

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 680

Introduced by Heidemann, 1.

Read first time January 19, 2011

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 23-2301,
2 42-1102, 79-408, 79-979, 79-2116, 84-1301, 84-1501, and
3 84-1511, Reissue Revised Statutes of Nebraska, and
4 sections 4-108, 68-621, 79-902, 79-1003, and 79-1028.01,
5 Revised Statutes Cumulative Supplement, 2010; to adopt
6 the School Employees Cash Balance Retirement Act; to
7 limit the application of the School Employees Retirement
8 Act as prescribed; to create funds; to provide a penalty;
9 to harmonize provisions; to provide an operative date; to
10 repeal the original sections; and to declare an
11 emergency.

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

1 Section 1. Sections 1 to 37 of this act shall be known
2 and may be cited as the School Employees Cash Balance Retirement Act.

3 Sec. 2. For purposes of the School Employees Cash Balance
4 Retirement Act, unless the context otherwise requires:

5 (1) Actuarial equivalent means the equality in value of
6 the aggregate amounts expected to be received under different forms
7 of an annuity payment. The mortality assumption used for purposes of
8 converting the member cash balance account shall be the 1994 Group
9 Annuity Mortality Table using a unisex rate that is fifty percent
10 male and fifty percent female. For purposes of converting the member
11 cash balance account attributable to contributions made prior to
12 January 1, 1984, that were transferred pursuant to the act, the 1994
13 Group Annuity Mortality Table for males shall be used;

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

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

1 (4)(a) Compensation means gross wages or salaries payable
2 to the member for personal services performed during the plan year.
3 Compensation does not include insurance premiums converted into cash
4 payments, reimbursement for expenses incurred, fringe benefits, or
5 bonuses for services not actually rendered, including, but not
6 limited to, early retirement inducements, cash awards, and severance
7 pay, except for retroactive salary payments paid pursuant to court
8 order, arbitration, or litigation and grievance settlements.
9 Compensation includes overtime pay, member retirement contributions,
10 and amounts contributed by the member to plans under sections 125,
11 403(b), and 457 of the Internal Revenue Code or any other section of
12 the code which defers or excludes such amounts from income.

13 (b) Compensation in excess of the limitations set forth
14 in section 401(a)(17) of the Internal Revenue Code shall be
15 disregarded;

16 (5) Disability means an inability to engage in a
17 substantially gainful activity by reason of any medically
18 determinable physical or mental impairment which can be expected to
19 result in death or to be of long-continued and indefinite duration;

20 (6) Employee means the following persons who become
21 employed as such on and after the operative date of this act and who
22 receive compensation from a public school: (a) Regular employees; (b)
23 regular employees having retired pursuant to the School Employees
24 Retirement Act or the School Employees Cash Balance Retirement Act
25 who subsequently provide compensated service on a regular basis in

1 any capacity; and (c) regular employees hired by a public school on
2 an ongoing basis to assume the duties of other regular employees who
3 are temporarily absent. Substitute employees and temporary employees
4 shall not be considered school employees;

5 (7) Employee contribution credit means an amount equal to
6 the member contribution amount required by section 8 of this act;

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

10 (9) Employer contribution credit means an amount equal to
11 the employer contribution amount required by section 9 of this act;

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

18 (11) Five-year break in service means five consecutive
19 one-year breaks in service;

20 (12) Guaranteed investment contract means an investment
21 contract or account offering a return of principal invested plus
22 interest at a specified rate. Guaranteed investment contract does not
23 include direct obligations of the United States or its
24 instrumentalities, bonds, participation certificates or other
25 obligations of the Federal National Mortgage Association, the Federal

1 Home Loan Mortgage Corporation, or the Government National Mortgage
2 Association, or collateralized mortgage obligations and other
3 derivative securities;

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

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

25 (15) Member cash balance account means an account equal

1 to the sum of the employee cash balance account and, if vested, the
2 employer cash balance account and dividend amounts credited in
3 accordance with subdivision (4)(c) of section 21 of this act;

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

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

10 (18) Plan year means the twelve-month period beginning on
11 July 1 and ending on June 30;

12 (19) Public school means any and all schools offering
13 instruction in elementary or high school grades, which schools are
14 supported by public funds and are wholly under the control and
15 management of the State of Nebraska or any political subdivision
16 thereof, including (a) schools or other entities established,
17 maintained, and controlled by the school boards of local school
18 districts, except Class V school districts, (b) any educational
19 service unit, and (c) any other educational institution wholly
20 supported by public funds, except schools under the control and
21 management of the Board of Trustees of the Nebraska State Colleges,
22 the Board of Regents of the University of Nebraska, or the community
23 college boards of governors for any community college areas;

24 (20) Regular employee means an employee hired by a public
25 school or under contract in a regular full-time or part-time position

1 who works a full-time or part-time schedule on an ongoing basis for
2 fifteen or more hours per week. An employee hired as described in
3 this subdivision to provide service for less than fifteen hours per
4 week but who provides service for an average of fifteen hours or more
5 per week in each calendar month of any three calendar months of a
6 plan year shall immediately commence contributions and shall be
7 deemed a regular employee;

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

12 (22) Required contribution means the deduction to be made
13 from the compensation of employees as provided in section 8 of this
14 act;

15 (23) Retirement means qualifying for and accepting the
16 retirement benefit granted under the School Employees Cash Balance
17 Retirement Act after terminating employment;

18 (24) Retirement board or board means the Public Employees
19 Retirement Board;

20 (25) Retirement system means the School Employees Cash
21 Balance Retirement System;

22 (26) Service means employment as an employee and shall
23 not be deemed interrupted by (a) termination at the end of the school
24 year of the contract of employment of an employee in a public school
25 if the employee enters into a contract of employment in any public

1 school, except a school in a Class V school district, for the
2 following school year, (b) temporary or seasonal suspension of
3 service that does not terminate the employee's employment, (c) leave
4 of absence authorized by the employer for a period not exceeding
5 twelve months, (d) leave of absence because of disability, or (e)
6 military service when properly authorized by the board. Service does
7 not include any period of disability for which disability retirement
8 benefits are received under section 19 of this act;

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

15 (28) Surviving spouse means (a) the spouse married to the
16 member on the date of the member's death or (b) the spouse or former
17 spouse of the member if survivorship rights are provided under a
18 qualified domestic relations order filed with the board pursuant to
19 the Spousal Pension Rights Act. The spouse or former spouse shall
20 supersede the spouse married to the member on the date of the
21 member's death as provided under a qualified domestic relations
22 order. If the benefits payable to the spouse or former spouse under a
23 qualified domestic relations order are less than the value of
24 benefits entitled to the surviving spouse, the spouse married to the
25 member on the date of the member's death shall be the surviving

1 spouse for the balance of the benefits;

2 (29) Termination of employment occurs on the date on
3 which the employer determines that the member's employer-employee
4 relationship is dissolved. The employer shall notify the board of the
5 date on which such a termination has occurred. Termination of
6 employment does not occur if an employee whose employer-employee
7 relationship with an employer is dissolved enters into an employer-
8 employee relationship with the same or another employer and there are
9 less than one hundred twenty days between the date when the
10 employee's employer-employee relationship ceased with the first
11 employer and the date when the employer-employee relationship
12 commenced with the second employer. It shall be the responsibility of
13 the current employer to notify the board of such change in employment
14 and provide the board with such information as the board deems
15 necessary. If the board determines that termination of employment has
16 not occurred and a termination benefit has been paid to a member of
17 the retirement system pursuant to section 23 of this act, the board
18 shall require the member who has received such benefit to repay the
19 benefit to the retirement system; and

20 (30) Vesting credit means credit for years, or a fraction
21 of a year, of participation in another Nebraska governmental or
22 political subdivision plan for purposes of determining vesting of the
23 employer account.

24 Sec. 3. (1) An employees retirement system is hereby
25 established for the purpose of providing a retirement annuity or

1 other benefits for employees as provided by the School Employees Cash
2 Balance Retirement Act. The retirement system so created shall begin
3 operation on the operative date of this act. It shall be known as the
4 School Employees Cash Balance Retirement System and by such name
5 shall transact all business and hold all cash and other property as
6 provided in the act.

7 (2) The retirement system shall not accept as
8 contributions any money from members or an employer except the
9 following:

10 (a) Mandatory contributions established by sections 8 and
11 9 of this act;

12 (b) Money that is a repayment of refunded contributions
13 made pursuant to section 25 of this act;

14 (c) Contributions for military service credit made
15 pursuant to section 31 of this act;

16 (d) Actuarially required contributions pursuant to
17 subdivision (4)(b) of section 21 of this act;

18 (e) Trustee-to-trustee transfers pursuant to section 14
19 of this act; or

20 (f) Corrections ordered by the board pursuant to section
21 6 of this act.

22 Sec. 4. The general administration of the retirement
23 system shall be vested in the board. The board shall adopt and
24 promulgate rules and regulations to carry out the School Employees
25 Cash Balance Retirement Act. The board shall maintain records and may

1 employ any assistance as may be necessary to carry out the act.

2 Sec. 5. (1) The director of the Nebraska Public Employees
3 Retirement Systems shall keep a complete record of all members with
4 respect to name, current address, age, contributions, and any other
5 facts as may be necessary in the administration of the School
6 Employees Cash Balance Retirement Act. The information in the records
7 shall be provided by the employer in an accurate and verifiable form,
8 as specified by the director. The director shall, from time to time,
9 carry out testing procedures pursuant to section 84-1512 to verify
10 the accuracy of such information. For the purpose of obtaining such
11 facts and information, the director shall have access to the records
12 of the various employers and the holder of the records shall comply
13 with a request by the director for access by providing such facts and
14 information to the director in a timely manner. A certified copy of a
15 birth certificate or delayed birth certificate shall be prima facie
16 evidence of the age of the person named in the certificate.

17 (2) The director shall develop and implement an employer
18 education program using principles generally accepted by public
19 employee retirement systems so that all employers have the knowledge
20 and information necessary to prepare and file reports as the board
21 requires.

22 Sec. 6. (1) If the board determines that the retirement
23 system has previously received contributions or distributed benefits
24 which for any reason are not in accordance with the statutory
25 provisions of the School Employees Cash Balance Retirement Act, the

1 board shall refund contributions, require additional contributions,
2 adjust benefits, credit dividend amounts, or require repayment of
3 benefits paid. In the event of an overpayment of a benefit, the board
4 may, in addition to other remedies, offset future benefit payments by
5 the amount of the prior overpayment, together with regular interest
6 or interest credits, whichever is appropriate, thereon. In the event
7 of an underpayment of a benefit, the board shall immediately make
8 payment equal to the deficit amount plus regular interest or interest
9 credits, whichever is appropriate.

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

20 Sec. 7. (1) The membership of the retirement system shall
21 be composed of all employees who maintain an account balance with the
22 retirement system.

23 (2) An employee who participates in the retirement system
24 pursuant to this section shall remain in the retirement system until
25 his or her termination of employment or retirement.

1 (3) No employee shall be authorized to participate in the
2 retirement system provided for in the School Employees Cash Balance
3 Retirement Act unless the employee (a) is a United States citizen or
4 (b) is a qualified alien under the federal Immigration and
5 Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on
6 January 1, 2011, and is lawfully present in the United States.

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

16 (5) Any employee who qualifies for membership in the
17 retirement system pursuant to this section may not be disqualified
18 for membership in the retirement system solely because such employee
19 also maintains separate employment which qualifies the employee for
20 membership in another public retirement system, nor may membership in
21 this retirement system disqualify such an employee from membership in
22 another public employment system solely by reason of separate
23 employment which qualifies such employee for membership in this
24 retirement system.

25 (6) Employers shall ensure that employees authorized to

1 participate in the retirement system pursuant to this section shall
2 enroll and make required contributions to the retirement system
3 immediately upon becoming an employee. Information necessary to
4 determine membership in the retirement system shall be provided by
5 the employer.

6 Sec. 8. (1) Each employee who is a member of the
7 retirement system shall pay or have paid on his or her behalf a sum
8 equal to four and eight-tenths percent of his or her monthly
9 compensation. Such amounts shall be deducted monthly pursuant to
10 subsection (2) of this section by the employer. All money received
11 shall be remitted to and set aside by the State Treasurer and
12 credited to the School Employees Cash Balance Retirement Fund.

13 (2) The employer shall pick up the employee contributions
14 required by this section for all compensation paid, and the
15 contributions so picked up shall be treated as employer contributions
16 in determining federal tax treatment under the Internal Revenue Code
17 as defined in section 49-801.01, except that the employer shall
18 continue to withhold federal income taxes based upon these
19 contributions until the Internal Revenue Service or the federal
20 courts rule that, pursuant to section 414(h) of the code, these
21 contributions shall not be included as gross income of the employee
22 until such time as they are distributed or made available. The
23 employer shall pay these employee contributions from the same source
24 of funds which is used in paying earnings to the employee. The
25 employer shall pick up these contributions by a deduction through a

1 reduction in the cash compensation of the employee. Employee
2 contributions picked up shall be treated for all purposes of the
3 School Employees Cash Balance Retirement Act in the same manner and
4 to the extent as employee contributions made prior to the date picked
5 up.

6 Sec. 9. (1) There is hereby created the School Employees
7 Cash Balance Retirement Fund to consist of such funds as the
8 Legislature shall from time to time appropriate. The employer shall
9 credit an amount each month to the School Employees Cash Balance
10 Retirement Fund equal to one hundred fifty-six percent of the amounts
11 deducted in accordance with section 8 of this act.

12 (2) The State Treasurer shall be the custodian of the
13 funds and securities of the retirement system and may deposit the
14 funds and securities in any financial institution approved by the
15 Nebraska Investment Council. The State Treasurer shall transmit
16 monthly to the board a detailed statement showing all credits to and
17 disbursements from the funds in his or her custody belonging to the
18 retirement system. He or she shall disburse money from the fund only
19 upon vouchers signed by a person authorized by the retirement board.
20 Any money in the fund available for investment shall be invested by
21 the state investment officer pursuant to the Nebraska Capital
22 Expansion Act and the Nebraska State Funds Investment Act.

23 Sec. 10. The board shall provide benefit liability
24 information and other assistance to the Nebraska Investment Council
25 for the establishment of policy portfolio objectives for the

1 investing and reinvesting of the assets of the retirement system. The
2 board shall verify that the investments of the assets of the
3 retirement system by the council and the state investment officer are
4 invested and reinvested for the exclusive purposes of providing
5 benefits to members and members' beneficiaries and that the assets of
6 the retirement system are not invested with the sole or primary
7 investment objective of economic development or social purposes or
8 objectives. Such verification shall be included in the written plan
9 of action pursuant to subsection (3) of section 84-1503.

10 Sec. 11. (1) For a member employed and participating in
11 the retirement system beginning on and after the operative date of
12 this act:

13 (a) The employee cash balance account shall, at any time,
14 be equal to the following:

15 (i) Employee contribution credits deposited in accordance
16 with section 8 of this act; plus

17 (ii) Interest credits credited in accordance with
18 subdivision (14) of section 2 of this act; plus

19 (iii) Dividend amounts credited in accordance with
20 subdivision (4)(c) of section 21 of this act; and

21 (b) The employer cash balance account shall, at any time,
22 be equal to the following:

23 (i) Employer contribution credits deposited in accordance
24 with section 9 of this act; plus

25 (ii) Interest credits credited in accordance with

1 subdivision (14) of section 2 of this act; plus

2 (iii) Dividend amounts credited in accordance with
3 subdivision (4)(c) of section 21 of this act.

4 (2) In order to carry out the provisions of this section,
5 the board may enter into administrative services agreements for
6 accounting or record-keeping services. No agreement shall be entered
7 into unless the board determines that it will result in
8 administrative economy and will be in the best interests of the
9 employer and its participating employees. The board may develop a
10 schedule for the allocation of the administrative services agreements
11 costs for accounting or record-keeping services and may assess the
12 costs so that each member pays a reasonable fee as determined by the
13 board.

14 Sec. 12. (1) For purposes of this section and section 13
15 of this act:

16 (a) Distributee means the member, the member's surviving
17 spouse, or the member's former spouse who is an alternate payee under
18 a qualified domestic relations order as defined in section 414(p) of
19 the Internal Revenue Code;

20 (b) Direct rollover means a payment by the retirement
21 system to the eligible retirement plan or plans specified by the
22 distributee;

23 (c) Eligible retirement plan means (i) an individual
24 retirement account described in section 408(a) of the Internal
25 Revenue Code, (ii) an individual retirement annuity described in

1 section 408(b) of the code, except for an endowment contract, (iii) a
2 qualified plan described in section 401(a) of the code, (iv) an
3 annuity plan described in section 403(a) or 403(b) of the code, and
4 (v) a plan described in section 457(b) of the code and maintained by
5 a governmental employer. For eligible rollover distributions to a
6 surviving spouse, an eligible retirement plan means subdivisions (1)
7 (c)(i) through (iv) of this section; and

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

18 (2) A distributee may elect to have any portion of an
19 eligible rollover distribution paid directly to an eligible
20 retirement plan specified by the distributee.

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

1 Sec. 13. (1) The retirement system may accept cash
2 rollover contributions from a member who is making payment pursuant
3 to section 25 or 31 of this act if the contributions do not exceed
4 the amount of payment authorized to be paid by the member pursuant to
5 section 25 or 31 of this act and the contributions represent (a) all
6 or any portion of the balance of the member's interest in a qualified
7 plan under section 401(a) of the Internal Revenue Code or (b) the
8 interest of the member from an individual retirement account or an
9 individual retirement annuity, the entire amount of which is
10 attributable to a qualified total distribution, as defined in the
11 Internal Revenue Code, from a qualified plan under section 401(a) of
12 the code and qualified as a tax-free rollover amount. The member's
13 interest under subdivision (a) or (b) of this subsection must be
14 transferred to the retirement system within sixty days after the date
15 of the distribution from the qualified plan, individual retirement
16 account, or individual retirement annuity.

17 (2) Cash transferred to the retirement system as a
18 rollover contribution shall be deposited as other payments made under
19 section 25 or 31 of this act.

20 (3) Under the same conditions as provided in subsection
21 (1) of this section, the retirement system may accept eligible
22 rollover distributions from (a) an annuity contract described in
23 section 403(b) of the Internal Revenue Code, (b) a plan described in
24 section 457(b) of the code which is maintained by a state, a
25 political subdivision of a state, or any agency or instrumentality of

1 a state or political subdivision of a state, or (c) the portion of a
2 distribution from an individual retirement account or annuity
3 described in section 408(a) or 408(b) of the code that is eligible to
4 be rolled over and would otherwise be includible in gross income.
5 Amounts accepted pursuant to this subsection shall be deposited as
6 all other payments under this section.

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

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

15 Sec. 14. The retirement system may accept as payment for
16 withdrawn amounts made pursuant to the School Employees Cash Balance
17 Retirement Act a direct trustee-to-trustee transfer from (1) an
18 eligible tax-sheltered annuity plan as described in section 403(b) of
19 the Internal Revenue Code or (2) an eligible deferred compensation
20 plan as described in section 457(b) of the code on behalf of a member
21 who is making payments for such amounts. The amount transferred shall
22 not exceed the amount withdrawn and such transferred amount shall
23 qualify as a purchase of permissive service credit by the member as
24 defined in section 415 of the code.

25 Sec. 15. The retirement system may transfer deferred

1 compensation by a member as a plan-to-plan transfer to the deferred
2 compensation plan authorized under section 84-1504 if the following
3 conditions are met:

4 (1) The member has an amount of compensation deferred
5 immediately after the transfer at least equal to the amount of
6 compensation deferred immediately before the transfer;

7 (2) The account of the member is valued as of the date of
8 final account value;

9 (3) The member is not eligible for additional annual
10 deferrals in the receiving plan unless the member is performing
11 services for the state; and

12 (4) The deferred compensation plan provides for such
13 transfers.

14 Sec. 16. The School Employees Cash Balance Retirement
15 Expense Fund is created. The fund shall be credited with money
16 forfeited pursuant to section 24 of this act and with money from the
17 retirement system assets and income sufficient to pay the pro rata
18 share of administrative expenses incurred as directed by the board
19 for the proper administration of the School Employees Cash Balance
20 Retirement Act and necessary in connection with the administration
21 and operation of the retirement system, except as provided in section
22 11 of this act. Any money in the fund available for investment shall
23 be invested by the state investment officer pursuant to the Nebraska
24 Capital Expansion Act and the Nebraska State Funds Investment Act.

25 Sec. 17. It shall be the duty of the Auditor of Public

1 Accounts to make an annual audit of the retirement system and an
2 annual report to the retirement board and to the Clerk of the
3 Legislature of the condition of the retirement system. Each member of
4 the Legislature shall receive a copy of the report required by this
5 section by making a request for such report to either the Auditor of
6 Public Accounts or the retirement board.

7 Sec. 18. The retirement system may sue or be sued in the
8 name of the system, and in all actions brought by or against it, the
9 system shall be represented by the Attorney General.

10 Sec. 19. (1) Upon filing an application for benefits with
11 the board, an employee may elect to retire after the attainment of
12 age fifty-five or an employee may retire as a result of disability at
13 any age.

14 (2) The member shall specify in the application for
15 benefits the manner in which he or she wishes to receive the
16 retirement benefit under the options provided by the School Employees
17 Cash Balance Retirement Act. Payment under the application for
18 benefits shall be made (a) for annuities, no sooner than the annuity
19 start date, and (b) for other distributions, no sooner than the date
20 of final account value.

21 (3) Payment of any benefit provided under the retirement
22 system may not be deferred later than April 1 of the year following
23 the year in which the employee has both attained at least age seventy
24 and one-half years and terminated his or her employment with an
25 employer.

1 (4) The board shall make reasonable efforts to locate the
2 member or the member's beneficiary and distribute benefits by the
3 required beginning date as specified by section 401(a)(9) of the
4 Internal Revenue Code and the regulations issued thereunder. If the
5 board is unable to make such a distribution, the benefit shall be
6 distributed pursuant to the Uniform Disposition of Unclaimed Property
7 Act and no amounts may be applied to increase the benefits any member
8 would otherwise receive under the School Employees Cash Balance
9 Retirement Act.

10 Sec. 20. The retirement value for any employee who
11 retires under the provisions of section 19 of this act shall be the
12 benefit provided in section 11 of this act as of the date of final
13 account value.

14 Sec. 21. (1) The future service retirement benefit shall
15 be an annuity, payable monthly with the first payment made no earlier
16 than the annuity start date, which shall be the actuarial equivalent
17 of the retirement value as specified in section 20 of this act based
18 on factors determined by the board, except that gender shall not be a
19 factor when determining the amount of such payments except as
20 provided in this section.

21 Except as provided in section 42-1107, at any time before
22 the annuity start date, the retiring employee may choose to receive
23 his or her annuity either in the form of an annuity as provided under
24 subsection (4) of this section or any optional form that is
25 determined acceptable by the board.

1 Except as provided in section 42-1107, in lieu of the
2 future service retirement annuity, a retiring employee may receive a
3 benefit not to exceed the amount in his or her employer and employee
4 accounts as of the date of final account value payable in a lump sum
5 and, if the employee chooses not to receive the entire amount in such
6 accounts, an annuity equal to the actuarial equivalent of the
7 remainder of the retirement value, and the employee may choose any
8 form of such annuity as provided for by the board.

9 In any case, the amount of the monthly payment shall be
10 such that the annuity chosen shall be the actuarial equivalent of the
11 retirement value as specified in section 20 of this act except as
12 provided in this section.

13 The board shall provide to any employee who is eligible
14 for retirement, prior to his or her selecting any of the retirement
15 options provided by this section, information on the federal and
16 state income tax consequences of the various annuity or retirement
17 benefit options.

18 (2) Except as provided in subsection (4) of this section,
19 the monthly annuity income payable to a member retiring on or after
20 the operative date of this act, shall be as follows:

21 He or she shall receive at retirement the amount which
22 may be purchased by the accumulated contributions based on annuity
23 rates in effect on the annuity start date which do not utilize gender
24 as a factor, except that such amounts shall not be less than the
25 retirement income which can be provided by the sum of the amounts

1 derived pursuant to subdivisions (a) and (b) of this subsection as
2 follows:

3 (a) The income provided by the accumulated contributions
4 made prior to the operative date of this act, based on male annuity
5 purchase rates in effect on the date of purchase; and

6 (b) The income provided by the accumulated contributions
7 made on and after the operative date of this act, based on the
8 annuity purchase rates in effect on the date of purchase which do not
9 use gender as a factor.

10 (3) Any amounts, in excess of contributions, which may be
11 required in order to purchase the retirement income specified in
12 subsection (2) of this section shall be withdrawn from the School
13 Employees Equal Retirement Benefit Fund.

14 (4)(a) The normal form of payment shall be a single life
15 annuity with five-year certain, which is an annuity payable monthly
16 during the remainder of the member's life with the provision that, in
17 the event of his or her death before sixty monthly payments have been
18 made, the monthly payments will be continued to his or her estate or
19 to the beneficiary he or she has designated until sixty monthly
20 payments have been made in total. Such annuity shall be equal to the
21 actuarial equivalent of the member cash balance account as of the
22 date of final account value. As a part of the annuity, the normal
23 form of payment may include a two and one-half percent cost-of-living
24 adjustment purchased by the member, if the member elects such a
25 payment option.

1 Except as provided in section 42-1107, a member may elect
2 a lump-sum distribution of his or her member cash balance account as
3 of the date of final account value upon termination of service or
4 retirement.

5 The balance of a member's cash balance account as of the
6 date of final account value shall be converted to an annuity using an
7 interest rate used in the actuarial valuation as recommended by the
8 actuary and approved by the board.

9 (b) For the calendar year beginning January 1, 2012, and
10 each calendar year thereafter, the actuary for the board shall
11 perform an actuarial valuation of the system using the entry age
12 actuarial cost method. Under this method, the actuarially required
13 funding rate is equal to the normal cost rate plus the contribution
14 rate necessary to amortize the unfunded actuarial accrued liability
15 on a level-payment basis. The normal cost under this method shall be
16 determined for each individual member on a level percentage of salary
17 basis. The normal cost amount is then summed for all members. During
18 each subsequent actuarial valuation, changes in the unfunded
19 actuarial accrued liability due to changes in benefits, actuarial
20 assumptions, the asset valuation method, or actuarial gains or losses
21 shall be measured and amortized over a twenty-five-year period
22 beginning on the valuation date of such change. If the unfunded
23 actuarial accrued liability under the entry age actuarial cost method
24 is zero or less than zero on an actuarial valuation date, then all
25 prior unfunded actuarial accrued liabilities shall be considered

1 fully funded and the unfunded actuarial accrued liability shall be
2 reinitialized and amortized over a twenty-five-year period as of the
3 actuarial valuation date. If the actuarially required contribution
4 rate exceeds the rate of all contributions required pursuant to the
5 School Employees Cash Balance Retirement Act, there shall be a
6 supplemental appropriation sufficient to pay for the difference
7 between the actuarially required contribution rate and the rate of
8 all contributions required pursuant to the act.

9 (c) If the unfunded accrued actuarial liability under the
10 entry age actuarial cost method is less than zero on an actuarial
11 valuation date, and on the basis of all data in the possession of the
12 retirement board, including such mortality and other tables as are
13 recommended by the actuary engaged by the retirement board and
14 adopted by the retirement board, the retirement board may elect to
15 pay a dividend to all members participating in the cash balance
16 option in an amount that would not increase the actuarial
17 contribution rate above ninety percent of the actual contribution
18 rate. Dividends shall be credited to the employee cash balance
19 account and the employer cash balance account based on the account
20 balances on the actuarial valuation date. In the event a dividend is
21 granted and paid after the actuarial valuation date, interest for the
22 period from the actuarial valuation date until the dividend is
23 actually paid shall be paid on the dividend amount. The interest rate
24 shall be the interest credit rate earned on regular contributions.

25 (5) At the option of the retiring member, any lump sum or

1 annuity provided under this section may be deferred to commence at
2 any time, except that no benefit shall be deferred later than April 1
3 of the year following the year in which the employee has both
4 attained at least seventy and one-half years of age and has
5 terminated his or her employment with the state. Such election by the
6 retiring member may be made at any time prior to the commencement of
7 the lump-sum or annuity payments.

8 Sec. 22. There is hereby created the School Employees
9 Equal Retirement Benefit Fund, to be administered by the board. Each
10 employer participating in the retirement system shall make a
11 contribution at least once a year to the fund, in addition to any
12 other retirement contributions. Such contribution shall be in an
13 amount determined by the board to provide all similarly situated male
14 and female members of the retirement system with equal benefits
15 pursuant to subsection (2) of section 21 of this act and to provide
16 for direct expenses incurred in administering the fund. The amount
17 contributed to the fund by each employer participating in the
18 retirement system shall be proportionate to the total amount such
19 agency contributes to the system for retirement benefits. Any money
20 in the fund available for investment shall be invested by the state
21 investment officer pursuant to the Nebraska Capital Expansion Act and
22 the Nebraska State Funds Investment Act.

23 Sec. 23. (1) Except as provided in section 42-1107, upon
24 termination of employment before becoming eligible for retirement
25 under section 19 of this act, a member may, upon application to the

1 board, receive:

2 (a) If not vested, a termination benefit equal to the
3 amount in his or her member cash balance account as of the date of
4 final account value payable in a lump sum or an annuity with the
5 lump-sum or first annuity payment made at any time after termination
6 but no later than April 1 of the year following the year in which the
7 member attains the age of seventy and one-half years; or

8 (b) If vested, a termination benefit equal to the amount
9 of his or her member cash balance account as of the date of final
10 account value payable in a lump sum or an annuity with the lump-sum
11 or first annuity payment made at any time after termination but no
12 later than April 1 of the year following the year in which the member
13 attains the age of seventy and one-half years.

14 The member cash balance account of a terminating member
15 shall be retained by the board, and the termination benefit shall be
16 deferred until a valid application for benefits has been received.

17 (2) At the option of the terminating member, any lump sum
18 of the vested portion of the member cash balance account or any
19 annuity provided under subsection (1) of this section shall commence
20 as of the first of the month at any time after such member has
21 terminated his or her employment with the employer or may be
22 deferred, except that no benefit shall be deferred later than April 1
23 of the year following the year in which the employee has both
24 attained at least seventy and one-half years of age and has
25 terminated his or her employment with the employer. Such election by

1 the terminating member shall be made at any time prior to the
2 commencement of the lump-sum or annuity payments.

3 (3) Members of the retirement system shall be vested
4 after a total of five years of participation in the system as a
5 member pursuant to section 7 of this act, including vesting credit.
6 If an employee retires pursuant to section 19 of this act, such an
7 employee shall be fully vested in the retirement system.

8 Sec. 24. (1) For a member who has terminated employment
9 and is not vested, the balance of the member's employer cash balance
10 account shall be forfeited. The forfeited account shall be credited
11 to the School Employees Cash Balance Retirement Expense Fund and
12 shall first be used to meet the expense charges incurred by the
13 retirement board in connection with administering the retirement
14 system, which charges shall be credited to the School Employees Cash
15 Balance Retirement Expense Fund and the remainder, if any, shall then
16 be used to reduce the employer contribution which would otherwise be
17 required to fund future service retirement benefits or to restore
18 employer cash balance accounts. No forfeited amounts shall be applied
19 to increase the benefits any member would otherwise receive under the
20 School Employees Cash Balance Retirement Act.

21 (2) If a member ceases to be an employee due to the
22 termination of his or her employment and a grievance or other appeal
23 of the termination is filed, transactions involving forfeiture of his
24 or her employer cash balance account shall be suspended pending the
25 final outcome of the grievance or other appeal.

1 (3) The Employer Cash Balance Retirement Expense Fund is
2 created. The fund shall be administered by the retirement board. The
3 fund shall be established and maintained separate from any funds held
4 in trust for the benefit of members under the retirement system. The
5 fund shall be used to meet expenses of the School Employees Cash
6 Balance Retirement System when such expenses are incurred in
7 administering the member's employer cash balance account and the
8 funds available in the School Employees Cash Balance Retirement
9 Expense Fund make such use reasonably necessary. Any money in the
10 Employer Cash Balance Retirement Expense Fund available for
11 investment shall be invested by the state investment officer pursuant
12 to the Nebraska Capital Expansion Act and the Nebraska State Funds
13 Investment Act.

14 Sec. 25. (1) Except as otherwise provided in this
15 section, a member of the retirement system who has a five-year break
16 in service shall upon reemployment be considered a new employee with
17 respect to the School Employees Cash Balance Retirement Act and shall
18 not receive credit for service prior to his or her reemployment date.

19 (2)(a) A member who ceases to be an employee before
20 becoming eligible for retirement under section 19 of this act and
21 again becomes an employee prior to having a five-year break in
22 service shall immediately be reenrolled in the retirement system and
23 resume making contributions. For purposes of vesting employer
24 contributions made prior to and after reentry into the retirement
25 system under subsection (3) of section 23 of this act, years of

1 participation include years of participation prior to such employee's
2 original termination. For a member who is not vested and has received
3 a termination benefit pursuant to section 23 of this act, the years
4 of participation prior to such employee's original termination shall
5 be limited in a ratio equal to the amount that the member repays
6 divided by the termination benefit withdrawn pursuant to section 23
7 of this act.

8 (b) The reemployed member may repay the value of, or a
9 portion of the value of, the termination benefit withdrawn pursuant
10 to section 23 of this act. A reemployed member who elects to repay
11 all or a portion of the value of the termination benefit withdrawn
12 pursuant to section 23 of this act shall repay the actual earnings on
13 such value. Repayment of the termination benefit shall commence
14 within three years after reemployment and shall be completed within
15 five years after reemployment or prior to termination of employment,
16 whichever occurs first, through (i) direct payments to the retirement
17 system, (ii) installment payments made pursuant to a binding
18 irrevocable payroll deduction authorization made by the member, (iii)
19 an eligible rollover distribution as provided under the Internal
20 Revenue Code, or (iv) a direct rollover distribution made in
21 accordance with section 401(a)(31) of the Internal Revenue Code.

22 (c) The value of the member's forfeited employer cash
23 balance account, as of the date of forfeiture, shall be restored in a
24 ratio equal to the amount of the benefit that the member has repaid
25 divided by the termination benefit received. The employer cash

1 balance account shall be restored first out of the current forfeiture
2 amounts and then by additional employer contributions.

3 (3) For a member who retired pursuant to section 19 of
4 this act and becomes an employee more than one hundred twenty days
5 after his or her retirement date, the member shall continue receiving
6 retirement benefits. Such a retired member or a retired member who
7 received a lump-sum distribution of his or her benefit shall be
8 considered a new employee as of the date of reemployment and shall
9 not receive credit for any service prior to the member's retirement
10 for purposes of the act.

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

16 Sec. 26. (1) Except as provided in subsection (2) of this
17 section, if a disability beneficiary under the age of sixty-five
18 years is restored to active service as an employee or if the
19 examining physician certifies that the person is no longer disabled
20 for service as an employee, the school or disability retirement
21 allowance shall cease. If the beneficiary again becomes an employee,
22 he or she shall become a member of the retirement system.

23 (2) If a disability beneficiary under the age of sixty-
24 five years obtains employment as an employee and the examining
25 physician certifies that the beneficiary has a permanent disability,

1 the beneficiary shall retain his or her disability retirement
2 allowance if the beneficiary works fewer than fifteen hours per week.

3 Sec. 27. Upon termination of employment for any cause
4 other than death or retirement, the retirement board shall, upon the
5 member's demand, terminate his or her membership in the retirement
6 system and cause to be paid to such member the accumulated
7 contributions of his or her individual account in the School
8 Employees Cash Balance Retirement Fund. Any member who attains or has
9 attained membership in another Nebraska state or school employees
10 retirement system authorized by the Legislature and who elects not to
11 be or remain a member of the School Employees Retirement System of
12 the State of Nebraska shall have his or her accumulated contributions
13 returned to him or her forthwith.

14 Sec. 28. In the event of the death before his or her
15 retirement date of any employee who is a member of the system, the
16 death benefit shall be equal to the benefit provided in section 11 of
17 this act. The death benefit shall be paid to the member's
18 beneficiary, to an alternate payee pursuant to a qualified domestic
19 relations order as provided in section 42-1107, or to the member's
20 estate if there are no designated beneficiaries. If the beneficiary
21 is not the member's surviving spouse, the death benefit shall be paid
22 as a lump-sum payment or payments, except that the entire account
23 must be distributed by the fifth anniversary of the member's death.
24 If the sole primary beneficiary is the member's surviving spouse, the
25 surviving spouse may elect to receive an annuity calculated as if the

1 member retired and selected a one-hundred-percent joint and survivor
2 annuity effective on the annuity purchase date. If the surviving
3 spouse does not elect the annuity option within one hundred eighty
4 days after the death of the member, the surviving spouse shall
5 receive a lump-sum payment or payments, except that the entire
6 account must be distributed by the fifth anniversary of the member's
7 death.

8 Sec. 29. (1) Any member who is an employee, disregarding
9 the length of service, may be retired as a result of disability
10 either upon the member's own application or upon the application of
11 the member's employer or any person acting in the member's behalf.
12 Before any member may be so retired, a medical examination shall be
13 made at the expense of the retirement system, which examination shall
14 be conducted by a disinterested physician legally authorized to
15 practice medicine under the laws of the state in which he or she
16 practices, such physician to be selected by the retirement board, and
17 the physician shall certify to the board that the member suffers from
18 an inability to engage in a substantially gainful activity by reason
19 of any medically determinable physical or mental impairment which
20 began while the member was a participant in the plan and which can be
21 expected to result in death or to be of long-continued and indefinite
22 duration and should be retired. The application for disability
23 retirement shall be made within one year after termination of
24 employment.

25 (2) The retirement board may require any disability

1 beneficiary who has not attained the age of fifty-five to undergo a
2 medical examination at the expense of the board once each year. If
3 any disability beneficiary refuses to undergo such an examination,
4 the disability retirement benefit may be discontinued by the board.

5 Sec. 30. All annuities or benefits which any person shall
6 be entitled to receive under the School Employees Cash Balance
7 Retirement Act shall not be subject to garnishment, attachment, levy,
8 the operation of bankruptcy or insolvency laws, or any other process
9 of law whatsoever and shall not be assignable except to the extent
10 that such annuities or benefits are subject to a qualified domestic
11 relations order under the Spousal Pension Rights Act.

12 Sec. 31. (1) Any employee who, while an employee, entered
13 into and served in the armed forces of the United States and who
14 within ninety days after honorable discharge or honorable separation
15 from active duty again became an employee shall be credited, for the
16 purposes of section 19 of this act, with all the time actually served
17 in the armed forces as if such person had been an employee throughout
18 such service in the armed forces pursuant to the terms and conditions
19 of subsection (2) of this section.

20 (2) Under such rules and regulations as the retirement
21 board adopts and promulgates, any employee who is reemployed pursuant
22 to 38 U.S.C. 4301 et seq., may pay to the retirement system an amount
23 equal to the sum of all deductions which would have been made from
24 the employee's compensation during such period of military service.
25 Payment shall be made within the period required by law, not to

1 exceed five years. To the extent that payment is made, (a) the
2 employee shall be treated as not having incurred a break in service
3 by reason of his or her period of military service, (b) the period of
4 military service shall be credited for the purposes of determining
5 the nonforfeitability of the member's accrued benefits and the
6 accrual of benefits under the plan, and (c) the employer shall
7 allocate the amount of employer contributions to the member's
8 employer account in the same manner and to the same extent the
9 allocation occurs for other employees during the period of service.
10 For purposes of member and employer contributions under this
11 subsection, the member's compensation during the period of military
12 service shall be the rate the member would have received but for the
13 military service or, if not reasonably determinable, the average rate
14 the member received during the twelve-month period immediately
15 preceding military service.

16 (3) The employer shall pick up the member contributions
17 made through irrevocable payroll deduction authorizations pursuant to
18 this section, and the contributions so picked up shall be treated as
19 employer contributions in the same manner as contributions picked up
20 under section 8 of this act.

21 Sec. 32. Persons who have become members of the
22 retirement system shall not thereafter lose their status as members
23 while they remain employees.

24 Sec. 33. Any person who, knowing it to be false or
25 fraudulent, presents or causes to be presented a false or fraudulent

1 claim or benefit application, any false or fraudulent proof in
2 support of such a claim or benefit, or false or fraudulent
3 information which would affect a future claim or benefit application
4 to be paid under the retirement system for the purpose of defrauding
5 or attempting to defraud the retirement system shall be guilty of a
6 Class II misdemeanor. The retirement board shall deny any benefits
7 that it determines are based on false or fraudulent information and
8 shall have a cause of action against the member to recover any
9 benefits already paid on the basis of such information.

10 Sec. 34. The retirement allowances and benefits shall be
11 in addition to benefits and allowances payable under the federal
12 Social Security Act.

13 Sec. 35. Every claim and demand under the School
14 Employees Cash Balance Retirement Act and against the retirement
15 system or the retirement board shall be forever barred unless the
16 action is brought within two years after the claim accrued.

17 Sec. 36. All contributions to the retirement system, all
18 property and rights purchased with the contributions, and all
19 investment income attributable to the contributions, property, or
20 rights shall be held in trust by the employer for the exclusive
21 benefit of members and their beneficiaries and shall only be used to
22 pay benefits to such persons and to pay administrative expenses
23 according to the School Employees Cash Balance Retirement Act.

24 Sec. 37. Upon termination or partial termination of the
25 retirement system or upon complete discontinuance of contributions

1 under the retirement system, the rights of all affected members to
2 the amounts credited to the members' accounts shall be
3 nonforfeitable.

4 Sec. 38. Section 4-108, Revised Statutes Cumulative
5 Supplement, 2010, is amended to read:

6 4-108 (1) Notwithstanding any other provisions of law,
7 unless exempted from verification under section 4-110 or pursuant to
8 federal law, no state agency or political subdivision of the State of
9 Nebraska shall provide public benefits to a person not lawfully
10 present in the United States.

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

18 (3) On and after October 1, 2009, no employee of a state
19 agency or political subdivision of the State of Nebraska shall be
20 authorized to participate in any retirement system, including, but
21 not limited to, the systems provided for in the County Employees
22 Retirement Act, the Judges Retirement Act, the Nebraska State Patrol
23 Retirement Act, the School Employees Cash Balance Retirement Act, the
24 School Employees Retirement Act, and the State Employees Retirement
25 Act, unless the employee (a) is a United States citizen or (b) is a

1 qualified alien under the federal Immigration and Nationality Act, 8
2 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is
3 lawfully present in the United States.

4 Sec. 39. Section 23-2301, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 23-2301 For purposes of the County Employees Retirement
7 Act, unless the context otherwise requires:

8 (1) Actuarial equivalent means the equality in value of
9 the aggregate amounts expected to be received under different forms
10 of an annuity payment. The mortality assumption used for purposes of
11 converting the member cash balance account shall be the 1994 Group
12 Annuity Mortality Table using a unisex rate that is fifty percent
13 male and fifty percent female. For purposes of converting the member
14 cash balance account attributable to contributions made prior to
15 January 1, 1984, that were transferred pursuant to the act, the 1994
16 Group Annuity Mortality Table for males shall be used;

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

25 (3) Annuity start date means the date upon which a

1 member's annuity is first effective and shall be the first day of the
2 month following the member's termination or following the date the
3 application is received by the board, whichever is later;

4 (4) Cash balance benefit means a member's retirement
5 benefit that is equal to an amount based on annual employee
6 contribution credits plus interest credits and, if vested, employer
7 contribution credits plus interest credits and dividend amounts
8 credited in accordance with subdivision (4)(c) of section 23-2317;

9 (5)(a) Compensation means gross wages or salaries payable
10 to the member for personal services performed during the plan year.
11 Compensation does not include insurance premiums converted into cash
12 payments, reimbursement for expenses incurred, fringe benefits, or
13 bonuses for services not actually rendered, including, but not
14 limited to, early retirement inducements, cash awards, and severance
15 pay, except for retroactive salary payments paid pursuant to court
16 order, arbitration, or litigation and grievance settlements.
17 Compensation includes overtime pay, member retirement contributions,
18 and amounts contributed by the member to plans under sections 125,
19 403(b), and 457 of the Internal Revenue Code or any other section of
20 the code which defers or excludes such amounts from income.

21 (b) Compensation in excess of the limitations set forth
22 in section 401(a)(17) of the Internal Revenue Code shall be
23 disregarded. For an employee who was a member of the retirement
24 system before the first plan year beginning after December 31, 1995,
25 the limitation on compensation shall not be less than the amount

1 which was allowed to be taken into account under the retirement
2 system as in effect on July 1, 1993;

3 (6) Date of adoption of the retirement system by each
4 county means the first day of the month next following the date of
5 approval of the retirement system by the county board or January 1,
6 1987, whichever is earlier;

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

9 (8) Defined contribution benefit means a member's
10 retirement benefit from a money purchase plan in which member
11 benefits equal annual contributions and earnings pursuant to section
12 23-2309 and, if vested, employer contributions and earnings pursuant
13 to section 23-2310;

14 (9) Disability means an inability to engage in a
15 substantially gainful activity by reason of any medically
16 determinable physical or mental impairment which can be expected to
17 result in death or be of a long and indefinite duration;

18 (10) Employee means all persons or officers who are
19 employed by a county of the State of Nebraska on a permanent basis,
20 persons or officers employed by or serving in a municipal county
21 formed by at least one county participating in the retirement system,
22 persons employed as provided in section 2-1608, all elected officers
23 of a county, and such other persons or officers as are classified
24 from time to time as permanent employees by the county board of the
25 county by which they are employed, except that employee does not

1 include judges, employees or officers of any county having a
2 population in excess of one hundred fifty thousand inhabitants, or,
3 except as provided in section 23-2306, persons making contributions
4 to the School Employees Retirement System of the State of Nebraska or
5 the School Employees Cash Balance Retirement System;

6 (11) Employee contribution credit means an amount equal
7 to the member contribution amount required by section 23-2307;

8 (12) Employer contribution credit means an amount equal
9 to the employer contribution amount required by section 23-2308;

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

16 (14) Five-year break in service means a period of five
17 consecutive one-year breaks in service;

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

21 (16) Future service means service following the date of
22 adoption of the retirement system;

23 (17) Guaranteed investment contract means an investment
24 contract or account offering a return of principal invested plus
25 interest at a specified rate. For investments made after July 19,

1 1996, guaranteed investment contract does not include direct
2 obligations of the United States or its instrumentalities, bonds,
3 participation certificates or other obligations of the Federal
4 National Mortgage Association, the Federal Home Loan Mortgage
5 Corporation, or the Government National Mortgage Association, or
6 collateralized mortgage obligations and other derivative securities.
7 This subdivision shall not be construed to require the liquidation of
8 investment contracts or accounts entered into prior to July 19, 1996;

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

14 (19) Interest credits means the amounts credited to the
15 employee cash balance account and the employer cash balance account
16 at the end of each day. Such interest credit for each account shall
17 be determined by applying the daily portion of the interest credit
18 rate to the account balance at the end of the previous day. Such
19 interest credits shall continue to be credited to the employee cash
20 balance account and the employer cash balance account after a member
21 ceases to be an employee, except that no such credit shall be made
22 with respect to the employee cash balance account and the employer
23 cash balance account for any day beginning on or after the member's
24 date of final account value. If benefits payable to the member's
25 surviving spouse or beneficiary are delayed after the member's death,

1 interest credits shall continue to be credited to the employee cash
2 balance account and the employer cash balance account until such
3 surviving spouse or beneficiary commences receipt of a distribution
4 from the plan;

5 (20) Member cash balance account means an account equal
6 to the sum of the employee cash balance account and, if vested, the
7 employer cash balance account and dividend amounts credited in
8 accordance with subdivision (4)(c) of section 23-2317;

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

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

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

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

20 (25) Prior service means service prior to the date of
21 adoption of the retirement system;

22 (26) Regular interest means the rate of interest earned
23 each calendar year as determined by the retirement board in
24 conformity with actual and expected earnings on the investments
25 through December 31, 1985;

1 (27) Required contribution means the deduction to be made
2 from the compensation of employees as provided in the act;

3 (28) Retirement means qualifying for and accepting the
4 retirement benefit granted under the act after terminating
5 employment;

6 (29) Retirement board or board means the Public Employees
7 Retirement Board;

8 (30) Retirement system means the Retirement System for
9 Nebraska Counties;

10 (31) Service means the actual total length of employment
11 as an employee and is not deemed to be interrupted by (a) temporary
12 or seasonal suspension of service that does not terminate the
13 employee's employment, (b) leave of absence authorized by the
14 employer for a period not exceeding twelve months, (c) leave of
15 absence because of disability, or (d) military service, when properly
16 authorized by the retirement board. Service does not include any
17 period of disability for which disability retirement benefits are
18 received under section 23-2315;

19 (32) Surviving spouse means (a) the spouse married to the
20 member on the date of the member's death or (b) the spouse or former
21 spouse of the member if survivorship rights are provided under a
22 qualified domestic relations order filed with the board pursuant to
23 the Spousal Pension Rights Act. The spouse or former spouse shall
24 supersede the spouse married to the member on the date of the
25 member's death as provided under a qualified domestic relations

1 order. If the benefits payable to the spouse or former spouse under a
2 qualified domestic relations order are less than the value of
3 benefits entitled to the surviving spouse, the spouse married to the
4 member on the date of the member's death shall be the surviving
5 spouse for the balance of the benefits;

6 (33) Termination of employment occurs on the date on
7 which a county which is a member of the retirement system determines
8 that its employer-employee relationship with an employee is
9 dissolved. The county shall notify the board of the date on which
10 such a termination has occurred. Termination of employment does not
11 occur if an employee whose employer-employee relationship with a
12 county is dissolved enters into an employer-employee relationship
13 with the same or another county which participates in the Retirement
14 System for Nebraska Counties and there are less than one hundred
15 twenty days between the date when the employee's employer-employee
16 relationship ceased with the county and the date when the employer-
17 employee relationship commenced with the same or another county which
18 qualifies the employee for participation in the plan. It shall be the
19 responsibility of the current employer to notify the board of such
20 change in employment and provide the board with such information as
21 the board deems necessary. If the board determines that termination
22 of employment has not occurred and a termination benefit has been
23 paid to a member of the retirement system pursuant to section
24 23-2319, the board shall require the member who has received such
25 benefit to repay the benefit to the retirement system; and

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

4 Sec. 40. Section 42-1102, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 42-1102 For purposes of the Spousal Pension Rights Act:

7 (1) Alternate payee means a spouse, former spouse, child,
8 or other dependent of a member who is recognized by a domestic
9 relations order as having a right to receive all or a portion of the
10 benefits payable by a statewide public retirement system with respect
11 to such member;

12 (2) Benefit means an annuity, a pension, a retirement
13 allowance, a withdrawal of accumulated contributions, or an optional
14 benefit accrued or accruing to a member under a statewide public
15 retirement system;

16 (3) Domestic relations order means a judgment, decree, or
17 order, including approval of a property settlement agreement, which
18 relates to the provision of child support, alimony payments,
19 maintenance support, or marital property rights to a spouse, former
20 spouse, child, or other dependent of a member and is made pursuant to
21 a state domestic relations law of this state or another state;

22 (4) Earliest retirement date means the earlier of (a) the
23 date on which the member is entitled to a distribution under the
24 system or (b) the later of (i) the date that the member attains fifty
25 years of age or (ii) the earliest date that the member could receive

1 benefits under the system if the member separated from service;

2 (5) Qualified domestic relations order means a domestic
3 relations order which creates or recognizes the existence of an
4 alternate payee's right, or assigns to an alternate payee the right,
5 to receive all or a portion of the benefits payable with respect to a
6 member under a statewide public retirement system, which directs the
7 system to disburse benefits to the alternate payee, and which meets
8 the requirements of section 42-1103;

9 (6) Segregated amounts means the amounts which would have
10 been payable to the alternative payee during the period of time that
11 the qualified status of an order is being determined. Such amounts
12 shall equal the amounts payable for such period if the order had been
13 determined to be a qualified domestic relations order; and

14 (7) Statewide public retirement system means the
15 Retirement System for Nebraska Counties, the Nebraska Judges
16 Retirement System as provided in the Judges Retirement Act, the
17 School Employees Cash Balance Retirement System, the School Employees
18 Retirement System of the State of Nebraska, the Nebraska State Patrol
19 Retirement System, and the State Employees Retirement System of the
20 State of Nebraska.

21 Sec. 41. Section 68-621, Revised Statutes Cumulative
22 Supplement, 2010, is amended to read:

23 68-621 (1) A referendum group, as referred to in sections
24 68-621 to 68-630, shall consist of the employees of the state, a
25 single political subdivision of this state, or any instrumentality

1 jointly created by this state and any other state or states, the
2 employees of which are or may be members of a retirement system
3 covering such employees, except that: (a) The employees of the
4 University of Nebraska shall constitute a referendum group; (b) the
5 employees of a Class V school district shall constitute a referendum
6 group; (c) all employees of the State of Nebraska who are or may be
7 members of the School Employees Cash Balance Retirement System or the
8 School Employees Retirement System of the State of Nebraska,
9 including employees of institutions operated by the Board of Trustees
10 of the Nebraska State Colleges, employees of institutions operated by
11 the Department of Correctional Services and the Department of Health
12 and Human Services, and employees subordinate to the State Board of
13 Education, shall constitute a referendum group; and (d) all employees
14 of school districts of the State of Nebraska, county superintendents,
15 and county school administrators, who are or may be members of the
16 School Employees Retirement System of the State of Nebraska, shall
17 constitute a single referendum group.

18 (2) The managing authority of a political subdivision or
19 educational institution shall be the board, committee, or council
20 having general authority over a political subdivision, university,
21 college, or school district whose employees constitute or are
22 included in a referendum group; the managing authority of the state
23 shall be the Governor; and insofar as sections 68-601 to 68-631 may
24 be applicable to county superintendents and county school
25 administrators, managing authority shall mean the board of county

1 commissioners or county supervisors of the county in which the county
2 superintendent was elected or with which the county school
3 administrator contracted.

4 (3) Eligible employees, as referred to in sections 68-621
5 to 68-630, shall mean those employees of the state or any political
6 subdivision thereof who at or during the time of voting in a
7 referendum as herein provided are in positions covered by a
8 retirement system, are members of such retirement system, and were in
9 such positions at the time of giving of the notice of such
10 referendum, as herein required, except that no such employee shall be
11 considered an eligible employee if at the time of such voting such
12 employee is in a position to which the state agreement applies or if
13 such employee is in service in a police officer or firefighter
14 position.

15 (4) State agreement, as referred to in sections 68-621 to
16 68-630, shall mean the agreement between the State of Nebraska and
17 the designated officer of the United States of America entered into
18 pursuant to section 68-603.

19 Sec. 42. Section 79-408, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 79-408 The territory now or hereafter embraced within
22 each incorporated city of the primary class in the State of Nebraska
23 that is not in part within the boundaries of a learning community,
24 such adjacent territory as now or hereafter may be included therewith
25 for school purposes, and such territory not adjacent thereto as may

1 have been added thereto by law shall constitute a Class IV school
2 district, except that nothing in this section shall be construed to
3 change the boundaries of any school district that is a member of a
4 learning community. A Class IV school district shall be a body
5 corporate and possess all the usual powers of a corporation for
6 public purposes, may sue and be sued, and may purchase, hold, and
7 sell such personal and real estate and contract such obligations as
8 are authorized by law. The powers of a Class IV district include, but
9 are not limited to, the power to adopt, administer, and amend from
10 time to time such retirement, annuity, insurance, and other benefit
11 plans for its present and future employees after their retirement, or
12 any reasonable classification thereof, as may be deemed proper by the
13 board of education. The board of education shall not establish a
14 retirement system for new employees supplemental to the School
15 Employees Cash Balance Retirement System or the School Employees
16 Retirement System of the State of Nebraska.

17 The title to all real or personal property owned by such
18 school district shall, upon the organization of the school district,
19 vest immediately in the school district so created. The board of
20 education shall have exclusive control of all property belonging to
21 the school district.

22 In the discretion of the board of education, funds
23 accumulated in connection with a retirement plan may be transferred
24 to and administered by a trustee or trustees to be selected by the
25 board of education, or if the retirement plan is in the form of

1 annuity or insurance contracts, such funds, or any part thereof, may
2 be paid to a duly licensed insurance carrier or carriers selected by
3 the board of education. Funds accumulated in connection with any such
4 retirement plan, and any other funds of the school district which are
5 not immediately required for current needs or expenses, may be
6 invested and reinvested by the board of education or by its authority
7 in securities of a type permissible either for the investment of
8 funds of a domestic legal reserve life insurance company or for the
9 investment of trust funds, according to the laws of the State of
10 Nebraska.

11 Sec. 43. Section 79-902, Revised Statutes Cumulative
12 Supplement, 2010, is amended to read:

13 79-902 For purposes of the School Employees Retirement
14 Act, unless the context otherwise requires:

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

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

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

24 (4) County school official means (a) until July 1, 2000,
25 the county superintendent or district superintendent and any person

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

6 (5) Creditable service means prior service for which
7 credit is granted under sections 79-926 to 79-929, service credit
8 purchased under sections 79-933.03 to 79-933.06 and 79-933.08, and
9 all service rendered while a contributing member of the retirement
10 system. Creditable service includes working days, sick days, vacation
11 days, holidays, and any other leave days for which the employee is
12 paid regular wages as part of the employee's agreement with the
13 employer. Creditable service does not include lump-sum payments to
14 the employee upon termination or retirement in lieu of accrued
15 benefits for such days, eligibility and vesting credit, nor service
16 years for which member contributions are withdrawn and not repaid.
17 Creditable service also does not include service rendered by a member
18 for which the retirement board determines that the member was paid
19 less in compensation than the minimum wage as provided in the Wage
20 and Hour Act or service which the board determines was rendered with
21 the intent to defraud the retirement system;

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

24 (7) Employer means the State of Nebraska or any
25 subdivision thereof or agency of the state or subdivision authorized

1 by law to hire school employees or to pay their compensation;

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

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

9 (10) School employee means a contributing member who
10 earns service credit pursuant to section 79-927. For purposes of this
11 section, contributing member means the following persons who receive
12 compensation from a public school until July 1, 2011: (a) Regular
13 employees; (b) regular employees having retired pursuant to the
14 School Employees Retirement Act who subsequently provide compensated
15 service on a regular basis in any capacity; and (c) regular employees
16 hired by a public school on an ongoing basis to assume the duties of
17 other regular employees who are temporarily absent. Substitute
18 employees and temporary employees shall not be considered school
19 employees;

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

23 (12) Public school means any and all schools offering
24 instruction in elementary or high school grades, as defined in
25 section 79-101, which schools are supported by public funds and are

1 wholly under the control and management of the State of Nebraska or
2 any subdivision thereof, including (a) schools or other entities
3 established, maintained, and controlled by the school boards of local
4 school districts, except Class V school districts, (b) any
5 educational service unit, and (c) any other educational institution
6 wholly supported by public funds, except schools under the control
7 and management of the Board of Trustees of the Nebraska State
8 Colleges, the Board of Regents of the University of Nebraska, or the
9 community college boards of governors for any community college
10 areas;

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

14 (14) Retirement board or board means the Public Employees
15 Retirement Board;

16 (15) Retirement system means the School Employees
17 Retirement System of the State of Nebraska;

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

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

25 (18) Service means employment as a school employee and

1 shall not be deemed interrupted by (a) termination at the end of the
2 school year of the contract of employment of an employee in a public
3 school if the employee enters into a contract of employment in any
4 public school, except a school in a Class V school district, for the
5 following school year, (b) temporary or seasonal suspension of
6 service that does not terminate the employee's employment, (c) leave
7 of absence authorized by the employer for a period not exceeding
8 twelve months, (d) leave of absence because of disability, or (e)
9 military service when properly authorized by the retirement board.
10 Service does not include any period of disability for which
11 disability retirement benefits are received under sections 79-951 to
12 79-953;

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

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

25 (21) State deposit means the deposit by the state in the

1 retirement system on behalf of any member;

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

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

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

24 (25) Actuarial equivalent means the equality in value of
25 the aggregate amounts expected to be received under different forms

1 of payment. The determinations shall be based on the 1994 Group
2 Annuity Mortality Table reflecting sex-distinct factors blended using
3 twenty-five percent of the male table and seventy-five percent of the
4 female table. An interest rate of eight percent per annum shall be
5 reflected in making these determinations except when a lump-sum
6 settlement is made to an estate. If the lump-sum settlement is made
7 to an estate, the interest rate will be determined by the Moody's
8 Triple A Bond Index as of the prior June 30, rounded to the next
9 lower quarter percent;

10 (26) Retirement date means (a) if the member has
11 terminated employment, the first day of the month following the date
12 upon which a member's request for retirement is received on a
13 retirement application provided by the retirement system or (b) if
14 the member has filed an application but has not yet terminated
15 employment, the first day of the month following the date on which
16 the member terminates employment. An application may be filed no more
17 than ninety days prior to the effective date of the member's initial
18 benefit;

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

25 (28) Retirement application means the form approved by

1 the retirement system for acceptance of a member's request for either
2 regular or disability retirement;

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

8 (30)(a) Final average compensation means the sum of the
9 member's total compensation during the three twelve-month periods of
10 service as a school employee in which such compensation was the
11 greatest divided by thirty-six.

12 (b) If a member has such compensation for less than
13 thirty-six months, his or her final average compensation shall be
14 determined by dividing his or her total compensation in all months by
15 the total number of months of his or her creditable service therefor.

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

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

22 (32) Current benefit means (a) until July 1, 2000, the
23 initial benefit increased by all adjustments made pursuant to section
24 79-947.02 and (b) on or after July 1, 2000, the initial benefit
25 increased by all adjustments made pursuant to the School Employees

1 Retirement Act;

2 (33) Initial benefit means the retirement benefit
3 calculated at the time of retirement;

4 (34) Surviving spouse means (a) the spouse married to the
5 member on the date of the member's death or (b) the spouse or former
6 spouse of the member if survivorship rights are provided under a
7 qualified domestic relations order filed with the board pursuant to
8 the Spousal Pension Rights Act. The spouse or former spouse shall
9 supersede the spouse married to the member on the date of the
10 member's death as provided under a qualified domestic relations
11 order. If the benefits payable to the spouse or former spouse under a
12 qualified domestic relations order are less than the value of
13 benefits entitled to the surviving spouse, the spouse married to the
14 member on the date of the member's death shall be the surviving
15 spouse for the balance of the benefits;

16 (35)(a) Compensation means gross wages or salaries
17 payable to the member for personal services performed during the plan
18 year and includes (i) overtime pay, (ii) member retirement
19 contributions, (iii) retroactive salary payments paid pursuant to
20 court order, arbitration, or litigation and grievance settlements,
21 and (iv) amounts contributed by the member to plans under sections
22 125, 403(b), and 457 of the Internal Revenue Code as defined in
23 section 49-801.01 or any other section of the code which defers or
24 excludes such amounts from income.

25 (b) Compensation does not include (i) fraudulently

1 obtained amounts as determined by the retirement board, (ii) amounts
2 for unused sick leave or unused vacation leave converted to cash
3 payments, (iii) insurance premiums converted into cash payments, (iv)
4 reimbursement for expenses incurred, (v) fringe benefits, (vi)
5 bonuses for services not actually rendered, including, but not
6 limited to, early retirement inducements, cash awards, and severance
7 pay, or (vii) beginning on September 4, 2005, employer contributions
8 made for the purposes of separation payments made at retirement and
9 early retirement inducements as provided for in section 79-514.

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

17 (d)(i) In the determination of compensation for members
18 on or after July 1, 2002, through June 30, 2005, that part of a
19 member's compensation for the fiscal year which exceeds the member's
20 compensation with the same employer for the preceding fiscal year by
21 more than ten percent shall be excluded unless (A) the member
22 experienced a substantial change in employment position or (B) the
23 excess compensation occurred as the result of a collective-bargaining
24 agreement between the employer and a recognized collective-bargaining
25 unit or category of school employee.

1 (ii) For purposes of this subdivision:

2 (A) Category of school employee means either all
3 employees of the employer who are administrators or certificated
4 teachers, or all employees of the employer who are not administrators
5 or certificated teachers, or both; and

6 (B) Recognized collective-bargaining unit means a group
7 of employees similarly situated with a similar community of interest
8 appropriate for bargaining recognized as such by a school board.

9 (e)(i) In the determination of compensation for members
10 on or after July 1, 2005, that part of a member's compensation for
11 the plan year which exceeds the member's compensation with the same
12 employer for the preceding plan year by more than seven percent of
13 the compensation base during the sixty months preceding the member's
14 retirement shall be excluded unless (A) the member experienced a
15 substantial change in employment position, (B) as verified by the
16 school board, the excess compensation above seven percent occurred as
17 the result of a collective-bargaining agreement between the employer
18 and a recognized collective-bargaining unit or category of school
19 employee, and the percentage increase in compensation above seven
20 percent shall not be excluded for employees outside of a collective-
21 bargaining unit or within the same category of school employee, or
22 (C) the excess compensation occurred as the result of a districtwide
23 permanent benefit change made by the employer for a category of
24 school employee in accordance with subdivision (35)(a)(iv) of this
25 section.

1 (ii) For purposes of this subdivision:

2 (A) Category of school employee means either all
3 employees of the employer who are administrators or certificated
4 teachers, or all employees of the employer who are not administrators
5 or certificated teachers, or both;

6 (B) Compensation base means (I) for current members
7 employed with the same employer, the member's compensation for the
8 plan year ending June 30, 2005, or (II) for members newly hired or
9 hired by a separate employer on or after July 1, 2005, the member's
10 compensation for the first full plan year following the member's date
11 of hiring. Thereafter, the member's compensation base shall be
12 increased each plan year by the lesser of seven percent of the
13 member's preceding plan year's compensation base or the member's
14 actual annual compensation increase during the preceding plan year;
15 and

16 (C) Recognized collective-bargaining unit means a group
17 of employees similarly situated with a similar community of interest
18 appropriate for bargaining recognized as such by a school board;

19 (36) Termination of employment occurs on the date on
20 which the member experiences a bona fide separation from service of
21 employment with the member's current employer, the date of which
22 separation is determined by the employer. The employer shall notify
23 the board of the date on which such a termination has occurred. A
24 member shall not be deemed to have terminated employment if the
25 member subsequently provides service to any employer participating in

1 the retirement system provided for in the School Employees Retirement
2 Act within one hundred eighty calendar days after ceasing employment
3 unless such service:

4 (a) Is voluntary or substitute service provided on an
5 intermittent basis; or

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

7 A member shall not be deemed to have terminated
8 employment if the board determines that a purported termination was
9 not a bona fide separation from service with the employer;

10 (37) Disability means an inability to engage in a
11 substantially gainful activity by reason of any medically
12 determinable physical or mental impairment which can be expected to
13 result in death or be of a long and indefinite duration;

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

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

23 (40) Regular employee means an employee hired by a public
24 school or under contract in a regular full-time or part-time position
25 who works a full-time or part-time schedule on an ongoing basis for

1 fifteen or more hours per week. An employee hired as described in
2 this subdivision to provide service for less than fifteen hours per
3 week but who provides service for an average of fifteen hours or more
4 per week in each calendar month of any three calendar months of a
5 plan year shall immediately commence contributions and shall be
6 deemed a regular employee; and

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

13 Sec. 44. Section 79-979, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 79-979 (1) Prior to September 13, 1997, in each Class V
16 school district in the State of Nebraska there is hereby established
17 a separate retirement system for all regular employees of such school
18 district. Such system shall be for the purpose of providing
19 retirement benefits for all regular employees of the school district
20 as provided in the Class V School Employees Retirement Act. The
21 system shall be known as School Employees' Retirement System of
22 (corporate name of the school district as described in section
23 79-405). All of its business shall be transacted, all of its funds
24 shall be invested, and all of its cash and securities and other
25 property shall be held in trust by such name for the purposes set

1 forth in the act. Such funds shall be kept separate from all other
2 funds of the school district and shall be used for no other purpose.

3 (2) Except as provided in subsection (3) of this section,
4 if any new Class V school districts are formed after September 13,
5 1997, such new Class V school district shall elect to become or
6 remain a part of the retirement system established pursuant to the
7 School Employees Retirement Act or the School Employees Cash Balance
8 Retirement Act.

9 (3) Any new Class V school districts formed pursuant to
10 the Learning Community Reorganization Act shall continue to
11 participate in the retirement system established pursuant to the
12 Class V School Employees Retirement Act if such new Class V school
13 district was formed at least in part by territory that had been in a
14 Class V school district that participated in the retirement system
15 established pursuant to the Class V School Employees Retirement Act.

16 Sec. 45. Section 79-1003, Revised Statutes Cumulative
17 Supplement, 2010, is amended to read:

18 79-1003 For purposes of the Tax Equity and Educational
19 Opportunities Support Act:

20 (1) Adjusted general fund operating expenditures means
21 (a) for school fiscal years before school fiscal year 2007-08,
22 general fund operating expenditures as calculated pursuant to
23 subdivision (21) of this section minus the transportation allowance
24 and minus the special receipts allowance, (b) for school fiscal year
25 2007-08, general fund operating expenditures as calculated pursuant

1 to subdivision (21) of this section minus the sum of the
2 transportation, special receipts, and distance education and
3 telecommunications allowances, (c) for school fiscal year 2008-09,
4 the difference of the product of the general fund operating
5 expenditures as calculated pursuant to subdivision (21) of this
6 section multiplied by the cost growth factor calculated pursuant to
7 section 79-1007.10 minus the transportation allowance, special
8 receipts allowance, poverty allowance, limited English proficiency
9 allowance, distance education and telecommunications allowance,
10 elementary site allowance, elementary class size allowance, summer
11 school allowance, and focus school and program allowance, (d) for
12 school fiscal year 2009-10, the difference of the product of the
13 general fund operating expenditures as calculated pursuant to
14 subdivision (21) of this section multiplied by the cost growth factor
15 calculated pursuant to section 79-1007.10 minus the transportation
16 allowance, special receipts allowance, poverty allowance, limited
17 English proficiency allowance, distance education and
18 telecommunications allowance, elementary site allowance, elementary
19 class size allowance, summer school allowance, instructional time
20 allowance, and focus school and program allowance, (e) for school
21 fiscal years 2010-11 through 2012-13, the difference of the product
22 of the general fund operating expenditures as calculated pursuant to
23 subdivision (21) of this section multiplied by the cost growth factor
24 calculated pursuant to section 79-1007.10 minus the transportation
25 allowance, special receipts allowance, poverty allowance, limited

1 English proficiency allowance, distance education and
2 telecommunications allowance, elementary site allowance, elementary
3 class size allowance, summer school allowance, instructional time
4 allowance, teacher education allowance, and focus school and program
5 allowance, and (f) for school fiscal year 2013-14 and each school
6 fiscal year thereafter, the difference of the product of the general
7 fund operating expenditures as calculated pursuant to subdivision
8 (21) of this section multiplied by the cost growth factor calculated
9 pursuant to section 79-1007.10 minus the transportation allowance,
10 special receipts allowance, poverty allowance, limited English
11 proficiency allowance, distance education and telecommunications
12 allowance, elementary site allowance, summer school allowance,
13 instructional time allowance, teacher education allowance, and focus
14 school and program allowance;

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

25 (3) Allocated income tax funds means the amount of

1 assistance paid to a local system pursuant to section 79-1005.01 or
2 79-1005.02 as adjusted by the minimum levy adjustment pursuant to
3 section 79-1008.02;

4 (4) Average daily attendance of a student who resides on
5 Indian land means average daily attendance of a student who resides
6 on Indian land from the most recent data available on November 1
7 preceding the school fiscal year in which aid is to be paid;

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

13 (6) Base fiscal year means the first school fiscal year
14 following the school fiscal year in which the reorganization or
15 unification occurred;

16 (7) Board means the school board of each school district;

17 (8) Categorical funds means funds limited to a specific
18 purpose by federal or state law, including, but not limited to, Title
19 I funds, Title VI funds, federal vocational education funds, federal
20 school lunch funds, Indian education funds, Head Start funds, and
21 funds from the Education Innovation Fund;

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

25 (10) Department means the State Department of Education;

1 (11) District means any Class I, II, III, IV, V, or VI
2 school district and, beginning with the calculation of state aid for
3 school fiscal year 2011-12 and each school fiscal year thereafter, a
4 unified system as defined in section 79-4,108;

5 (12) Ensuing school fiscal year means the school fiscal
6 year following the current school fiscal year;

7 (13) Equalization aid means the amount of assistance
8 calculated to be paid to a local system pursuant to sections
9 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022, and
10 79-1022.02;

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

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

17 (16) Formula students means:

18 (a) For school fiscal years prior to school fiscal year
19 2008-09, (i) for state aid certified pursuant to section 79-1022, the
20 sum of fall membership from the school fiscal year immediately
21 preceding the school fiscal year in which the aid is to be paid,
22 multiplied by the average ratio of average daily membership to fall
23 membership for the second school fiscal year immediately preceding
24 the school fiscal year in which aid is to be paid and the prior two
25 school fiscal years, plus qualified early childhood education fall

1 membership plus tuitioned students from the school fiscal year
2 immediately preceding the school fiscal year in which the aid is to
3 be paid and (ii) for final calculation of state aid pursuant to
4 section 79-1065, the sum of average daily membership plus qualified
5 early childhood education average daily membership plus tuitioned
6 students from the school fiscal year immediately preceding the school
7 fiscal year in which the aid was paid; and

8 (b) For school fiscal year 2008-09 and each school fiscal
9 year thereafter, (i) for state aid certified pursuant to section
10 79-1022, the sum of the product of fall membership from the school
11 fiscal year immediately preceding the school fiscal year in which the
12 aid is to be paid multiplied by the average ratio of average daily
13 membership to fall membership for the second school fiscal year
14 immediately preceding the school fiscal year in which the aid is to
15 be paid and the prior two school fiscal years plus sixty percent of
16 the qualified early childhood education fall membership plus
17 tuitioned students from the school fiscal year immediately preceding
18 the school fiscal year in which aid is to be paid minus the product
19 of the number of students enrolled in kindergarten that is not full-
20 day kindergarten from the fall membership multiplied by 0.5 and (ii)
21 for final calculation of state aid pursuant to section 79-1065, the
22 sum of average daily membership plus sixty percent of the qualified
23 early childhood education average daily membership plus tuitioned
24 students minus the product of the number of students enrolled in
25 kindergarten that is not full-day kindergarten from the average daily

1 membership multiplied by 0.5 from the school fiscal year immediately
2 preceding the school fiscal year in which aid was paid;

3 (17) Free lunch and free milk student means a student who
4 qualified for free lunches or free milk from the most recent data
5 available on November 1 of the school fiscal year immediately
6 preceding the school fiscal year in which aid is to be paid;

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

9 (19) General fund budget of expenditures means the total
10 budget of disbursements and transfers for general fund purposes as
11 certified in the budget statement adopted pursuant to the Nebraska
12 Budget Act, except that for purposes of the limitation imposed in
13 section 79-1023 and the calculation pursuant to subdivision (2) of
14 section 79-1027.01, the general fund budget of expenditures does not
15 include any special grant funds, exclusive of local matching funds,
16 received by a district;

17 (20) General fund expenditures means all expenditures
18 from the general fund;

19 (21) General fund operating expenditures means:

20 (a) For state aid calculated for school fiscal years
21 prior to school fiscal year 2008-09, the total general fund
22 expenditures minus categorical funds, tuition paid, transportation
23 fees paid to other districts, adult education, summer school,
24 community services, redemption of the principal portion of general
25 fund debt service, retirement incentive plans, staff development

1 assistance, and transfers from other funds into the general fund for
2 the second school fiscal year immediately preceding the school fiscal
3 year in which aid is to be paid as reported on the annual financial
4 report prior to December 1 of the school fiscal year immediately
5 preceding the school fiscal year in which aid is to be paid;

6 (b) For state aid calculated for school fiscal year
7 2008-09, as reported for the second school fiscal year immediately
8 preceding the school fiscal year in which aid is to be paid on the
9 annual financial report submitted prior to December 1 of the school
10 fiscal year immediately preceding the school fiscal year in which aid
11 is to be paid, the total general fund expenditures minus (i) the
12 amount of all receipts to the general fund, to the extent that such
13 receipts are not included in local system formula resources, from
14 early childhood education tuition, summer school tuition, educational
15 entities as defined in section 79-1201.01 for providing distance
16 education courses through the Educational Service Unit Coordinating
17 Council to such educational entities, private foundations,
18 individuals, associations, charitable organizations, the textbook
19 loan program authorized by section 79-734, and federal impact aid,
20 (ii) the amount of expenditures for categorical funds, tuition paid,
21 transportation fees paid to other districts, adult education,
22 community services, redemption of the principal portion of general
23 fund debt service, retirement incentive plans authorized by section
24 79-855, and staff development assistance authorized by section
25 79-856, and (iii) the amount of any transfers from the general fund

1 to any bond fund and transfers from other funds into the general
2 fund;

3 (c) For state aid calculated for school fiscal year
4 2009-10, as reported on the annual financial report for the second
5 school fiscal year immediately preceding the school fiscal year in
6 which aid is to be paid, the total general fund expenditures minus
7 (i) the amount of all receipts to the general fund, to the extent
8 that such receipts are not included in local system formula
9 resources, from early childhood education tuition, summer school
10 tuition, educational entities as defined in section 79-1201.01 for
11 providing distance education courses through the Educational Service
12 Unit Coordinating Council to such educational entities, private
13 foundations, individuals, associations, charitable organizations, the
14 textbook loan program authorized by section 79-734, and federal
15 impact aid, (ii) the amount of expenditures for categorical funds,
16 tuition paid, transportation fees paid to other districts, adult
17 education, community services, redemption of the principal portion of
18 general fund debt service, retirement incentive plans authorized by
19 section 79-855, and staff development assistance authorized by
20 section 79-856, (iii) the amount of any transfers from the general
21 fund to any bond fund and transfers from other funds into the general
22 fund, and (iv) any legal expenses in excess of fifteen-hundredths of
23 one percent of the formula need for the school fiscal year in which
24 the expenses occurred; and

25 (d) For state aid calculated for school fiscal year

1 2010-11 and each school fiscal year thereafter, as reported on the
2 annual financial report for the second school fiscal year immediately
3 preceding the school fiscal year in which aid is to be paid, the
4 total general fund expenditures minus (i) the amount of all receipts
5 to the general fund, to the extent that such receipts are not
6 included in local system formula resources, from early childhood
7 education tuition, summer school tuition, educational entities as
8 defined in section 79-1201.01 for providing distance education
9 courses through the Educational Service Unit Coordinating Council to
10 such educational entities, private foundations, individuals,
11 associations, charitable organizations, the textbook loan program
12 authorized by section 79-734, federal impact aid, and levy override
13 elections pursuant to section 77-3444, (ii) the amount of
14 expenditures for categorical funds, tuition paid, transportation fees
15 paid to other districts, adult education, community services,
16 redemption of the principal portion of general fund debt service,
17 retirement incentive plans authorized by section 79-855, and staff
18 development assistance authorized by section 79-856, (iii) the amount
19 of any transfers from the general fund to any bond fund and transfers
20 from other funds into the general fund, (iv) any legal expenses in
21 excess of fifteen-hundredths of one percent of the formula need for
22 the school fiscal year in which the expenses occurred, (v)
23 expenditures to pay for sums agreed to be paid by a school district
24 to certificated employees in exchange for a voluntary termination
25 occurring prior to July 1, 2009, and (vi)(A) expenditures in school

1 fiscal years 2009-10 through 2013-14 (I) to pay for employer
2 contributions pursuant to subsection (2) of section 79-958 to the
3 School Employees Retirement System of the State of Nebraska to the
4 extent that such expenditures exceed the employer contributions under
5 such subsection that would have been made at a contribution rate of
6 seven and thirty-five hundredths percent and (II) to pay for employer
7 contributions pursuant to section 9 of this act to the School
8 Employees Cash Balance Retirement System to the extent that such
9 expenditures exceed the employer contributions under such subsection
10 that would have been made at a contribution rate of XX percent or (B)
11 expenditures in school fiscal years 2009-10 through 2013-14 to pay
12 for school district contributions pursuant to subdivision (1)(c)(i)
13 of section 79-9,113 to the Class V School Employees Retirement System
14 to the extent that such expenditures exceed the school district
15 contributions under such subdivision that would have been made at a
16 contribution rate of seven and thirty-seven hundredths percent.

17 For purposes of this subdivision (21) of this section,
18 receipts from levy override elections shall equal ninety-nine percent
19 of the difference of the total general fund levy minus a levy of one
20 dollar and five cents per one hundred dollars of taxable valuation
21 multiplied by the assessed valuation for school districts that have
22 voted pursuant to section 77-3444 to override the maximum levy
23 provided pursuant to section 77-3442;

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

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

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

8 (25) Limited English proficiency students means (a) for
9 school fiscal years prior to school fiscal year 2009-10, the number
10 of students with limited English proficiency in a district from the
11 most recent data available on November 1 of the school fiscal year
12 preceding the school fiscal year in which aid is to be paid and (b)
13 for school fiscal year 2009-10 and each school fiscal year
14 thereafter, the number of students with limited English proficiency
15 in a district from the most recent data available on November 1 of
16 the school fiscal year preceding the school fiscal year in which aid
17 is to be paid plus the difference of such students with limited
18 English proficiency minus the average number of limited English
19 proficiency students for such district, prior to such addition, for
20 the three immediately preceding school fiscal years if such
21 difference is greater than zero;

22 (26) Local system means a learning community for purposes
23 of calculation of state aid for the second full school fiscal year
24 after becoming a learning community and each school fiscal year
25 thereafter, a unified system, a Class VI district and the associated

1 Class I districts, or a Class II, III, IV, or V district and any
2 affiliated Class I districts or portions of Class I districts. The
3 membership, expenditures, and resources of Class I districts that are
4 affiliated with multiple high school districts will be attributed to
5 local systems based on the percent of the Class I valuation that is
6 affiliated with each high school district;

7 (27) Low-income child means (a) for school fiscal years
8 prior to 2008-09, a child under nineteen years of age living in a
9 household having an annual adjusted gross income of fifteen thousand
10 dollars or less for the second calendar year preceding the beginning
11 of the school fiscal year for which aid is being calculated and (b)
12 for school fiscal year 2008-09 and each school fiscal year
13 thereafter, a child under nineteen years of age living in a household
14 having an annual adjusted gross income for the second calendar year
15 preceding the beginning of the school fiscal year for which aid is
16 being calculated equal to or less than the maximum household income
17 that would allow a student from a family of four people to be a free
18 lunch and free milk student during the school fiscal year immediately
19 preceding the school fiscal year for which aid is being calculated;

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

25 (29) Most recently available complete data year means the

1 most recent single school fiscal year for which the annual financial
2 report, fall school district membership report, annual statistical
3 summary, Nebraska income tax liability by school district for the
4 calendar year in which the majority of the school fiscal year falls,
5 and adjusted valuation data are available;

6 (30) Poverty students means (a) for school fiscal years
7 prior to school fiscal year 2009-10, the number of low-income
8 students or the number of students who are free lunch and free milk
9 students in a district, whichever is greater, and (b) for school
10 fiscal year 2009-10 and each school fiscal year thereafter, the
11 number of low-income students or the number of students who are free
12 lunch and free milk students in a district plus the difference of the
13 number of low-income students or the number of students who are free
14 lunch and free milk students in a district, whichever is greater,
15 minus the average number of poverty students for such district, prior
16 to such addition, for the three immediately preceding school fiscal
17 years if such difference is greater than zero;

18 (31) Qualified early childhood education average daily
19 membership means the product of the average daily membership for
20 school fiscal year 2006-07 and each school fiscal year thereafter of
21 students who will be eligible to attend kindergarten the following
22 school year and are enrolled in an early childhood education program
23 approved by the department pursuant to section 79-1103 for such
24 school district for such school year multiplied by the ratio of the
25 actual instructional hours of the program divided by one thousand

1 thirty-two if: (a) The program is receiving a grant pursuant to such
2 section for the third year; (b) the program has already received
3 grants pursuant to such section for three years; or (c) the program
4 has been approved pursuant to subsection (5) of section 79-1103 for
5 such school year and the two preceding school years, including any
6 such students in portions of any of such programs receiving an
7 expansion grant;

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

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

25 (34) Reorganized district means any district involved in

1 a consolidation and currently educating students following
2 consolidation;

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

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

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

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

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

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

25 (37) Special education means specially designed

1 kindergarten through grade twelve instruction pursuant to section
2 79-1125, and includes special education transportation;

3 (38) Special grant funds means the budgeted receipts for
4 grants, including, but not limited to, Title I funds, Title VI funds,
5 funds from the Education Innovation Fund, reimbursements for wards of
6 the court, short-term borrowings including, but not limited to,
7 registered warrants and tax anticipation notes, interfund loans,
8 insurance settlements, and reimbursements to county government for
9 previous overpayment. The state board shall approve a listing of
10 grants that qualify as special grant funds;

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

14 (40) State board means the State Board of Education;

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

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

21 (43) Statewide average general fund operating
22 expenditures per formula student means the statewide total general
23 fund operating expenditures for all districts divided by the
24 statewide total formula students for all districts;

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

1 (45) Temporary aid adjustment factor means (a) for school
2 fiscal years before school fiscal year 2007-08, one and one-fourth
3 percent of the sum of the local system's transportation allowance,
4 the local system's special receipts allowance, and the product of the
5 local system's adjusted formula students multiplied by the average
6 formula cost per student in the local system's cost grouping and (b)
7 for school fiscal year 2007-08, one and one-fourth percent of the sum
8 of the local system's transportation allowance, special receipts
9 allowance, and distance education and telecommunications allowance
10 and the product of the local system's adjusted formula students
11 multiplied by the average formula cost per student in the local
12 system's cost grouping;

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

16 (47) Very sparse local system means a local system that
17 has:

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

24 (b)(i) More than four hundred fifty square miles in the
25 local system, (ii) less than one-half student per square mile in the

1 local system, and (iii) more than fifteen miles between each high
2 school attendance center and the next closest high school attendance
3 center on paved roads.

4 Sec. 46. Section 79-1028.01, Revised Statutes Cumulative
5 Supplement, 2010, is amended to read:

6 79-1028.01 (1) For each school fiscal year, a school
7 district may exceed its maximum general fund budget of expenditures
8 minus the special education budget of expenditures by a specific
9 dollar amount for:

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

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

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

21 (d) Expenditures of incentive payments or base fiscal
22 year incentive payments to be received in such school fiscal year
23 pursuant to section 79-1011;

24 (e) Expenditures of amounts received from educational
25 entities as defined in section 79-1201.01 for providing distance

1 education courses through the Educational Service Unit Coordinating
2 Council to such educational entities;

3 (f) Either (i) the first and second school fiscal years
4 the district will be participating in Network Nebraska for the full
5 school fiscal year or (ii) school fiscal year 2008-09, if the school
6 district participated in Network Nebraska for all of school fiscal
7 year 2007-08, for the difference of the estimated expenditures for
8 such school fiscal year for telecommunications services, access to
9 data transmission networks that transmit data to and from the school
10 district, and the transmission of data on such networks as such
11 expenditures are defined by the department for purposes of the
12 distance education and telecommunications allowance minus the dollar
13 amount of such expenditures for the second school fiscal year
14 preceding the first full school fiscal year the district participates
15 in Network Nebraska;

16 (g) Expenditures to pay another school district for the
17 transfer of land from such other school district;

18 (h) Expenditures in school fiscal years 2009-10 through
19 2013-14 (i) to pay for employer contributions pursuant to subsection
20 (2) of section 79-958 to the School Employees Retirement System of
21 the State of Nebraska to the extent that such expenditures exceed the
22 employer contributions under such subsection that would have been
23 made at a contribution rate of seven and thirty-five hundredths
24 percent and (ii) to pay for employer contributions pursuant to
25 section 9 of this act to the School Employees Cash Balance Retirement

1 System to the extent that such expenditures exceed the employer
2 contributions under such subsection that would have been made at a
3 contribution rate of XX percent;

4 (i) Expenditures in school fiscal years 2009-10 through
5 2013-14 to pay for school district contributions pursuant to
6 subdivision (1)(c)(i) of section 79-9,113 to the Class V School
7 Employees Retirement System to the extent that such expenditures
8 exceed the school district contributions under such subdivision that
9 would have been made at a contribution rate of seven and thirty-seven
10 hundredths percent;

11 (j) Expenditures for sums agreed to be paid by a school
12 district to certificated employees in exchange for a voluntary
13 termination occurring prior to July 1, 2009;

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

20 (l) Any expenditures in school fiscal years 2016-17 and
21 2017-18 of amounts specified in the notice provided by the
22 Commissioner of Education pursuant to section 79-309.01 for teacher
23 performance pay.

24 (2) The state board shall approve, deny, or modify the
25 amount allowed for any exception to the maximum general fund budget

1 of expenditures minus the special education budget of expenditures
2 pursuant to this section.

3 Sec. 47. Section 79-2116, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 79-2116 Terms and conditions of employment of school
6 employees providing services for an elementary learning center shall
7 be established by the negotiated agreement of the learning community
8 employing such school employees to provide services. For certificated
9 employees as defined in subdivision (1) of section 79-824, the
10 learning community shall be deemed to be an employer as defined in
11 subdivision (4) of section 48-801. Compensation paid to school
12 employees for services provided to a learning community shall be
13 subject to the School Employees Retirement Act or the School
14 Employees Cash Balance Retirement Act unless such employee is
15 employed by a Class V school district, in which case compensation
16 paid such school employee shall be subject to the Class V School
17 Employees Retirement Act.

18 Sec. 48. Section 84-1301, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 84-1301 For purposes of the State Employees Retirement
21 Act, unless the context otherwise requires:

22 (1) Actuarial equivalent means the equality in value of
23 the aggregate amounts expected to be received under different forms
24 of an annuity payment. The mortality assumption used for purposes of
25 converting the member cash balance account shall be the 1994 Group

1 Annuity Mortality Table using a unisex rate that is fifty percent
2 male and fifty percent female. For purposes of converting the member
3 cash balance account attributable to contributions made prior to
4 January 1, 1984, that were transferred pursuant to the act, the 1994
5 Group Annuity Mortality Table for males shall be used;

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

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

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

23 (5)(a) Compensation means gross wages or salaries payable
24 to the member for personal services performed during the plan year.
25 Compensation does not include insurance premiums converted into cash

1 payments, reimbursement for expenses incurred, fringe benefits, or
2 bonuses for services not actually rendered, including, but not
3 limited to, early retirement inducements, cash awards, and severance
4 pay, except for retroactive salary payments paid pursuant to court
5 order, arbitration, or litigation and grievance settlements.
6 Compensation includes overtime pay, member retirement contributions,
7 and amounts contributed by the member to plans under sections 125,
8 403(b), and 457 of the Internal Revenue Code or any other section of
9 the code which defers or excludes such amounts from income.

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

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

19 (7) Defined contribution benefit means a member's
20 retirement benefit from a money purchase plan in which member
21 benefits equal annual contributions and earnings pursuant to section
22 84-1310 and, if vested, employer contributions and earnings pursuant
23 to section 84-1311;

24 (8) Disability means an inability to engage in a
25 substantially gainful activity by reason of any medically

1 determinable physical or mental impairment which can be expected to
2 result in death or to be of long-continued and indefinite duration;

3 (9) Employee means any employee of the State Board of
4 Agriculture who is a member of the state retirement system on July 1,
5 1982, and any person or officer employed by the State of Nebraska
6 whose compensation is paid out of state funds or funds controlled or
7 administered by a state department through any of its executive or
8 administrative officers when acting exclusively in their respective
9 official, executive, or administrative capacities. Employee does not
10 include (a) judges as defined in section 24-701, (b) members of the
11 Nebraska State Patrol, except for those members of the Nebraska State
12 Patrol who elected pursuant to section 60-1304 to remain members of
13 the State Employees Retirement System of the State of Nebraska, (c)
14 employees of the University of Nebraska, (d) employees of the state
15 colleges, (e) employees of community colleges, (f) employees of the
16 Department of Labor employed prior to July 1, 1984, and paid from
17 funds provided pursuant to Title III of the federal Social Security
18 Act or funds from other federal sources, (g) the Commissioner of
19 Labor employed prior to July 1, 1984, (h) employees of the State
20 Board of Agriculture who are not members of the state retirement
21 system on July 1, 1982, (i) the Nebraska National Guard air and army
22 technicians, (j) persons eligible for membership under the School
23 Employees Cash Balance Retirement System or the School Employees
24 Retirement System of the State of Nebraska who have not elected to
25 become members of the retirement system pursuant to section 79-920 or

1 been made members of the system pursuant to such section, except that
2 those persons so eligible and who as of September 2, 1973, are
3 contributing to the State Employees Retirement System of the State of
4 Nebraska shall continue as members of such system, or (k) employees
5 of the Coordinating Commission for Postsecondary Education who are
6 eligible for and have elected to become members of a qualified
7 retirement program approved by the commission which is commensurate
8 with retirement programs at the University of Nebraska. Any
9 individual appointed by the Governor may elect not to become a member
10 of the State Employees Retirement System of the State of Nebraska;

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

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

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

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

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

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

3 (16) Guaranteed investment contract means an investment
4 contract or account offering a return of principal invested plus
5 interest at a specified rate. For investments made after July 19,
6 1996, guaranteed investment contract does not include direct
7 obligations of the United States or its instrumentalities, bonds,
8 participation certificates or other obligations of the Federal
9 National Mortgage Association, the Federal Home Loan Mortgage
10 Corporation, or the Government National Mortgage Association, or
11 collateralized mortgage obligations and other derivative securities.
12 This subdivision shall not be construed to require the liquidation of
13 investment contracts or accounts entered into prior to July 19, 1996;

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

19 (18) Interest credits means the amounts credited to the
20 employee cash balance account and the employer cash balance account
21 at the end of each day. Such interest credit for each account shall
22 be determined by applying the daily portion of the interest credit
23 rate to the account balance at the end of the previous day. Such
24 interest credits shall continue to be credited to the employee cash
25 balance account and the employer cash balance account after a member

1 ceases to be an employee, except that no such credit shall be made
2 with respect to the employee cash balance account and the employer
3 cash balance account for any day beginning on or after the member's
4 date of final account value. If benefits payable to the member's
5 surviving spouse or beneficiary are delayed after the member's death,
6 interest credits shall continue to be credited to the employee cash
7 balance account and the employer cash balance account until such
8 surviving spouse or beneficiary commences receipt of a distribution
9 from the plan;

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

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

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

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

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

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

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

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

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

10 (28) Retirement board or board means the Public Employees
11 Retirement Board;

12 (29) Retirement system means the State Employees
13 Retirement System of the State of Nebraska;

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

23 (31) State department means any department, bureau,
24 commission, or other division of state government not otherwise
25 specifically defined or exempted in the act, the employees and

1 officers of which are not already covered by a retirement plan;

2 (32) Surviving spouse means (a) the spouse married to the
3 member on the date of the member's death or (b) the spouse or former
4 spouse of the member if survivorship rights are provided under a
5 qualified domestic relations order filed with the board pursuant to
6 the Spousal Pension Rights Act. The spouse or former spouse shall
7 supersede the spouse married to the member on the date of the
8 member's death as provided under a qualified domestic relations
9 order. If the benefits payable to the spouse or former spouse under a
10 qualified domestic relations order are less than the value of
11 benefits entitled to the surviving spouse, the spouse married to the
12 member on the date of the member's death shall be the surviving
13 spouse for the balance of the benefits;

14 (33) Termination of employment occurs on the date on
15 which the agency which employs the member determines that the
16 member's employer-employee relationship with the State of Nebraska is
17 dissolved. The agency which employs the member shall notify the board
18 of the date on which such a termination has occurred. Termination of
19 employment does not occur if an employee whose employer-employee
20 relationship with the State of Nebraska is dissolved enters into an
21 employer-employee relationship with the same or another agency of the
22 State of Nebraska and there are less than one hundred twenty days
23 between the date when the employee's employer-employee relationship
24 ceased with the state and the date when the employer-employee
25 relationship commenced with the same or another agency. It shall be

1 the responsibility of the current employer to notify the board of
2 such change in employment and provide the board with such information
3 as the board deems necessary. If the board determines that
4 termination of employment has not occurred and a termination benefit
5 has been paid to a member of the retirement system pursuant to
6 section 84-1321, the board shall require the member who has received
7 such benefit to repay the benefit to the retirement system; and

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

11 Sec. 49. Section 84-1501, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 84-1501 (1) The Public Employees Retirement Board is
14 hereby established.

15 ~~(2) Prior to January 1, 2005, the board shall consist of~~
16 ~~seven appointed members and the state investment officer as a~~
17 ~~nonvoting, ex officio member. Three of the appointed members shall be~~
18 ~~participants in the retirement systems administered by the board, one~~
19 ~~of the appointed members shall be a participant in such retirement~~
20 ~~systems who has retired, and three of the appointed members shall not~~
21 ~~be employees of the State of Nebraska or any of its political~~
22 ~~subdivisions. Appointments to such board shall be made by the~~
23 ~~Governor subject to the approval of the Legislature. All appointed~~
24 ~~members shall be citizens of the State of Nebraska. The three~~
25 ~~appointed members who are not employees of the State of Nebraska or~~

1 ~~any of its political subdivisions shall have at least ten years of~~
2 ~~experience in the management of a public or private organization or~~
3 ~~have at least five years of experience in the field of actuarial~~
4 ~~analysis or the administration of an employee benefit plan. The~~
5 ~~members serving on March 27, 1997, shall serve for the remainder of~~
6 ~~their five year terms which will be extended until the date on which~~
7 ~~the successor's appointment is effective. For members whose terms~~
8 ~~begin on January 1, 2000, one shall serve a three year term and one~~
9 ~~shall serve a four year term or until a successor has been appointed~~
10 ~~and qualified. For members whose terms begin on January 1, 2001, one~~
11 ~~shall serve a four year term and two shall serve five year terms, or~~
12 ~~until a successor has been appointed and qualified.~~

13 ~~(3)(a) Beginning January 1, 2005, the~~ (2)(a) ~~The board~~
14 shall consist of eight appointed members as described in this
15 subsection and the state investment officer as a nonvoting, ex
16 officio member. Six of the appointed members shall be active or
17 retired participants in the retirement systems administered by the
18 board, and two of the appointed members (i) shall not be an employee
19 of the State of Nebraska or any of its political subdivisions and
20 (ii) shall have at least ten years of experience in the management of
21 a public or private organization or have at least five years of
22 experience in the field of actuarial analysis or the administration
23 of an employee benefit plan. ~~On and after January 1, 2005, any~~ Any
24 person who is appointed to the board and who is not an employee of
25 the State of Nebraska or any of its political subdivisions shall not

1 own any funds which are administered by the board.

2 (b) ~~On January 1, 2005, the~~ The six appointed members who
3 are participants in the systems shall be as follows:

4 (i) Two of the appointed members shall be participants in
5 the School Employees Cash Balance Retirement System or the School
6 Employees Retirement System of the State of Nebraska and shall
7 include one administrator and one teacher as provided in this
8 subdivision; ~~On January 1, 2005, the member of the board who had~~
9 ~~been a member of the School Retirement System of the State of~~
10 ~~Nebraska prior to such date shall continue in such position as the~~
11 ~~member representing the School Retirement System of the State of~~
12 ~~Nebraska until such member's term expires. A school administrator~~
13 ~~shall be appointed as a member of the board when the term of the~~
14 ~~first member of the board expires who was appointed prior to January~~
15 ~~1, 2005, and who was not an employee of the State of Nebraska or any~~
16 ~~of its political subdivisions;~~

17 (ii) One of the appointed members shall be a participant
18 in the Nebraska Judges Retirement System; ~~On January 1, 2005, the~~
19 ~~member of the board who had been a member of the Nebraska Judges~~
20 ~~Retirement System prior to such date shall continue in such position~~
21 ~~as the member representing the Nebraska Judges Retirement System~~
22 ~~until such member's term expires;~~

23 (iii) One of the appointed members shall be a participant
24 in the Nebraska State Patrol Retirement System; ~~Such member's term~~
25 ~~shall begin on January 1, 2005;~~

1 (iv) One of the appointed members shall be a participant
2 in the Retirement System for Nebraska Counties; ~~On January 1, 2005,~~
3 ~~the member of the board who had been a member of the Retirement~~
4 ~~System for Nebraska Counties prior to such date shall continue in~~
5 ~~such position as the member representing the Retirement System for~~
6 ~~Nebraska Counties until such member's term expires; and~~

7 (v) One of the appointed members shall be a participant
8 in the State Employees Retirement System of the State of Nebraska. ~~On~~
9 ~~January 1, 2005, the member of the board who had been a member of the~~
10 ~~State Employees Retirement System prior to such date shall continue~~
11 ~~in such position as the member representing the State Employees~~
12 ~~Retirement System until such member's term expires.~~

13 (c) Appointments to the board ~~on and after January 1,~~
14 ~~2005,~~ shall be made by the Governor and shall be subject to the
15 approval of the Legislature. All appointed members shall be citizens
16 of the State of Nebraska.

17 ~~(4)~~ (3) All members appointed ~~on and after January 1,~~
18 ~~2002,~~ shall serve for terms of five years or until a successor has
19 been appointed and qualified. The members of the board shall be
20 reimbursed for their actual and necessary expenses as provided in
21 sections 81-1174 to 81-1177. The appointed members of the board may
22 be removed by the Governor for cause after notice and an opportunity
23 to be heard.

24 Sec. 50. Section 84-1511, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 84-1511 (1) The Public Employees Retirement Board shall
2 establish a comprehensive preretirement planning program for state
3 patrol officers, state employees, judges, county employees, and
4 school employees who are members of the retirement systems
5 established pursuant to the Class V School Employees Retirement Act,
6 the County Employees Retirement Act, the Judges Retirement Act, the
7 School Employees Cash Balance Retirement Act, the School Employees
8 Retirement Act, the Nebraska State Patrol Retirement Act, and the
9 State Employees Retirement Act. The program shall provide information
10 and advice regarding the many changes employees face upon retirement
11 including, but not limited to, changes in physical and mental health,
12 housing, family life, leisure activity, and retirement income.

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

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

25 (4) The board shall work with the Department of Health

1 and Human Services, the personnel division of the Department of
2 Administrative Services, employee groups, and any other governmental
3 agency, including political subdivisions or bodies whose services or
4 expertise may enhance the development or implementation of the
5 preretirement planning program.

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

9 (6) The employer shall provide each eligible employee
10 leave with pay to attend up to two preretirement planning programs.
11 For purposes of this subsection, leave with pay shall mean a day off
12 paid by the employer and shall not mean vacation, sick, personal, or
13 compensatory time. An employee may choose to attend a program more
14 than twice, but such leave shall be at the expense of the employee
15 and shall be at the discretion of the employer. An eligible employee
16 shall not be entitled to attend more than one preretirement planning
17 program per fiscal year prior to actual election of retirement.

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

22 Sec. 51. This act becomes operative on July 1, 2011.

23 Sec. 52. Original sections 23-2301, 42-1102, 79-408,
24 79-979, 79-2116, 84-1301, 84-1501, and 84-1511, Reissue Revised
25 Statutes of Nebraska, and sections 4-108, 68-621, 79-902, 79-1003,

1 and 79-1028.01, Revised Statutes Cumulative Supplement, 2010, are
2 repealed.

3 Sec. 53. Since an emergency exists, this act takes effect
4 when passed and approved according to law.