no make-up will be required.

003.05 Refund Buy-Back Purchase. If the variance between the calculated refund amount (the aggregate of employee contributions before the applicable rate of interest is added on) and the member's actual refund distribution is within 0.5%, then the calculated amount will be accepted as valid.

003.06 Ineligible contributions. If an employee makes an ineligible contribution, the ineligible employee contribution shall be distributed to the employee. If an employer makes an ineligible contribution, the ineligible contribution will not be distributed directly to the employer. Instead, the employer shall receive a credit toward future contributions.

ENABLING LEGISLATION: NEB. REV. STAT. § 79-981

CHAPTER 4 – REFUND AND TERMINATION BENEFIT PROCEDURES

001 Scope of the Rule

This rule governs the procedures for paying refunds and termination benefits.

002 Definitions

002.01 The definitions provided in Nebraska statutory law for the OSERS plan shall apply to the provisions herein. In addition to those definitions, the following definitions shall apply:

002.02 Refund or Termination Benefit means the benefit distributed, whether all or part of a member's retirement account in whatever form it may be lawfully made, when that distribution occurs at the former employee's request and the former employee forfeits any future retirement benefit.

002.03 Termination Date means the date on which the member experiences a bona fide separation from service of employment with the District as set by the Board of Education.

003 Refund or Termination Benefit

003.01 No refund or termination benefit shall be made until the District has provided to OSERS proof that the member's termination date has occurred and that the member's termination was bona fide.

003.02 A member may file an application for a refund or termination benefit not more than one hundred twenty (120) calendar days prior to the member's termination date.

003.03 Distribution Amount

A refund or termination benefit shall consist of the member's entire employee account balance.

003.04 Timing of Distribution

003.04(a) Distribution of a refund to a member shall not occur before the later of (1) four (4) calendar months after the member's termination date and (2) twenty (20) business days after OSERS receives a completed and valid application for a refund.

003.04(b) Distribution of a refund to the beneficiary of a deceased member shall not occur earlier than twenty (20) days after the member's death.

003.05 If the member returns to full-time employment with the District within 180 calendar days of the member's termination date, the member shall be required to repay the entire amount of the refund or termination benefit received plus interest. Payment shall be made within 90-days of returning to work or within two (2) years of returning to employment pursuant to an irrevocable 24 month payroll deduction agreement between the member and the District including interest. If the Administrator determines repayment within two (2) years will create a hardship for the member, then such repayment shall be permitted to be completed within five (5) years of returning to employment and shall be subject to an irrevocable payroll deduction agreement between the member and the District including interest up to 60 months.

004 Required Distributions

OSERS shall pay all benefits in accordance with a good faith interpretation of the requirements of section 401(a)(9) of the Internal Revenue Code and the regulations in effect under that section, as applicable to a governmental plan within the meaning of section 414(d) of the Internal Revenue Code and Title 303 4. Nebraska Administrative Code Chapter 24. OSERS is subject to the following provisions:

004.01 Distribution of a member's benefit must begin by the required beginning date, which is the later of the April 1 following the calendar year in which the member attains age 72 (if the member was born after June 30, 1949) or age 70 1/2 if the member was born before July 1, 1949 or April 1 of the year following the calendar year in which the member terminates. If a member fails to apply for retirement benefits by the later of either of those dates, the board shall make reasonable efforts to contact the member to distribute the required minimum distribution in compliance with section 401(a)(9) of the Internal Revenue Code.

004.02 The member's entire interest must be distributed over the member's life or the lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and a designated beneficiary.

004.03 OSERS pursuant to a qualified domestic relations order may establish separate benefits for a member and nonmember.

004.04 If a member dies after the required distribution of benefits has begun, the remaining portion of the member's interest must be distributed at least as rapidly as under the method of distribution before the member's death.

004.05 If a member dies before required distribution of the member's benefits has begun, the member's entire interest must be distributed within five (5) years of his death, unless it is to be distributed in accordance with the following rules:

004.05(a) If the member's surviving spouse is the sole designated beneficiary, the member's remaining interest in the plan is distributed or begins to be distributed by December 31 of the calendar year immediately following the calendar year in which the member died or, if later, by December 31 of the

calendar year in which the member would have attained age 72 (if the member was born after June 30, 1949) or age 70 1/2 if the member was born before July 1, 1949), and if the surviving spouse dies before the distribution to the surviving spouse begins, this section shall be applied as if the surviving spouse were the plan member; or

004.05(b) If the member's surviving spouse is not the sole designated beneficiary, the member's remaining interest is to be distributed over the life of the designated beneficiary or over a period not extending beyond the life expectancy of the designated beneficiary; and such distribution begins no later than December 31 of the calendar year immediately following the calendar year of the member's death.

004.06 The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of section 401(a)(9)(G) of the Internal Revenue Code, and the minimum distribution incidental benefit rule under Treasury Regulation Section 1.401(a)(9)-6, Q&A-2.

004.07 The death and disability benefits provided by the retirement system are limited by the incidental benefit rule set forth in section 401(a)(9)(G) of the Internal Revenue Code and Treasury Regulation Section 1.401-1(b)(1)(i) or any successor regulation thereto. As a result, the total death or disability benefits payable may not exceed 25% of the cost for all of the members' benefits received from the retirement system.

004.08 Notwithstanding the other provisions of this rule or the provisions of the Treasury Regulations, benefit options may continue so long as the option satisfies section 401(a)(9) of the Internal Revenue Code based on a reasonable and good faith interpretation of that section.

005 Distributions to U.S. Citizens Living Abroad

Members who are United States citizens living abroad or resident aliens living abroad are unable to reject income tax withholding from their refund or termination benefit distributions.

ENABLING LEGISLATION: NEB. REV. STAT. 79-992.

CHAPTER 5 – EVIDENCE TO DETERMINE AGE AND STATUS

001 **Scope of the Rule**

005.01 This rule governs the types of proof acceptable to determine age, death, marital relationships, and parental relationships for members and beneficiaries in OSERS.

005.02 If proof of age, proof of death, proof of marital status or proof of parental relationship is required in order to properly distribute benefits to a member or the beneficiary of a member, this rule shall govern the types of proof necessary to establish such factual determinations as determined by the Administrator.

002 **Proof of Age**

002.01 Preferred Evidence of Age:

- 002.01(a) A birth certificate recorded before age 5;
- 002.01(b) A religious record of birth or baptism recorded before age 5;
- 002.01(c) Notification of registration of birth made before age 5; or
- 002.01(d) A delayed birth certificate.

002.02 Other evidence of age: if an individual cannot obtain preferred evidence of age, he or she may submit other convincing evidence of age. The other evidence may be one or more of the following records:

- 002.02(a) Hospital birth record or certificate.
- 002.02(b) Physician's or midwife's birth records.
- 002.02(c) Bible or other family record.
- 002.02(d) Naturalization record.
- 002.02(e) Military record.
- 002.02(f) Immigration record.
- 002.02(g) Passport.
- 002.02(h) Selective service registration record.
- 002.02(i) Employer's record.
- 002.02(j) Marriage record.
- 002.02(k) A certified death certificate.
- 002.02(l) A beneficiary form.
- 002.02(m) A statement signed by the individual giving the reason why he or she cannot obtain other convincing evidence of age and the sworn statements of two other disinterested persons who have personal knowledge of the age of the individual.

003 Proof of Death

003.01 Preferred Evidence of Death

003.01(a) A copy of or extract from the public record of death, or verdict of the coroner's jury of the state or community where the death occurred; or a certificate or statement of death issued by a local registrar or public health official;

003.01(b) A signed statement of the funeral director, attending physician, or official of an institution where death occurred;

003.01(c) A copy of, or extract from, an official report or finding of death made by an agency or department of the United States or any state; or

003.01(d) If death occurred outside the United States, an official report of death by a United States Consul or other authorized employee of the United States Department of State, or a certified copy of the public record of death in a foreign country.

003.02 Other Evidence of Death If the preferred evidence of death cannot be obtained, the individual who must furnish evidence of death will be asked to explain the reason thereof and to submit other convincing evidence, such as sworn statements of at least two disinterested persons who have personal knowledge of the death. These persons must be able to swear to the date, time, place, and cause of death.

004 Proof of Valid Marriage

004.01 Preferred Evidence of Marriage

004.01(a) A copy of the public record of the marriage, certified by the custodian of the record;

004.01(b) A copy of a religious record of the marriage certified by the custodian of the record; or

004.01(c) The original certificate of marriage.

004.02 Other evidence of a marriage.

If preferred evidence of a marriage cannot be obtained, the applicant must state the reason therefore on forms prescribed by the Administrator, and submit:

004.02(a) A sworn statement of the clergy or official who performed the marriage ceremony; or

004.02(b) Other convincing evidence, such as the sworn statements or at least two persons who have direct knowledge of the marriage, preferably eyewitnesses to the marriage ceremony.

005 Proof that Marriage Has Ended

005.01 Preferred evidence

005.01(a) A certified copy of the decree of divorce or annulment; or

005.01(b) Evidence of the death (see subsection 003 of this section) of a party to the marriage.

005.02 Other evidence that a marriage has ended. If the preferred evidence that a marriage has ended cannot be obtained, the member or beneficiary must explain the reason therefore and submit other convincing evidence that the marriage has ended.

006 Proof of Parental Relationship

006.01 Evidence of a natural parent-child relationships

006.01(a) Preferred evidence. If a member or beneficiary is the natural parent or child of a member, preferred evidence of the relationship is a copy of the member's or child's public or religious birth record made before the child was five (5) years of age.

006.01(b) Other evidence. When the preferred evidence of a parent- child relationship cannot be obtained, the Administrator may ask the applicant for evidence of one of the following:

006.01(b)(i) Evidence of the member's marriage or of the marriage of the member's parents, if needed to remove any reasonable doubt of the relationship;

006.01(b)(ii) Evidence that the person claiming to be a child of the presumed parent would be able to inherit under intestate succession laws of the state where the death occurred (or in which the presumed parent had a permanent home);

006.01(b)(iii) A signed statement from the presumed parent that the person in question is his or her natural child

006.01(b)(iv) A copy of a court order showing that the person in question has been declared to be the child of the presumed parent, or a copy of a court order requiring the presumed parent in question to contribute to the support of the person in question because such person is his or her child,

006.01(b)(v) Or other such supporting evidence as may be required in order to establish the parent/child relationship.

006.02 Evidence of a stepparent/stepchild relationship: The Administrator may require evidence by means of the measures as specified in 005.01 or 005.02 of this rule to show a child's relationship (natural or adoptive) with the spouse of the presumed stepparent and that a valid marriage existed between the presumed stepparent and the spouse.

006.03 Evidence of a parent-child relationship by legal adoption:

006.03(a) Preferred evidence of legal adoption includes:

006.03(a)(i) A copy of the decree or order of adoption, certified by the custodian of the record;

006.03(a)(ii) photocopy of the decree or order of adoption; or

006.03(a)(iii) Evidence that the spouse of a decedent adopted the children of the decedent after the decedent's death, as specified in the above two subsections.

006.03(b) Other evidence of legal adoption: In the event that the record of adoption is sealed by court order or by law, OSERS will accept as proof of adoption an official notice received by the adopting parents at the time of adoption that the adoption has been completed or a birth certificate issued as a result of the adoption proceeding.

006.04 If the Administrator is not satisfied with proof provided under this Chapter 5, the Administrator may notify the Board of Education and request a Friend of the Court filing for a judicial determination.

ENABLING LEGISLATION: NEB. REV. STAT. § 79-981.

CHAPTER 6 – MISSING OR UNRESPONSIVE MEMBERS AND BENEFICIARIES

001 Scope of the Rule

006.05 This rule and regulation governs the procedures for locating missing members and beneficiaries, the timing of such search methods, and the distribution of unclaimed benefits to missing or unresponsive participants in OSERS.

006.06 Qualified plans under the Internal Revenue Code (IRC) § 401(a) have a duty to make reasonable efforts to locate missing members when a minimum distribution is required to be paid in IRC § 401(a)(9). In addition under its fiduciary duty outlined in Neb. Rev. Stat. § 79-982.01, the Transition Trustees have a duty to make reasonable efforts to locate missing participants and implement rules and regulations for administering benefits for missing or unresponsive members and beneficiaries.

002 Definitions

002.01 “Missing Members” are members who OSERS cannot contact because OSERS does not have updated information as to the member's current whereabouts, the member has moved and left no forwarding address, or the member has deceased and OSERS is not aware of the member's death.

002.02 “Member” means a member, a beneficiary, or an alternate payee participating in OSERS.

002.03 “Unresponsive members” means members who do not respond to OSERS's notices, communications, or other disclosures.

003 Methods for Locating Missing or Unresponsive Members

003.01 Prior to OSERS making a determination that a member is missing, the Administrator will have used routine methods of delivering notice to members, such as first-class mail or electronic notification.

003.02 If the methods identified in subsection 003.01 fail to obtain the information necessary for a distribution or the Administrator has reason to believe that a member has failed to inform OSERS of a change in address, then the member will be considered missing and the Administrator may undertake one or more of the following steps and procedures to locate a missing member:

- (a) certified mail;
- (b) checking related plan records;
- (c) checking with the designated plan beneficiary;
- (d) using a letter forwarding service;
- (e) Internet search tools;
- (f) commercial locator services;
- (g) credit reporting agencies; and,

- (h) other reasonable search methods as determined by the Administrator.

003.03 The Administrator shall make reasonable attempts to contact the member. A reasonable attempt shall include: (i) providing notice to the member at the last known address via certified mail; (ii) determining whether the employer's records or the records of another plan maintained by the employer has a more current address for the member; (iii) attempting to contact any named beneficiary of the member; and (iv) searching for the missing member via free electronic search tools, such as Internet search engines, public record databases, obituaries, and social media. If such search methods are unsuccessful, based on the facts and circumstances, the Administrator may use other search methods listed in subsection 003.02.

003.04 An unresponsive member will be considered missing by the Administrator if there is no knowledge on the part of the Administrator that the member is intentionally choosing to disregard the attempted notices or other disclosures sent by the Administrator to the participant's last known residential or email addresses. The Administrator may verify the intentions of the member by attempting to contact the member by phone call.

004 Cost of Search Methods

004.01 The costs of using the search services described in 003.02 may be administratively charged to the missing member's account. Such costs, if assessed, shall include reasonable charges associated with the search methods utilized.

004.02 The Administrator will consider the size of a missing member's account balance in relation to the costs of the search method utilized when deciding whether the use of such services are appropriate. If the cost of a search method utilized is (a) less than \$200 and (b) less than 10% of a missing participant's account balance, then such cost may be considered by the Administrator as a reasonable expense in locating the missing member.

004.03 Some search methods described in 003.02 involve a nominal expense and because there is a significant potential for effectiveness in locating the missing member, the Administrator will utilize such search methods, regardless of the size of the missing member's account balance, or reasonableness limits described in subsection 004.02.

005 Timing of Search Methods

005.01 Once a member has been determined to be missing after routine methods of delivering notice have been undertaken in subsection 003.01, the Administrator will within ninety (90) days after making such determination begin a formal search process, and implement the search methods in subsection 003.02.

005.02 The formal search process will consist of OSERS staff undertaking the search methods in subsection 003.02 based upon the likelihood of success for each

method utilized. The Administrator will determine the order and frequency in which each method is used. This determination will take into consideration the known information regarding the missing member, including but not limited to the following:

- (a) last known address or residence;
- (b) date of last known correspondence from the participant;
- (c) information about relatives and beneficiaries;
- (d) employment information;
- (e) court records; and,
- (f) any other information known to OSERS or transmitted by the District to OSERS.

005.03 At least once every twelve (12) months, the Administrator should undertake one or more of the methods listed in subsection 003.02 during a formal search process.

005.04 The formal search process will continue until property held by OSERS for the benefit of the member is presumed abandoned in accordance with subsection 007.01.

006 Uncashed Checks or Returned Electronic Fund Transfers

006.01 Upon the return of an uncashed check or returned electronic fund transfer (EFT), the Administrator shall perform due diligence in determining why the check or EFT was returned or uncashed. The Administrator will make a reasonable attempt to reconcile the issue causing the check or EFT to be returned or uncashed.

The Administrator may place a "hold" on the monthly payments of a member whose physical check or EFT is returned until the matter is resolved. When resolved, the payments will be reconciled and if applicable resume to the member without interest.

006.02 If it is determined by the Administrator that the attempted recipient of the check or EFT is missing, then the Administrator shall undertake the search methods described in section 003 in order to locate the participant and effectuate the payment.

007 Distributing Unclaimed Benefits

007.01 Pursuant to Neb. Rev. Stat. § 69-1307.03, all distributions held by OSERS, which has not been paid or distributed for more than 180 days after the earliest of the following: (a) the actual date of distribution or attempted distribution; (b) the date contracted for distribution in the plan; or (c) the date specified in the internal revenue law of the United States by which distribution must begin in order to avoid a tax penalty, is presumed abandoned unless the participant within the five (5) years preceding any such date has made additional contributions or transfers of funds to plan, was paid or received a distribution, communicated concerning the retirement account, or otherwise indicated an interest as evidenced by a memorandum or other record on file with OSERS.

007.02 Pursuant to Neb. Rev. Stat. § 69-1310, the District shall report to the State Treasurer property presumed abandoned as identified in subsection 007.01. All unclaimed benefit payments shall revert to, and again become part of the OSERS trust fund; provided that any such forfeited amounts shall be reinstated upon application therefor by the participant, a surviving spouse, or beneficiary entitled thereto.

007.03

ENABLING LEGISLATION: NEB. REV. STAT. § 79-981

CHAPTER 7 – MODIFICATION OF SCHOOL CREDITABLE SERVICE

001 Scope of the Rule

This rule establishes the rules and regulations for a member to make a request for a modification or correction of the creditable service reported on their statement of information.

002 Creditable Service Statement and Request for Modification

002.01 At least every two years, the Administrator shall send to each contributing member of the retirement system by first-class mail, a statement of creditable service, reported salary, and other such information as is determined by the Administrator to be necessary in calculating the member's retirement benefit.

002.02 If the member requests a modification or correction of his or her statement, the member shall make such request on forms created by the Administrator. The member may provide additional documentation to the Administrator supporting such modification or correction and provide clear and convincing evidence that the statement is in error.

003 Determination for Modification

003.01 The Administrator shall, within sixty (60) days after receipt of the request and documentation supporting the modification or correction, determine whether the member has proven by clear and convincing evidence that the statement shall be modified or corrected, and notify the member of his or her decision.

003.02 The Administrator shall consider the documentation sent by the member and the records maintained by the District and OSERS. If the Administrator determines that the member has provided clear and convincing evidence, the Administrator shall modify or correct the statement. If the Administrator determines that the member has not provided clear and convincing evidence, the Administrator shall deny the modification or correction.

004 Failure to Make Timely Request

004.01 If the member does not make a request in subsection 002.02 and provide documentation within ninety (90) days following the mailing of the letter described in subsection 002.01, the member shall be deemed to have waived his or her request for a modification or correction.

004.02 The Transition Trustees have an ongoing fiduciary duty to modify or correct a member's statement if the Transition Trustees discover an error in the information they have on record. A modification or correction shall be made within sixty (60) days after the error is brought to the attention of the Administrator, the Transition Trustees or the Board of Education.

ENABLING LEGISLATION: NEB. REV. STAT. §§ 79-981 and 79-782.01.

CHAPTER 8 – SERVICE CREDIT

001 Scope of the Rule

This rule shall govern how service credit determinations are made for members of OSERS who provide compensated services in any fiscal year.

002 School Employees Service Credit Determination

002.01 Membership service means service on or after September 1, 1951, as an employee of the District and a member of OSERS. Credit for more than one year of membership service shall not be allowed for service rendered in any fiscal year.

002.02 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 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 District during periods when no service is performed due to vacation or approved leave.

002.03 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 District during periods when no service is performed due to used accrued sick days, used accrued vacation days, federal and state holidays, personal days, bereavement days, and jury duty leave for which the member is paid full compensation by an the employer.

002.04 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.

ENABLING LEGISLATION: NEB. REV. STAT. §§ 79-978(23) and 79-981.

CHAPTER 9 – COMPENSATION FOR RETIREMENT CONTRIBUTIONS AND BENEFITS

001 Scope of the Rule

This rule will apply to the definition of employee compensation subject to retirement contribution for members of OSERS. In addition, this rule will apply to the definition of compensation in the calculation of benefits.

002 General Definitions

002.01 The definitions provided in Nebraska statutory law for the OSERS plan shall apply to the provisions herein as they relate to that plan. In addition to those definitions, the following definitions shall apply:

002.02 “Converted into cash payments means, with respect to benefits such as unused leave or employer-paid insurance premiums, an arrangement whereby a member has individually arranged with his or her employer to receive an equivalent amount of cash, in lieu of receipt of the actual benefit.

002.03 “Flat salary means a fixed dollar amount provided for in a member’s contract of employment that is paid by the employer to the member with respect to each pay period, which such member may voluntarily choose to receive in cash, apply to insurance premiums, or apply to a plan offered by employer the under the Internal Revenue Code to defer or exclude certain amounts from income, or allocate based on a combination of the foregoing.

002.04 “Internal Revenue Code” means the federal internal revenue code of 1986, amended and as further defined pursuant to Neb. Rev. Stat. § 49-801.01.

003 Compensation with respect to OSERS

003.01 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 49801.01, or any other section of the code which defers or excludes such amounts from income.

003.02 Compensation does not include (i) fraudulently obtained amounts as determined by the Board of Education, (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.

003.03 For purposes of determining a member's final average compensation in connection with calculation of such member's retirement benefit Compensation shall be adjusted as provided in Chapter 10.

004 Internal Revenue Code Limitations

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.

ENABLING LEGISLATION: NEB. REV. STAT. 79-9,100.

CHAPTER 10 – CAPPING OF RETIREMENT COMPENSATION

001 Scope of the Rule

This rule governs the procedures for applying compensation limits contained in OSERS and calculating the retirement annuity for members who are eligible to receive a retirement benefit.

002 Definitions

002.01 All terms used in this chapter shall have the meaning defined in the Class V School Employees Retirement Act.

002.02 “Adjusted Compensation” means an amount equal to the member’s compensation for a plan year during the capping period as modified, if at all, pursuant to the applicable statutory capping provisions of the Class V Retirement Act.

002.03 “Base Year” means the plan year immediately preceding the capping period.

002.04 “Capping Period” shall have the meaning assigned to such term in section 79-9,100 of the Class V School Employees Retirement Act.

003 Conventions for Calculation of Final Average Compensation or Final Average Monthly Compensation

003.01 DETERMINATION OF FINAL AVERAGE COMPENSATION.

003.01(a) The calculation of a member’s final average compensation shall commence by dividing the entirety of the member’s service into a succession of 12 month periods, with the last such period ending the month during which the member’s final compensation date occurs.

003.01(b) For example, and for illustrative purposes only, if a member’s final compensation date occurs during August of a given year, the member’s service shall be divided into a series of the 12-month periods, each of which shall begin with the month of September and end with the following month of August.

003.02 ADJUSTMENT OF COMPENSATION RECEIVED DURING THE CAPPING PERIOD.

Solely for purposes of calculating a member’s final average compensation, the compensation received by a member during the capping period shall be limited by excluding the portion, if any, of such member’s compensation for a plan year that exceeds the member’s compensation for the preceding plan year, as adjusted below, by more than eight percent. The capping period begins with the first year following the base year and ends with the most recent year. Such limitation of compensation during the capping period shall be calculated as follows

003.02(a) Compensation for the first year of the capping period shall be equal to the lesser of:

003.02(a)(i) the member's compensation for such year; or

003.02(a)(ii) an amount equal to the member's compensation for the base year multiplied by 108%.

003.02(a)(iii) This amount is referred to as the member's "adjusted compensation" for the first year of the capping period.

003.02(b) Compensation for the second year of the capping period shall be equal to the lesser of:

003.02(b)(i) the member's compensation for such year; or

003.02(b)(ii) an amount equal to 108% of the lesser of:

003.02(b)(ii)(A) the member's compensation for the first year of the capping period; or

003.02(b)(ii)(B) the member's "adjusted compensation" for the first year of the capping period.

003.02(b)(iii) This amount is referred to as the member's "adjusted compensation" for the second year of the capping period.

003.02(c) Compensation for the third year of the capping period shall be equal to the lesser of:

003.02(c)(i) the member's compensation for such year; or

003.02(c)(ii) an amount equal to 108% of the lesser of:

003.02(c)(ii)(A) the member's compensation for the second year of the capping period; or

003.02(c)(ii)(B) the member's "adjusted compensation" for the second year of the capping period.

003.02(c)(iii) This amount is referred to as the member's "adjusted compensation" for the third year of the capping period.

003.02(d) Compensation for the fourth year of the capping period shall be equal to the lesser of:

003.02(d)(i) the member's compensation for such year; or

003.02(d)(ii) an amount equal to 108% of the lesser of:

003.02(d)(ii)(A) the member's compensation for the third year of the capping period; or

003.02(d)(ii)(B) the member's "adjusted compensation" for the third year of the capping period.

003.02(d)(iii) This amount is referred to as the member's "adjusted compensation" for the fourth year of the capping period.

003.02(e) Compensation for the fifth year of the capping period shall be equal to the lesser of:

003.02(e)(i) the member's compensation for such year; or

003.02(e)(ii) an amount equal to 108% of the lesser of:

003.02(e)(ii)(A) the member's compensation for the fourth year of the capping period; or

003.02(e)(ii)(B) the member's "adjusted compensation" for the fourth year of the capping period.

003.02(e)(iii) This amount is referred to as the member's "adjusted compensation" for the fifth year of the capping period.

003.03 COMPUTATION OF FINAL AVERAGE COMPENSATION OR FINAL AVERAGE MONTHLY COMPENSATION.

After determining the twelve-month (12-month) periods and adjusting compensation for the capping period pursuant, final average compensation or final average monthly compensation shall be computed as follows:

003.03(a) For an individual who became a member before July 1, 2013, and who has thirty-six months of compensation or more, the Administrator shall compare all of the 12-month periods during the member's service to determine the three 12-month periods during which the member's compensation (including any adjustments) was the greatest. The total amount of such compensation for such three 12-month periods shall be divided by thirty-six. The result of such calculation shall be the member's final average compensation.

003.03(b) For an individual who became a member before July 1, 2013, and who has less than thirty-six months of compensation, the sum of the member's total compensation in all months of creditable service as a school employee shall be divided by the member's total number of months of creditable service. The result of such calculation shall be the member's final average compensation.

003.03(c) For an individual who became a member on or after July 1, 2013, and who has sixty months of compensation or more, the Administrator shall

compare all of the 12-month periods during the member's service to determine the five 12-month periods during which the member's compensation (including any adjustments) was the greatest. The total amount of such compensation for such five 12-month periods shall be divided by sixty. The result of such calculation shall be the member's final average compensation.

003.03(d) For an individual who became a member after July 1, 2013, and who has less than sixty months of compensation, the sum of the member's total compensation in all months of creditable service as a school employee shall be divided by the number of the member's total months of creditable service. The result of such calculation shall be the member's final average compensation.

004 Covered Compensation

004.01 no circumstances shall an individual who became a member before July 1, 2013, receive a retirement benefit based upon a final average compensation that includes compensation encompassing more than thirty-six (36) months of creditable service.

004.02 Under no circumstances shall an individual who became an OSERS member on or after July 1, 2013, receive a retirement benefit based upon a final average compensation that includes compensation encompassing more than sixty (60) months of creditable service.

ENABLING LEGISLATION: NEB. REV. STAT. §§ 79-9,100

CHAPTER 11 – PURCHASE OF SERVICE CREDIT

001 Scope of the Rule

The provisions of this regulation apply to members of OSERS.

002 General Provisions

002.01 The Administrator is responsible for administering the purchase of service provisions in the statutes governing OSERS.

002.02 For purposes of determining eligibility for purchase of service, a member shall mean a person working for the District and contributing to the retirement system.

002.03 The interest rate used to determine the one-time cost of purchasing service shall be the investment return assumption as prescribed in Neb. Rev. Stat. sec. 79-978. If payments are made on the installment method then an additional finance charge will be assessed as defined.

002.04 Actuarial cost shall mean the full cost of purchasing service allowed by law as determined by the actuary under contract with the retirement system. The full cost of purchasing service shall be calculated based on the increase in the actuarial accrued liability resulting from the purchase of service assuming the member is actively employed until age sixty-five (65). The actuarial assumptions used when determining the actuarial cost shall be those adopted by the Board of Education as recommended by the actuary.

002.05 A member wanting to make a purchase of service must give notice of his or her intent to purchase service including method of payment on forms prescribed by the Administrator.

002.06 Receiving Payments for Refunded Service.

A former member of OSERS who once again becomes a contributing member of OSERS as a result of reemployment on or after April 17, 2014, must complete repayment of a refund pursuant to Section 003 hereof prior to the earlier of such member's termination of employment or the fifth anniversary of such member's date of reemployment.

002.07 For purposes of this regulation, employment shall mean an employee's first date of compensated service. Reemployment shall mean being rehired and once again becoming a contributing member of OSERS after having previously terminated employment with the District.

002.08 In order to purchase service credit, the member must file a detailed application to purchase service on a form prescribed by the Administrator, before payments will be accepted. To allow sufficient processing time the application must

be received by the Administrator at least ninety (90) days before the member experiences a termination of employment. The Administrator may waive this requirement upon consultation and approval by the Secretary of the Board of Education under appropriate circumstances based on the volume of pending inquiries and applications, availability of resources, staffing levels and competing priorities.

002.09 In no case shall service credit be granted until all payments for the purchase of that service have been completed.

002.10 Code shall mean the Internal Revenue Code of 1986, as amended.

002.11 Code section 415 defined contribution limits shall apply to all after tax payments made for purchases of service except for repayments for refunded service in accordance with Code section 415(k) and Section 003..

003 Repayment of Refund

003.01 General Provisions.

003.01(a) Except as otherwise provided in this Section 003, all general provisions in Section 002 and methods of purchasing service as defined in Section 007 in this regulation will apply to the restoration of relinquished creditable service by repayment of a refund.

003.01(b) From and after April 17, 2014, the cost of repaying a refund with respect to a member of OSERS will be an amount equal to the member contributions for the years of relinquished creditable service being repurchased, plus interest in an amount equal to the actuarial assumed rate of return on such amount to the date of repayment. A member must be a contributing member after reemployment in order to repay a refund.

003.01(c) Refunded service must be purchased from the most current fiscal year to the oldest fiscal year and the member must purchase the exact amount of creditable service earned in each fiscal year. Fiscal years where creditable service was not earned will not be included in the repayment of a refund.

003.01(d) Before the repayment of a refund will be processed by OSERS, the member's service must be verified.

003.02 Initiating a Refund Inquiry.

003.02(a) From and after reemployment, a contributing member may initiate a request for the repayment of a refund by making a written inquiry to the Administrator (a "refund inquiry"). The Administrator will respond to refund inquiries in the order received, provided that priority may be given to refund inquiries from members who are within one year of retirement. The

Administrator's response times with respect to refund inquiries will depend on the volume of inquiries, availability of resources, staffing levels and competing priorities.

003.02(b) In response to a refund inquiry, the Administrator will calculate an estimated cost for the amount of relinquished creditable service the member proposes to restore by repayment of a refund (a "cost estimate"). The Administrator will deliver the cost estimate to the member via first class mail or other reliable means. In addition to the cost estimate, the Administrator's response to the refund inquiry will also include an application for purchase of refunded service, method of payment form, rollover form and/or such other documentation as may be necessary.

003.03 Filing and Processing of an Application Purchase of Refunded Service.

003.03(a)(i) If the member wishes to proceed with the repayment of a refund after receiving a cost estimate, the member must deliver a valid and complete application for purchase of refunded service to the Administrator prior to the applicable date set forth in Section 002.06 hereof. If the member responds to the cost estimate by delivering to the Administrator something other than a valid and complete application, the Administrator will inform the member in writing of the deficiency in the application.

003.03(a)(ii) For purposes of this Chapter 11, "valid and complete application" means the delivery by a member to the Administrator of a completed application for purchase of refunded service, completed method of payment form and (if required) a completed rollover form, including all signatures and any attachments necessary for the Administrator to complete the processing of such application.

003.03(b) The Administrator will process valid and complete applications for purchase of refunded service in the order received, provided that priority may be given to applications from members who are within one year of retirement. The Administrator's response times with respect to valid and complete applications for purchase of refunded service will vary, depending on the volume of applications, availability of agency resources, staffing levels and competing agency priorities. It is the member's responsibility to deliver a valid and completed application to the Administrator within a sufficient time to permit processing of the application and completion of payment by before expiration of timeframes set forth in Section 002.06 hereof.

003.03(c) After determining that the member has submitted a valid and complete application for purchase of refunded service, including all necessary signatures, the Administrator will calculate and send to the member, via first class mail, a written report of the actual cost for the relinquished creditable service to be restored by the member (an "actual cost report.").

003.04 Payment for Restoration of Relinquished Creditable Service

003.04(a) A member's payment for the restoration of relinquished creditable service may be made via a lump sum direct payment to OSERS, installment payments, irrevocable payroll deduction authorization, cash rollover or trustee-to-trustee transfer.

003.04(a)(i) If repayment of a refund is to be made via lump sum direct payment, rollover or trustee-to-trustee transfer, full payment must be received by the Administrator on or before the payment date set forth in the related actual cost report, which date shall be no later than the applicable date set forth in Section 002.06(a) hereof. Failure by the member to make full payment by the required date (plus a three business day grace period) will result in recalculation of the amount due or termination of the member's application for repayment of the refunded service. Subject to Section 002.06(a) hereof, the Administrator may, in consultation with and the approval of the Secretary of the Board of Education, permit a grace period beyond the payment date set forth in the actual cost report, under appropriate circumstances based on the volume of pending inquiries and applications, availability of agency resources, staffing levels and competing agency priorities.

003.04(a)(ii) If the repayment of a refund is to be made via consecutive installment payments or irrevocable payroll deduction authorization, such payments must be made in compliance with the schedule set forth in the actual cost report and all required payments must be received by OSERS on or before the earlier of the applicable date set forth in Section 002.06(a) hereof. Failure by the member to make each payment in compliance with the schedule set forth in the actual cost report will result in termination of the member's application for repayment of the refunded service. Subject to Section 002.06(a) hereof, the Administrator may, in consultation with and the approval of the Secretary of the Board of Education, permit a grace period with respect to such payment schedule under appropriate circumstances based on the volume of pending inquiries and applications, availability of agency resources, staffing levels and competing agency priorities.

004 Out-of-State Service

004.01 For purposes of this regulation, "out-of-state service" shall mean creditable service rendered in public schools in another state or any other school district not covered by the Class V School Employees Retirement Act or Neb. Rev. Stat. § 79-903 and subject to the limitations established by law a district as provided in the Class V School Employees Retirement Act. When a member who has purchased out-of-state service credit ceases employment and applies for monthly retirement benefits, the years of service credit attributable to in-state service with a covered employer shall be compared with the years of out-of-state service credit that were purchased. If the years of out-of-state service by the member exceed the years of the member's in-state service, the excess years of out-of-state service will be eliminated in determining the member's benefits under OSERS. The member shall receive a refund of the cost of the out-of-state service that had been purchased by the member but which is eliminated under this regulation.

001.06 Fractional years of out-of-state service for a member may be purchased.

004.02 When determining the code section 415 benefit limits at the time a member commences benefit payments, the high three consecutive years of compensation must be compensation from the covered employer. This means the out-of-state compensation cannot be used to determine the limit.

005 Leave of Absence

005.01 All general provisions in Section 002 and methods of purchasing service as defined in Section 006 of this regulation will apply to the purchase of service for a leave of absence, as defined by law and set forth in Neb. Rev. Stat. 79-995.

005.02 Verification of the leave, as approved by the school employer, must be received by the Administrator before the actual cost of purchase can be determined. If the cost of purchasing service credit is based upon interest, then the member's compensation immediately prior to the leave must be verified by the school employer.

005.03 The cost of purchasing service credit for a leave of absence is computed actuarially unless subsection 005.03(b) of this section applies.

005.03(a) A member who was hired or rehired prior to December 12, 1994, who has not changed employers since that date and who has elected to pay for the leave of absence within three (3) years of returning from the leave and indicating such on forms prescribed by the Administrator, shall pay the cost of purchasing service credit for a leave of absence, which includes member and District contributions that would have been made during the period of leave had the member been actively working in a public school, based on the compensation received immediately prior to the leave, plus the regular interest on contributions that would have accrued.

006 Payment Methods

006.01 Installment Method

006.01(a) Members electing to purchase optional service credit with the installment method may choose tax deferred payroll deduction or direct after-tax installment payments. Payments made are subject to IRS code section 415 annual limits. If the contributions qualify as a repayment of original mandatory contributions as described under section 002 of this regulation the section 415 limits do not apply.

006.01(b) Before direct after-tax installment payments can be accepted for purchase of service each year during the installment period, the member must substantiate his or her current compensation in such manner as may be required by the Administrator. If a member's direct after-tax installment payments exceed the applicable code section 415 limit, the excess shall be refunded to the employee and the service credit adjusted accordingly.

006.01(c) Direct after tax installment payments made to OSERS by the member must be by cashier's check, bank draft or money order. Personal checks will not be accepted except for amounts of \$100 or less in order to meet a purchase cost.

006.01(d) A member may elect to purchase service through payroll deduction pursuant to an irrevocable payroll deduction agreement with the member's employer that authorizes the employer to deduct the payment from the employee's compensation. One copy of the agreement must be on file with the employer and one copy with the Administrator before payments may begin. In the event a member elects to purchase service by payroll deduction, the covered employer shall be responsible for making timely remittances of the member's contributions for his or her service purchases.

006.01(e) Notwithstanding anything to the contrary in this Chapter 11, OSERS will accept payments made via payroll deduction after the member's last working day, through and including the member's final paycheck, if the members employment contract calls for part of the member's compensation to be paid in arrears after the member's last working day.

006.01(f) In the event a member's irrevocable purchase agreement becomes inoperative due to the employee's death, disability, or other termination of employment before full payment for the employee's service purchase has been completed, no further contributions for the purchase of creditable service shall be accepted and the employee's retirement benefit under the applicable retirement system shall be computed with service credit equal to the amount of service credit acquired in proportion to the amount of the installment payments paid by the member under the

irrevocable purchase agreement.

006.01(g) The finance interest rate used for installment payments shall be the actuarial interest rate assumption based on the expected long-term rate of return as recommended by the actuary and adopted by the Board of Education.

006.01(h) 006.01(h) A late fee may be charged when direct payments are not received by the payment deadline. The fee will be based on the finance interest rate as defined by this section.

006.02 Rollovers

006.02(a) Consistent with the Internal Revenue Code, OSERS will accept rollovers in payment for lump-sum purchases of service credit, provided the money is an eligible rollover distribution received from one of the following:

006.02(a)(i) A code section 401(a) or 401(k) tax qualified plan.

006.02(a)(ii) A code section 403(a) or (b) tax sheltered annuity account.

006.02(a)(iii) A code section 408(a) individual retirement account (IRA) or a code section 408(b) individual retirement annuity.

006.02(a)(iv) A code section 457(b) deferred compensation plan.

006.02(b) A rollover or transfers from a qualifying tax-deferred account will not be accepted by OSERS without the member certifying that the originating rollover/transfer account has maintained its proper tax qualification conditions under the applicable sections of the Internal Revenue Code.

006.02(c) A direct rollover payment for purchase of service may be made by check from the transferring institution to OSERS, or a check delivered to the member but negotiable only by OSERS will be accepted as a direct rollover.

006.02(d) The amount of the rollover payment accepted by OSERS will be based on the cost of the service purchased and determined only by the Administrator. Funds in excess of the actual purchase cost will not be accepted.

006.02(e) All other federal tax laws governing eligible rollover distributions shall apply.

006.03 Lump Sum Payments

006.03(a) A lump sum payment is a one-time, direct payment by the member for the purchase of eligible service credit.

006.03(b) In all cases, except for eligible rollover distributions, the payment shall be on an after-tax basis and subject to the code section 415 defined contribution annual limits. If the contributions qualify as a repayment of original after-tax, mandatory contributions as described under section 002 of this regulation the code section 415 limits do not apply.

006.03(c) Before a lump sum after-tax payment can be accepted as a purchase of service, the member must substantiate their current compensation in such a manner as may be required by OSERS. If a member's lump sum after-tax payment ultimately exceeds the applicable code section 415(c) limit, the excess shall be refunded to the employee and the service credit adjusted accordingly.

006.03(d) If a member elects to purchase service by lump sum after-tax payments and such purchase exceeds the annual code section 415 limits, the member may be permitted to make payments in immediate succeeding periods to complete the member's purchase of service. Members who are unable to make a lump sum payment due to the limitations of code section 415 may be required by OSERS to use the installment method to complete the payments.

006.03(e) Payments will only be accepted via cashier's check, bank draft or money order.

ENABLING LEGISLATION: NEB. REV. STAT. §§ 79-989, 79-990, 79-991, 79-992, 79-995

CHAPTER 12 – MILITARY SERVICE CREDIT AND REEMPLOYMENT

001 Scope of the Rule

This rule governs the procedures for granting service credit and contributions upon reemployment following military service, as contained in Neb. Rev. Stat. § 79-990. This rule implements the provisions of the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. §§ 4301 et seq.

002 Definitions

002.01 Qualified military service is uniformed service as a member of the United States Army, Navy, Air Force, Marines, Coast Guard, Reserves, Army and Air National Guard, the commissioned corps of the Public Health Service, service with the National Disaster Medical System, and any other persons designated by the President in time of war or national emergency. Qualified military service under USERRA requires an honorable discharge.

002.02 USERRA means the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. §§ 4301 et seq. 2.

003 Notification Requirement and Election of Military Service Credit for all Plans

003.01 Current service while employed by the District shall not be deemed to be interrupted by qualified military service, when properly authorized by the Board of Education.

003.02 At the time a military leave commences, the District and/or the member shall notify the Board of Education of the leave and the expected length of the leave on forms prescribed by the District. The District may require a member to indicate in advance and notify the Administrator if the member intends to request military service credit at the time of his or her return to work.

003.03 A request to obtain military service credit may be made by the member on forms prescribed by the Administrator within one (1) year following the date of reemployment with the District. An application form prescribed by the Administrator must be filed and verification of the beginning and ending dates of a member's military leave, as well as the applicable compensation amount and honorable discharge, must be received by the Administrator before payments by the member and/or employer will be received.

003.04 Verification of the member's honorable discharge and beginning and ending dates of the member's qualified military service will occur when the member provides the Administrator with a copy of his or her DD Form 214 or other documentation showing the dates of entry into and discharge from active duty, and a copy of the member's certificate of honorable discharge.

004 Military Service Credit for the Class V School Employees Retirement Act

004.01 Military service on or after December 12, 1994. Pursuant to 38 U.S.C. §§ 4301 et seq. any District employee who is reemployed by a covered school employer within ninety (90) days after honorable discharge or honorable separation from active duty shall be treated as not having incurred a break in service by reason of his or her period of qualified military service. This ninety (90) day period shall be extended if the school employee returns to employment at the beginning of the school year following the school employee's honorable discharge or honorable separation from active duty.

004.02 qualified military service shall be credited for purposes of determining the non-forfeitability of the member's accrued benefits and the accrual of benefits under the plan.

004.03 The District shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service.

004.04 Once an election to purchase military service is made in subsection 003.03, the Agency will request salary verification from the pre-military service employer. The salary verification will verify what the member would have earned had the member worked for the employer during the period of military service. Upon receipt of the salary verification by the Administrator, the pre-military school employer will be invoiced for the amount required to fund the obligation benefit of the plan equal to the employer retirement contributions on the salary attributable during the period(s) of military service plus interest equal to the actuarial assumed rate of return. The employee shall be invoiced for the amount required to fund the obligations benefit of the plan equal to the employee retirement contributions. Payment shall be made by the District to OSERS within thirty (30) days of the invoice's receipt.

004.05 Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in chapter 43 of title 38, United States Code), to the extent required by section 401(a)(37) of the Internal Revenue Code, survivors of a member in OSERS, are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed. In any event, a deceased member's period of qualified military service must be counted for vesting purposes.

ENABLING LEGISLATION: NEB. REV. STAT. §79-990, 79-995

CHAPTER 13 – ADMINISTRATION OF INTERNAL REVENUE SERVICE CODE SECTION 415 AND MAXIMUM COMPENSATION LIMITS

001 **Scope of the Rule**

This rule governs the procedures for specifying Internal Revenue Service Code Section 415 and maximum compensation limits to OSERS.

002 **Definitions.**

002.01 “Code” means the Internal Revenue Code, as amended.

002.02 “Defined benefit dollar limitation” has the meaning defined in 003.01 below, as may be adjusted pursuant to section 003.02 below.

002.03 “Defined Benefit Plan” means OSERS.

003 **Defined Benefit Plan 415 Limitations:**

003.01 Maximum permissible benefit: the annual benefit payable under a defined benefit plan in any limitation year shall not exceed the defined benefit dollar limitation applicable at the annuity starting date. The “defined benefit dollar limitation” is \$195,000, as adjusted, effective January 1st of each year, under section 415(d) of the Code in such manner as the United States Secretary of the Treasury shall prescribe, and payable in the form of a straight life annuity without regard to the benefit attributable to the after-tax employee contributions (except pursuant to section 415(n) of the Code) and to rollover contributions, and subject to the applicable adjustments in 003.02. The defined benefit dollar limitation as adjusted under section 415(d) of the Code will apply to limitation years ending with or within the calendar year for which the adjustment applies. If the benefit under the defined benefit plan is other than a straight life or qualified joint and survivor annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity as provided in 003.01(a) or 003.02(b) below before applying the limitations of this 004.

003.01(a) For a benefit paid in a form to which section 417(e) of the Code does not apply (monthly benefit), the actuarially equivalent straight life annuity benefit is the greater of:

- (1) the annual amount of the straight life annuity, if any, payable under the defined benefit plan commencing at the same annuity starting date as the form of benefit that is payable to the member computed using the interest rate assumption and mortality table specified in the following sections as applicable to the defined benefit plan: §79-978; or

(2) (the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit that is payable to the member, computed using a five percent (5%) interest assumption (or the applicable statutory interest assumption) and the applicable mortality table described in Treasury Regulation section 1.417(e)-1(d)(2) that is effective for that annuity starting date.

003.01(b) For a benefit paid in a form to which section 417(e)(3) of the Code applies (lump sum), the actuarially equivalent straight life annuity benefit is the greater of:

(1) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit that is payable to the member, computed using the interest rate assumption and mortality table specified in the following sections as applicable to the defined benefit plan: §79-978;

(2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit that is payable to the member, computed using a 5.5 percent (5.5%) interest rate assumption (or the applicable statutory interest assumption) and the applicable mortality table described in Treasury Regulation section 1.417(e)-1(d)(2) that is effective for that annuity starting date; or

(3) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit that is payable to the member computed using the applicable interest rate for the distribution under Treasury Regulation section 1.417(e)-1(d)(3) (using the rate in effect in effect for the first day of the plan year with a one-year stabilization period) and the applicable mortality table that is effective for that annuity starting date under Treasury Regulation section 1.417(e)-1(d)(2), divided by 1.05.

003.02 Adjustments to defined benefit dollar limitation: The "defined benefit dollar limitation" to be used in determining the "maximum permissible benefit" under the defined benefit plans shall be adjusted where required, as provided in 003.02(a) and, if applicable, in 003.02(b) or 003.02(c) below).

003.02(a) Adjustments for less than ten (10) years of participation. If the member has fewer than ten (10) years of participation in a defined benefit plan, the defined benefit dollar

limitation shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof, but not less than one) of participation in the plan and (ii) the denominator of which is ten (10). The foregoing reduction required by this 004.02(a) shall not be applicable to preretirement disability benefits or pre-retirement death benefits provided by the defined benefit plan.

003.02(b) Adjustments for benefits commencing prior to age sixty-two (62). If the benefit of a member begins prior to age 62, the defined benefit dollar limitation applicable to the member at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the member at age 62 (adjusted under 003.02(a) above, if required). The defined benefit dollar limitation applicable at an age prior to age 62 is determined as the lesser of (i) the actuarial equivalent (at such age) of the defined benefit dollar limitation (as adjusted under 003.02(a), if required) computed using the interest rate and mortality table (or other tabular factor) specified in the following sections of as applicable to the defined benefit plans: §79-978, and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation (as adjusted under 003.02(a), if required) computed using a five percent (5%) interest rate and the applicable mortality table as defined in Treasury Regulation section 1.417(e)-1(d)(2) that is effective for the annuity starting date. Any decrease in the defined benefit dollar limitation determined in accordance with 003.02(b) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the member. If any benefits are forfeited upon death, the full mortality decrement is taken into account.

003.02(c) Adjustments for benefits commencing after age sixty-five (65). If the benefit of a member begins after the member attains age 65, the defined benefit dollar limitation applicable to the member at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the member at age 65 (adjusted under 003.02(a) above, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age 65 is determined as (i) the lesser of the actuarial equivalent (at such age) of the defined benefit dollar limitation (as adjusted under 003.02(a), if required) computed using the interest rate and mortality table (or other tabular factor) specified in the following sections as applicable to the defined benefit plans: § 79-978, and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent (5%) interest rate assumption and the applicable mortality table as defined in Treasury Regulation section 1.417(e)-1(d)(2) that is effective for the annuity starting date. For these purposes, mortality between age 65 and the

age at which benefits commence shall be ignored.

003.03 **Benefit Increases:** Benefit increases resulting from the increase in the limitations of section 415(b) of the Code shall be provided to all current and former members (with benefits limited by section 415(b)) who have an accrued benefit under the defined benefit plans immediately prior to the effective date of this section (other than an accrued benefit resulting from a benefit increase solely as a result of the increases in limitations under section 415(b)).

003.04 **Minimum benefit:** Notwithstanding anything in this section to the contrary, the benefit otherwise accrued or payable to a member by a defined benefit plan will be deemed to not exceed the "maximum permissible benefit" if:

003.04(a) the benefit payable for a limitation year under any form of benefit with respect to the member under all defined benefit plans does not exceed \$10,000 multiplied by the a fraction (i) the numerator of which is the number of years (or part thereof, but not less than one) of service with the employer and (ii) the denominator of which is ten (10); and

003.04(b) the employer has not at any time maintained a defined contribution plan in which the member participated (not considering mandatory employee contributions under a defined benefit plan, individual medical accounts under section 401(h) of the Code or postretirement medical benefits under section 419A(d)(1) of the Code as a separate defined contribution plan).

003.05 **Benefits For Which No Adjustment of the 415(b) Limit is Required:** For purposes of this section, the following benefits shall not be taken into account in adjusting these limits: (1) any ancillary benefit which is not directly related to retirement income benefits; (2) that portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity; (3) any other benefit not required under section 415(b)(2) of the Internal Revenue Code and Treasury Regulations thereunder to be taken into account for purposes of the limitation of section 415(b)(1) of the Internal Revenue Code.

003.06 **Participation in Other Qualified Plans: Aggregation of Limits:**

003.06(a) The 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in section 414(j) of the Internal Revenue Code maintained by the member's employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the member

has been a member were payable from one (1) plan.

003.06(b) The 415(c) limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in section 414(i) of the Internal Revenue Code maintained by the member's employer in this plan shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable from one (1) plan.

003.07 Section 415(c) limitations on contributions and other additions: After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of \$40,000 (as adjusted pursuant to section 415(d) of the Internal Revenue Code) or 100% of the member's compensation.

003.07(a) Annual additions are defined to mean the sum (for any year) of employer and member contributions to a defined contribution plan, post-tax member contributions to a defined benefit plan (except for purposes of service purchases, if tested under the modified limit of section 415(b) of the Internal Revenue Code), and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.

003.07(b) For purposes of applying section 415(c) of the Internal Revenue Code and for no other purpose, the definition of compensation where applicable shall be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulation section 1.415(c)-2, or successor regulation; provided, however, that member contributions picked up under section 414(h) of the Internal Revenue Code shall not be treated as compensation.

003.07(c) Compensation shall be defined as wages within the meaning of section 3401(a) of the Internal Revenue Code and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under sections 6041(d), 6051(a)(3) and 6052 of the Internal Revenue Code and shall be determined without regard to any rules under section 3401(a) of the Internal Revenue Code that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in section 3401(a)(2) of the Internal Revenue Code).

003.07(c)(1) However, for limitation years beginning after December 31, 1997, compensation shall also include amounts that would otherwise be included in compensation

but for an election under section 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Internal Revenue Code. For limitation years beginning after December 31, 2000, compensation shall also include any elective amounts that are not includible in the gross income of the member by reason of section 132(f)(4) of the Internal Revenue Code.

003.07(c)(2) For limitation years beginning on and after January 1, 2009, compensation for the limitation year shall also include compensation paid by the later of 2½ months after a member's severance from employment or the end of the limitation year that includes the date of the member's severance from employment if:

003.07(c)(2)(i) the payment is regular compensation for services during the member's regular working hours, or compensation for services outside the member's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer; or

003.07(c)(2)(ii) the payment is for unused accrued bona fide sick, vacation or other leave that the member would have been able to use if employment had continued; or

003.07(c)(2)(iii) the payment is pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the member at the same time if the member had continued employment with the employer and only to the extent that the payment is includible in the member's gross income.

003.07(d) Any payments not described in paragraph (c)(2) above are not considered compensation if paid after severance from employment, even if they are paid within 2½ months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service (within the meaning of section 414(u)(1) of the Internal Revenue Code) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service or deemed compensation to the individual if permanently and totally disabled (as defined in section 22(e)(3) of the Internal Revenue Code).

003.07(e) An employee who is in qualified military service (within

the meaning of section 414(u)(1) of the Internal Revenue Code) shall be treated as receiving compensation from the employer during such period of qualified military service equal to (i) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service, or (ii) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve (12) month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

003.07(f) Back pay, within the meaning of Treasury Regulation section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

003.07(g) If the annual additions for any member for a plan year exceed the limitation under section 415(c) of the Internal Revenue Code, the excess annual addition shall be corrected as permitted under the Employee Plans Compliance Resolution System (or similar IRS correction program).

003.07(h) A member's compensation for purposes of this subsection 330.07 shall not exceed the annual limit under section 401(a)(17) of the Internal Revenue Code and Chapter 9 of these Rules and Regulations.

ENABLING LEGISLATION: NEB. REV. STAT. § 79-9,102.

CHAPTER 14 – BENEFIT AND CONTRIBUTION ADJUSTMENTS

001 Scope of the Rule

This rule and regulation sets forth procedures by which the Board of Education shall adjust member benefits and contributions as necessary to comply with Nebraska state and federal laws governing public employee retirement plans.

002 Definitions

002.01 “Benefit” means the post-retirement income to be received by a member of OSERS.

002.02 “Employee Contribution” means the dollar amount required to be picked up from an active member’s compensation for deposit into OSERS to fund member benefits.

002.03 “District Contribution” means the dollar amount required to be deposited into OSERS by the District to fund member benefits.

002.04 “Excess Contribution” means an employee contribution or District contribution, or both, that is (a) greater than the statutorily mandated reduction from compensation, (b) greater than the statutorily mandated matching contribution required of an employer, (c) submitted on behalf of an employee that is ineligible to participate in the retirement system, or (d) improperly calculated on wages or salary representing compensation for unused sick leave or unused vacation leave converted to cash payments, insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance 2 settlements, or as otherwise defined by state law.

002.05 “Insufficient Contribution” means an employee contribution or District contribution, or both, which is (a) less than the statutorily mandated reduction from compensation, (b) less than the statutorily mandated matching contribution required of a the District, (c) not timely remitted, (d) not remitted due to administrative errors on the part of the District, (e) not remitted due to the failure of the District to enroll the employee in the retirement system when such employee was required to be enrolled, or (f) due to a retroactive salary payment paid pursuant to court order, arbitration, or litigation and grievance settlements.

002.06 “Member” means an individual who has an account in OSERS.

002.06(a)

“Active Member” means an individual who is currently employed by the District and making employee contributions into OSERS.

002.06(b) “Inactive Member” means an individual who has made

employee contributions to OSERS as an Active Member and has subsequently separated from service with the District.

003 Excess Contributions

003.01 If the Administrator determines that OSERS has received an Excess Contribution from the employee, then, in accordance with Chapter 3, subsection 003.06 of these Rules and Regulations, the Administrator shall credit the Excess Contribution to the District, and the District shall return the Excess Contribution to the employee. Adjustments due to Excess Contributions by employees shall be made as soon as administratively practicable.

003.02 If the Administrator determines that OSERS has received an Excess Contribution from the District, then the Administrator shall provide a credit of the Excess Contribution against future District Contributions. Adjustments due to excess District Contributions shall be made as soon as practicable from the date the Excess Contribution was received by OSERS. Notwithstanding the foregoing, OSERS will only provide a credit to the extent allowed under the Internal Revenue Code and any related guidance thereunder, including, but not limited to, a mistake of fact as permitted under Revenue Ruling 91-4 or other applicable Internal Revenue Service guidance.

004 Insufficient Contributions

004.01 Active Members

004.01(a) Except as provided in subsection 004.03, if the Administrator determines that OSERS has received Insufficient Contributions from the District of an active member, the Administrator shall require the District to remit the additional required Employee Contributions and District Contributions, and this amount may include interest.

004.01(b) Additional Employee Contributions required under subsection 004.01(a) shall be picked up by the District in accordance with Internal Revenue Code § 414(h) and the contributions so picked up shall be treated as District Contributions in determining federal tax treatment under the Internal Revenue Code. The District shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. A

004.01(c) Except as provided in subsection 004.03, any additional District Contribution shall be made in conjunction with the Employee Contribution. If a member terminates employment prior to payment of the required employee contribution, then the District shall complete payment of the employee and District share of the required contribution.

004.02 Inactive Members. Except as provided in subsection 004.03, if the Administrator determines OSERS has received Insufficient Contributions from the

District for an Inactive Member, then the Administrator shall require the District to remit the additional required contributions, including interest, as necessary to make up the Insufficient Contributions.

004.03 All Insufficient Contribution amounts required under this section shall be paid by the District unless the Administrator determines it is either unreasonable or unfeasible for the District to pay the insufficient employee or District contributions.

004.04 All employee and District contributions amounts required to be paid under this section shall be paid by the District within sixty (60) days of the Administrator providing notice to the District that there is an Insufficient Employee or District Contribution remittance due.

005 Overpayment of Benefits

005.01 If the Administrator determines that any Member or beneficiary has received a retirement benefit that is in excess of the retirement benefit such Member or beneficiary is entitled to receive under the governing statutory provisions, the Administrator may offset future benefits as necessary to recoup the overpayment, with interest so long as recoupment will occur within the Member's remaining life expectancy. In lieu of future offsets, the Member or beneficiary shall repay the overpayment to OSERS, and such repayment may include interest charges. This section is subject to the materiality amounts listed in Chapter 3 of these Rules and Regulations. The correction of the overpayment of benefit shall be consistent with the Internal Revenue Service's Employee Plans Compliance Resolution System, Revenue Procedure 2021-30, as amended.

005.02 Actuarial reductions in future benefit payments pursuant to this regulation shall not exceed twenty-five (25%) percent of the gross monthly retirement benefit received by the member or beneficiary unless the member or beneficiary agrees, in writing, to a greater offset.

005.03 Failure by a Member or beneficiary to repay or offset an amount of overpayment and interest charges described in subsection 005.01, will result in the Administrator referring the matter to the Board of Education for collection or other enforcement action deemed appropriate by the Board of Education. If it is impractical for the Administrator to initiate an offset because there are no additional future benefit payments scheduled, then the Administrator will make at least three attempts during a 120 day period to contact the Member or beneficiary in order to effectuate a repayment, prior to referring the matter to the Attorney General.

006 Underpayment of Benefits

If the Administrator determines that any Member or beneficiary has received a retirement benefit that is less than the retirement benefit such Member or beneficiary is entitled to receive under the governing statutory provisions, the Administrator shall within a reasonable period of time not to exceed ninety (90) days make payment equal to the deficit amount plus interest. This section is subject to the materiality amounts listed in Chapter 3 of these Rules and Regulations.

007 Interest

007.01 Interest shall be assessed and collected by the Administrator from the District if it submits an insufficient contribution. Interest shall be calculated from the date the Employee or District contribution was due to be remitted to OSERS until the date such contribution is remitted.

007.02 The rate of interest to be assessed on Insufficient Contributions, or repayment of excess benefits, shall be the rate of regular interest as defined in the Class V Retirement Act.

008 Notice of Adjustment

008.01 If the Administrator makes any adjustment pursuant to these regulations, then the Administrator shall mail notice of the proposed adjustment to the member, the District, or any other person directly affected by such adjustment within thirty (30) days of the adjustment.

008.02 The notice required by this regulation shall be mailed to the last known address of the member, District, or other affected person as reflected by the records of OSERS.

ENABLING LEGISLATION: NEB. REV. STAT. § 79-9,103

CHAPTER 15 – EMPLOYER AUDIT REQUIREMENTS

001 Scope of Rule

This rule and regulation requires that compliance with certain statutory retirement plan provisions be reviewed during any regularly scheduled audit of the District, and that a copy of any audit report reflecting a finding of non-compliance be filed with the NPERB. This regulation also requires the District to file annually a list of all employees employed the previous calendar year.

002 Definitions

002.01 “Employee Contribution” means the dollar amount statutorily required to be deducted from an employee’s compensation for deposit into OSERS.

002.02 “District Contribution” means the dollar amount required to be deposited into OSERS by the District to fund member benefits.

002.03 “Excess Contribution” means an employee contribution or District contribution, or both, that is (a) greater than the statutorily mandated deduction from compensation, (b) greater than the statutorily mandated matching contribution required of an employer, (c) submitted on behalf of an employee that is ineligible to participate in the retirement system, or (d) improperly calculated on wages or salary representing compensation for unused sick leave or unused vacation leave converted to cash payments, insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements.

002.04 “Insufficient Contribution” means an employee contribution or District contribution, or both, which is (a) less than the statutorily mandated deduction from compensation, (b) less than the statutorily mandated matching contribution required of an employer, (c) not timely remitted, (d) not remitted due to administrative errors on the part of the employer, (e) not remitted due to the failure of the employer to enroll the employee in the retirement system when such employee was required to be enrolled, or (f) due because of a retroactive salary payment paid pursuant to court order, arbitration, or litigation and grievance settlements.

003 Audit Requirements

003.01 During the course of any regularly scheduled, statutorily required audit of the District, the auditor shall check for compliance with the statutory retirement system membership and contribution provisions applicable to the District. The District’s internal control structure for determining retirement system membership and contribution compliance shall be considered significant internal control systems to be audited and covered by the report on internal controls.

003.02 The audit shall include an examination of the District's personnel records on current employees who are not enrolled as members in the retirement system to verify that such employees do not meet the requirements for mandatory membership. The audit shall also include an examination of the District's personnel records on current employees who are members in the retirement system to verify that such employees meet all applicable requirements for membership.

003.03 The audit shall include an examination of the District's payroll records to determine whether the employer has made any insufficient contributions or any excess contributions.

004 Audit Report

004.01 All compliance deviations relative to the applicable statutory provisions for OSERS shall be included by the auditor in the audit report or a written letter to management which shall be presented to the Board of Education and the Transition Trustees.

004.02 The District shall submit a copy of the letter to management or that portion of the audit report pertaining to retirement system issues to the NPERB within thirty (30) days of receipt of the letter or audit report by the District.

005 Annual List of Employees

005.01 Except as provided in regulation 005.03, on or before January 31st of each year, the District shall compile a list of all employees that were on the District's payroll during the prior calendar year. The list shall include each employee's name, social security number, current address, annual salary, date of hire, whether such employee was employed on a full-time or part-time basis, and whether such employee was employed on a permanent or temporary basis. With respect to employees who are not currently members of the retirement system, the District shall provide a brief explanation of why such employee is not required to be enrolled.

005.02 The list required by this regulation shall be filed with the NPERS on or before February 15th of each year in such format as NPERS shall establish. NPERS may require the District to submit the list on electronic media.

005.03 The provisions of regulations 005.01 and 005.02 shall not apply if the District is utilizing the Nebraska Employees Information System (NEIS), its successor system, or a computerized personnel database to which the Nebraska Public Employees Retirement Systems has access and the ability to monitor additions and deletions of employees.

ENABLING LEGISLATION: NEB. REV. STAT. § 79-987

CHAPTER 16 – QUALIFIED DOMESTIC RELATIONS ORDERS (QDRO)

001 Scope of the Rule

This regulation sets forth the procedures for the administration of qualified domestic relations orders under the Spousal Pension Rights Act, Chapter 42, article 11, of the Nebraska Revised Statutes. All terms used in this regulation which are defined terms in the Spousal Pension Rights Act shall have the same meaning as provided in the Spousal Pension Rights Act.

002 Procedure to Determine Qualified Status

002.01 Upon receipt of a court certified or authenticated domestic relations order involving benefits under OSERS, the Administrator shall, within ten (10) business days, notify in writing the member and the alternate payee that the Administrator has received the domestic relations order. If the order pertains to a member receiving benefits from the retirement system, the Administrator shall suspend and segregate that portion of the member's benefit payment which would be payable to the alternate payee under the order if it is determined to be a qualified domestic relations order.

002.02 The Administrator shall cause the domestic relations order to be reviewed by legal counsel to determine whether it meets all of the requirements to be deemed a qualified domestic relations order as set forth in the Spousal Pension Rights Act, Internal Revenue Code § 414(p) and this regulation. Legal counsel shall specifically determine that the order clearly specifies:

002.02(a) The name and last-known mailing address, if any, of the member

002.02(b) The name and last-known mailing address, if any, of the alternative payee covered by the order

002.02(c) That the order applies to OSERS;

002.02(d) The number of payments or period to which such order applies; and

002.02(e) The amount or percentage of the member's benefits to be paid by OSERS to each alternate payee or the manner in which such amount or percentage is determined.

002.02(f) The social security number and date of birth of the member,

as well as the social security number and date of birth of the alternate payee shall be provided in a separate document.

002.03 Legal counsel shall ascertain that the order does not require the retirement system to:

002.03(a) Provide any type or form of benefit, or any option, not otherwise provided under the Class V School Employees Retirement Act;

002.03(b) Provide increased benefits determined on the basis of actuarial value;

002.03(c) Pay to an alternate payee benefits which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order;

002.03(d) Pay benefits to an alternate payee before the earliest retirement date of a member;

002.03(e) Provide a joint and survivor annuity to the alternate payee and the alternate payee's subsequent spouse; or

002.03(f) Act contrary to the statutory provisions of the Class V School Employees Retirement Act.

002.04 If legal counsel determines that the domestic relations order does not meet all of the requirements set forth in the Spousal Pension Rights Act and these regulations, the Administrator shall, within seven business days of making such determination, notify the member and the alternate payee of the basis for such determination. If the Administrator is notified in writing within thirty (30) days of the date the Administrator makes the notification required under this subsection that the member or the alternate payee is seeking an amended order correcting the deficiencies noted, the Administrator shall continue to suspend and segregate that portion of the member's benefit payment which would be payable to the alternate payee under the order if it were to be determined to be a qualified domestic relations order.

002.05 In no event shall the Administrator suspend and segregate benefits under sections 002.01 or 002.04 for a period longer than eighteen (18) months from the date the original order is filed with the Administrator or the date payments to the alternate payee would commence under the order if qualified, whichever is later. If the order or an amended order is not qualified within the eighteen month period, the Administrator shall pay the segregated funds, plus interest, to the member or other beneficiaries entitled thereto, and any order qualified after the eighteen month period will be applied prospectively only.

003 **Distribution Procedures**

003.01 If the legal counsel determines an order is a qualified domestic relations order, then as soon as is administratively possible, the Administrator shall allocate and distribute retirement benefits to the member and the alternate payee according to the terms of the order. Payment of the benefit to the alternate payee shall commence either on the member's retirement date or on the first day of the month immediately following the month in which the alternate payee notifies the Administrator of the election to begin payment, but not before the member's earliest retirement date.

003.02 The Administrator shall segregate the alternate payee's interest in the member's benefit into a separate account pending distribution. Unless the domestic relations order provides otherwise, the amounts allocated to the alternate payee shall be deducted from each of the member's District and employee accounts in the same percentage as the total percentage awarded to the alternate payee under the order.

003.03 The Administrator shall indicate in the member's account file the existence of the qualified domestic relations order. Upon the triggering of a distribution under the plan to the alternate payee or the member, the Administrator shall compute the alternate payee's interest in the member's accrued benefit under the order and shall reduce the member's benefit accordingly.

003.04 If the order does not specify the form of benefit to be taken by the alternate payee, the alternate payee may select any form of benefit available to the member except a joint and survivor annuity.

003.05 If the alternate payee dies prior to receiving any payment of his or her interest in the member's benefit under a qualified domestic relations order, such interest reverts to the member. If the alternate payee dies after commencement of payments of his or her interest, then the alternate payee's beneficiary is entitled to the balance of the alternate payee's interest under the payment option provided by the order or selected by the alternate payee. For purposes of this section, payment of the alternate payee's interest in the member's benefit shall be deemed to have commenced on the earlier of the member's retirement date or on the first day of the month immediately following the month in which the alternate payee notifies the Administrator of the election to begin payment, but not before the member's earliest retirement date.

004 Pre-approved QDRO Language

004.01 A member or an alternate payee, or their legal representatives, may submit a proposed domestic relations order to the Administrator for review and tentative qualification prior to the order being submitted to the court having jurisdiction over the domestic relations matter.

004.02 The Administrator shall develop and provide, upon request, model domestic relations order language that meets all of the requirements of the Spousal Pension Rights Act.

004.03 Failure to use the model language provided pursuant to this regulation shall not be a basis for determining that the domestic relations order is not a qualified domestic relations order.

005 Administrative Hold on Account

005.01 The Administrator may place an administrative hold on a member's account prohibiting such member from withdrawing the account balance upon receiving written or emailed notice from a person claiming an interest in the member's account advising the Administrator that proceedings to obtain a domestic relations order have been initiated and requesting an administrative hold on the account to protect their interest in the account.

005.02 The Administrator shall within ten (10) business days acknowledge receipt of the request for an administrative hold and shall notify the member and the person claiming an interest in the member's account of the action the Administrator will be taking in response thereto.

005.03 The Administrator shall release an administrative hold placed on the member's account if:

005.03(a) The member is awarded his or her entire benefit by the court and provides the Administrator with a certified copy of the court's order;

005.03(b) The claim is released by a notarized written statement signed by the person claiming an interest in the member's account or by his or her legal representative;

005.03(c) The Administrator receives a domestic relations order for qualification and the member's account is segregated accordingly; or,

005.03(d) The person claiming an interest in the member's account does not provide a domestic relations order to be qualified within a reasonable period of time, not to exceed six (6) months, after requesting the administrative hold. Before releasing an administrative hold pursuant to this subsection, the Administrator shall notify the person claiming an interest in the member's account, or his or her legal representative, of the intention to release the hold. The Administrator shall provide the person claiming an interest in the member's account thirty (30) days within which to file a written objection to such action. For good cause shown, the Administrator may extend the administrative hold for an additional period of time.

006 **Notice**

006.01 Any notice required by this regulation shall be sent by first class mail, postage prepaid, to the last-known mailing addresses of the member and the alternate payee.

006.02 The member and the alternate payee may designate alternative representatives for receipt of copies of notices. Such designation of a representative must be in writing and received by the Administrator before such designation shall become effective.

ENABLING LEGISLATION: NEB. REV. STAT. §§ 42-1101.

CHAPTER 17 – BENEFIT OPTIONS AND DISTRIBUTION RULES

001 **Scope of the Rule**

This regulation sets forth the retirement benefit options available to members of OSERS. This regulation also sets forth rules to ensure compliance with Internal Revenue Code section 401(a)(9) regarding required distributions.

002 **Definitions**

002.01 “Payments for a Certain and Continuous Annuity” means a monthly benefit payable for the life of the member. A period of time is designated by the member for five (5), or ten (10) years in duration. If the member dies prior to the end of the designated time period then a monthly benefit will continue to the member’s beneficiary until the completion of the designated period.

002.02 “Joint and Survivorship Annuity” means a monthly benefit payable for the lifetime of the member. At the member’s death, the benefit continues to the surviving annuitant at a specified rate of 50%, 75%, or 100% until the death of the surviving annuitant. The percentage is selected by the member at retirement. If the annuitant predeceases the member, the benefit ceases when the member dies.

002.03 “Pop-up Joint and Survivorship Annuity” means a monthly benefit payable for the lifetime of the member. At the member’s death, the benefit continues to the surviving annuitant at 100% until the death of the surviving annuitant. If the designated annuitant predeceases the member, the benefit pops up to the five-year certain amount until the death of the member.

002.04 “Account Balance” means all employee contributions plus earnings or interest accrued on such account less any applicable losses and fees.

002.05 “Retirement Date” means the first day of the month following the later of (a) the date a member terminates employment, or (b) the date a member’s request for retirement is received on a completed retirement application provided by the retirement system.

003 **OSERS**

003.01 Members of OSERS may elect to receive a monthly retirement benefit under one of the following options:

003.01(a) An annuity payable monthly during the remainder of the member’s life with the provision that in the event of his or her death before sixty monthly payments have been made the monthly payments will be continued as provided in this section until a total of sixty monthly payments have been made;

003.01(b) An annuity payable monthly during the remainder of the member's life with the provision that in the event of his or her death before one hundred twenty monthly payments have been made the monthly payments will be continued as provided in this section until a total of one hundred twenty monthly payments have been made;

003.01(c) A Joint and Survivorship Annuity which shall continue after the death of the member to the death of the (a) member's spouse or (b) other designated beneficiary whose adjusted age in the calendar year in which the payment of the annuity commences is no more than ten years less than the attained age of the member in such calendar year in accordance with Treasury Regulation § 1.401(a)(9)-6, Q&A-2(c);

003.01(d) A Joint and Survivorship Annuity which shall continue after the death of the member so that seventy-five percent of the amount of the member's monthly benefit under this option shall be paid monthly to the (i) member's spouse until his or her death or (ii) other designated beneficiary whose adjusted age in the calendar year in which the payment of the annuity commences is no more than nineteen years less than the attained age of the member in such calendar year in accordance with Treasury Regulation § 1.401(a)(9)-6, Q&A-2(c);

003.01(e) A Joint and Survivorship Annuity which shall continue after the death of the member so that fifty percent of the amount of the member's monthly benefit under this option shall be paid monthly to a designated beneficiary until his or her death; or

003.01(f) A Joint and Survivorship Annuity which will continue after the death of the member to the death of the (a) member's spouse or (b) other designated beneficiary whose adjusted age in the calendar year in which the payment of the annuity commences is no more than ten years less than the attained age of the member in such calendar year but which annuity shall, upon the spouse's or designated beneficiary's death before the death of the member, be increased after such death for the remaining life of the member so that the monthly benefit equals the monthly benefit which would have been payable to the member had the member selected the normal form of the formula retirement annuity specified in section 79-9,100.

004 Minimum Distribution Rules

To the extent that provisions of the Class V School Employees Retirement Act do not impose more restrictive distribution requirements, and with respect to distributions made in calendar years beginning on or after January 1, 2002, the Administrator will apply the minimum distribution requirements of section 401(a)(9) of the Internal Revenue Code in accordance with the regulations promulgated under that section and under Chapter 4 of these Rules and Regulations.

005 Ability to Make Retirement Option Changes

Members of OSERS may change their retirement option selection any time prior to the effective date of the member's retirement.

006 Death of a Member or Beneficiary

006.01 If a member makes an eligible application for benefit payment but dies prior to their retirement date, then the member will be treated as having not made application for benefit payment. The Administrator will handle the resulting benefit payment distribution as a death benefit pursuant to the Class V School Employees Retirement Act. A member's death before the member's retirement date will be treated as a pre-retirement death, and the Administrator will distribute benefits accordingly under Class V School Employees Retirement Act.

006.02 If a beneficiary receiving a death benefit dies within a guarantee period and there are still payments remaining to be paid to the beneficiary, then a discounted lump sum shall be paid to the beneficiary's estate instead of continuing the stream of remaining annuity payments to the deceased beneficiary.

ENABLING LEGISLATION: NEB. REV. STAT. § 79-9,101.

CHAPTER 18 – DISABILITY CLAIMS

001 001 Procedure

It shall be the responsibility of the Administrator to make recommendations to the Board of Education, through its Secretary, on disposition of disability claims.

001.01 The Board of Education will review disability retirement applications in a manner consistent with Neb. Rev. Stat. § 79-9105.

001.02 The Administrator will ensure that disinterested physicians have conducted a medical examination on any member of the Retirement System that applies for disability retirement benefits. The Administrator shall present the physician's confidential report and accompanying documentation, and a recommendation on whether to approve the disability retirement application, to the Board of Education.

001.03 The Board of Education may re-evaluate any approved disability retirement application once per year from the disability retirement effective date and every 18 months thereafter unless the Board of Education wishes to reevaluate an individual's disabled status more frequently. However, the Board of Education may not require proof of disability more frequently than semiannually.

001.04 Review of disability applications shall take place in Closed Session of the Board of Education and all information reviewed by the Board of Education will be kept confidential as an employee record.

001.05 The Board of Education may accept an application for disability retirement initiated by the member, or the member's legal representative.

001.06 The certification of disability shall be made by two licensed and practicing physicians who practice in the state of Nebraska. If at the time the Member is making application for a disability retirement is located outside of Nebraska, the Board of Education may, at its sole discretion, engage the services of other licensed and practicing physicians to complete the process. The member making application for a disability retirement is responsible for the cost of the initial physician's examination. OSERS will contract with a second physician, at its expense, to get an independent evaluation of the disability evaluation of the disability application.

CHAPTER 19 – FUNDING POLICY

001 Introduction and Background

The Board of Education administers a pre-funded defined benefit pension plan for all full-time employees of the District. The plan is funded with fixed, statutory contributions for the employer, employee, and state of Nebraska. If the total of the statutory contribution rates is less than the actuarial contribution rate, determined in the annual actuarial valuation and based on the funding policy established by the Board of Education, upon recommendation of the actuary, the District is required to make an additional contribution to the plan to eliminate the contribution shortfall. The plan is also funded by investment earnings. Investment functions are performed by the Nebraska State Investment Officer (SIO) under the guidance of the Nebraska Investment Council (NIC).

002 Purpose

The purpose of this funding policy is to state the overall funding goals, identify the benchmarks that will be used to measure progress in achieving those goals, and disclose the actuarial methods and assumptions that will be employed to develop the benchmarks. In addition, this funding policy will provide annual actuarial metrics to guide the Board of Education when considering items such as discretionary cost of living adjustments. Finally, the funding policy will include a brief list of governance responsibilities regarding the commissioning, collection, and review of actuarial information.

003 Periodic Review

It is the intention of the Board of Education that this funding policy be considered a working document, reviewed periodically and, as necessary, altered in the future through formal action of the Board of Education.

004 Funding Goals

The Board of Education reasserts its commitment that OSERS be fully funded through District, member and state contributions to OSERS, as well as the investment return generated from the plan assets. To demonstrate that commitment, the Board of Education establishes the following funding goals:

004.01 maintain an increasing ratio of assets to actuarial liabilities and reach a funded ratio of at least 100 percent;

004.02 maintain adequate asset levels to finance the benefits promised to members;

004.03 develop a pattern of stable contribution rates as a percentage of members' payroll.

004.03(a) This goal is achieved by fixed contribution rates for the State of Nebraska, Members and the District as set out in the Class V School Employees Retirement Act.

004.03(b) In order to evaluate whether the fixed contribution rates are sufficient, an Actuarial Required Contribution Rate (ARC) will be determined in the annual valuations of the System. Such valuations will be prepared in accordance with the principles of practice promulgated by the Actuarial Standards Board. The ARC will be determined as the normal cost rate plus the amortization payment on the unfunded actuarial liability, based on the amortization period set out in this funding policy. The ARC shall be determined by the actuary, engaged by the Board of Education, and contributed to the plan as required under Nebraska Revised Statutes section 79-9, 113, and any applicable other statutory requirement thereafter.

005 Benchmarks

To track progress in achieving the previously outlined funding goals, the following benchmarks will be measured annually as of the actuarial valuation date (with due recognition that a single year's results may not be indicative of long-term trends):

005.01 Funded ratio – The funded ratio, defined as the actuarial value of OSERS' assets divided by OSERS' actuarial liability, should be increasing over time, before adjustments for changes in benefits, actuarial methods, and/or actuarial assumptions.

005.02 Evaluation of Fixed Contribution Rates – The intent is to fund OSERS by maintaining the fixed contribution rates required by the Class V Employees Retirement Act . However, the Board of Education recognizes that the ARC will fluctuate from year to year, at times significantly due to the volatility associated with investing in the financial markets. Therefore, valuation results which produce an ARC that is higher or lower than the fixed contribution rates will not automatically indicate that immediate action must be taken to change the contribution rates or benefit structure. In evaluating the need for adjustments to OSERS' funding, the longer-term trends will first be analyzed and projections performed to determine the potential long term funded status of OSERS under alternative scenarios.

005.03 Unfunded Actuarial Liability (UAL) amortization base – One amortization base shall be used in determining the amortization payment.

005.04 Unfunded Actuarial Liability (UAL) amortization period – The amortization period for OSERS' UAL was set to 30 years in 2013 and was closed so it declined by one year each year until a funded ratio of 100 percent is reached. OSERS moved to layered amortization, effective with the January 1, 2017 actuarial valuation. The existing UAL as of January 1, 2017 remained on the initial amortization period (27 years remaining at that time) and new basis that were established as a result of assumption changes or experience gains/losses were amortized over closed 25-year periods. The amortization payment schedule for the UAL is developed using the level percent of payroll methodology.

005.05 Understanding the fiscal impact of the closed 30-year amortization period set in 2013 on the District, OSERS recognized and granted the option to implement a 30-year layered amortization schedule beginning with the January 1, 2019 valuation report to alleviate the financial pressure, yet ensure the long-term funding objective of the OSERS Transition Trustees.

005.06 The Board of Education will automatically review this policy when the funding ratio of the plan is at least 85%, with the goal of reducing the 30-year layered amortization schedule to 25-years the first valuation report following the attainment of 85% funded ratio.

005.07 If any future annual actuarial valuation indicates the plan has a negative UAL (a surplus), all existing amortization bases will be eliminated and a new base with a 30-year amortization period will be created.

006 Actuarial Methods and Assumptions

006.01 Actuarial Cost Method: The actuarial cost method is the means by which the total present value of future benefits for current active and inactive members is allocated to each year of service, including past years. The individual entry-age cost method will be used.

006.02 Asset Valuation Method: The method of valuing assets is intended to recognize a "smoothed" value of assets that is market related. Asset smoothing methods reduce the effect of short-term volatility on contributions while still tracking the overall movement of the market value of assets by recognizing the effects of investment gains and losses over a period of years. The asset valuation method used to develop the actuarial value of assets first calculates the expected value of assets based on the prior year's actuarial value of assets plus net cash flow (contributions minus benefit payments for the year) increased by the assumed rate of return and then adding to the expected value of assets 25% of the difference between the actual market value of assets and the expected value of asset (whether positive or negative). In addition, the asset valuation method will utilize a corridor of 80% to 120% of the market value of assets. The impact of the corridor is that the actuarial value of assets cannot exceed 120% of the market value of

assets nor be less than 80% of the market value of assets. If the initial actuarial value of assets is outside the corridor, the actuarial value of assets will be set equal to the applicable endpoint of the corridor (80% or 120% of market value).

006.03 Actuarial Assumptions: The actuarial assumptions used will be those last adopted by the Board of Education based upon the advice and recommendation of the actuary. A formal investigation into OSERS' experience shall be conducted by the actuary at least every four years and the results of the

investigation used to form the basis of the actuary's recommendations. In addition, the actual experience compared to the actuarial assumptions will be monitored each year in the annual actuarial valuation by including an analysis of the actuarial gain or loss by source.

007 Actuarial Audit

The Board of Education shall have an audit of OSERS' actuarial valuation results conducted by an independent actuary periodically, but at least every ten years. The purpose of such a review is to provide a critique of the reasonableness of the actuarial methods and assumptions in use and to verify the resulting actuarially computed liabilities and contribution rates. The Board recommends an audit of the retained actuary in the year of the January 1, 2023 Valuation report, followed by every ten years thereafter.

008 Benefit Changes

An actuarial cost study shall be completed before any change to the benefit structure is made.

009 Actuarial Projections

The funded status of OSERS will be monitored on a regular basis, both on a snapshot basis in the actuarial valuation and on a projected basis. The Board of Education will periodically have projections of funded status performed to assess the current and expected future progress toward the overall funding goals of OSERS. The Board of Education will ensure that a five-year projection of contributions is reported in the annual valuation report.

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