

AMENDMENTS TO LB 722

1 1. Strike the original sections and insert the following
2 new sections:

3 "Section 1. Section 48-230, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 48-230. Any person who violates ~~the provisions of~~
6 sections 48-225 to 48-231 ~~and 55-161~~ shall be guilty of a Class IV
7 misdemeanor. Such person shall be prohibited from receiving any
8 compensation from public funds until he or she complies with ~~the~~
9 ~~provisions of~~ sections 48-225 to 48-231. ~~and 55-161.~~

10 Sec. 2. Section 48-231, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 48-231. The county attorneys, in their respective
13 counties, shall prosecute, before any court of appropriate
14 jurisdiction, all persons charged with violating ~~the provisions of~~
15 sections 48-225 to 48-231. ~~and 55-161.~~

16 Sec. 3. Section 55-160, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 55-160. (1) All employees, including elected officials
19 of the State of Nebraska, or any political subdivision thereof, who
20 ~~are shall be~~ members of the National Guard, Army Reserve, Naval
21 Reserve, Marine Corps Reserve, Air Force Reserve, and Coast Guard
22 Reserve, shall be entitled to a military leave of absence from
23 their respective duties, without loss of pay, ~~on all days during~~
24 ~~which they are~~ when employed with or without pay under the orders

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1 or authorization of competent authority in the active service of
2 the state or of the United States. Members who normally work or
3 are normally scheduled to work one hundred twenty hours or more in
4 three consecutive weeks shall receive a military leave of absence
5 of one hundred twenty hours each calendar year. Members who
6 normally work or are normally scheduled to work less than one
7 hundred twenty hours in three consecutive weeks shall receive a
8 military leave of absence each calendar year equal to the number of
9 hours they normally work or would normally be scheduled to work,
10 whichever is greater, in three consecutive weeks. Such military
11 leave of absence may be taken in hourly increments and, ~~for not to~~
12 exceed fifteen workdays in any one calendar year. Such leave of
13 absence shall be in addition to the regular annual leave of the
14 persons named herein in this section.

15 (2) When the Governor of this state ~~shall declare~~
16 declares that a state of emergency exists, and any of the persons
17 named in this section are ordered to active service of the state, a
18 state of emergency an additional leave of absence will be granted
19 until such member is released from active service of the state by
20 competent authority. A military leave of absence shall not be used
21 during a state of emergency declared by the Governor. Other forms
22 of leave may be granted. During a state of emergency ~~During the~~
23 additional leave of absence because of the call of the Governor,
24 any official or employee subject to ~~the provisions~~ of this section
25 shall receive ~~such portion~~ of his or her normal salary or
26 compensation as will equal the loss he may suffer while minus the
27 state active duty base pay he or she receives in active service of

1 the state. Governmental officers serving a term of office shall
2 receive their compensation as provided by law.

3 Sec. 4. Section 55-161, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 55-161. All (1) The parts of the federal Uniformed
6 Services Employment and Reemployment Rights Act of 1994, 38 U.S.C.
7 Chapter 43, listed in subdivisions (a) through (j) of this
8 subsection or any other parts referred to by such parts, in
9 existence and effective as of January 1, 2001, are adopted as
10 Nebraska law. This section shall be applicable to all persons
11 employed in the State of Nebraska and shall include all officers
12 and permanent employees, including teachers employed on a one-year
13 contract basis and elected officials, of the state, or of any of
14 its agencies or political subdivisions. The Legislature hereby
15 adopts:

16 (a) Section 4301(a) -- Purposes;

17 (b) Section 4302 -- Relation to other law and plans or
18 agreements;

19 (c) Section 4303(2),(4),(7) through (13),(15), and (16)
20 and those portions of subparagraph (3) not relating to employment
21 in a foreign country -- Definitions;

22 (d) Section 4304 -- Character of service;

23 (e) Section 4311 -- Discrimination against persons who
24 serve in the uniformed services and acts of reprisal prohibited;

25 (f) Section 4312 -- Reemployment rights of persons who
26 serve in the uniformed services;

27 (g) Section 4313 with the exception of that portion of

1 subparagraph (a) dealing with reemployment of federal employees --

2 Reemployment positions;

3 (h) Section 4316 -- Rights, benefits, and obligations of
4 persons absent from employment for service in a uniformed service;

5 (i) Section 4317 -- Health plans; and

6 (j) Section 4318 -- Employee pension benefit plans.

7 (2) This section applies to all members performing duty
8 in active service of the state.

9 (3) 7 who leave a position other than temporary to
10 undergo military training with the armed forces of the United
11 States or undertake military duty in the active service of the
12 state, shall be entitled to a leave of absence from such civil
13 employment for the period of such training or service, not to
14 exceed four years, plus in each case any additional period in which
15 he was unable to obtain orders relieving him from active duty, plus
16 any period of time hospitalized incident to active duty, without
17 loss of status or efficiency rating, and without loss of pay during
18 the first fifteen workdays of such leave of absence. Such pay for
19 the first fifteen workdays shall not be construed as being in
20 addition to the pay provided for in section 55-160. The proper
21 appointing authority or employer may make a temporary appointment
22 to fill any vacancy created by the absence of an officer or
23 employee pursuant to this section. such leave of absence. When
24 such person is separated from such training or service under
25 honorable conditions, or upon his discharge from hospitalization
26 incident to that duty, such employee shall be entitled to return to
27 his former position with such seniority, status, pay, and vacation

1 as he would have had if he had not been absent for such purpose, if
2 he is still qualified to perform the duties of his former position,
3 and if he makes application within thirty days after he is released
4 from such training or service. If such person is not qualified to
5 perform the duties of such position upon his return by reason of
6 disability sustained during the training or service but is
7 qualified to perform the duties of any other position in the employ
8 of the employer, he shall be restored to such other position, the
9 duties of which he is qualified to perform, as will provide him
10 with the same seniority, status, and pay, or the nearest
11 proximation thereof consistent with the circumstances in his case.
12 Such ~~person~~ officer or employee shall not be discharged from his or
13 her former or new position without justifiable cause within one
14 year after reinstatement. ~~It shall be the duty of the~~

15 (4) The Commissioner of Labor to shall enforce the
16 provisions of this section.

17 (5) The Adjutant General shall perform duties assigned to
18 the Secretary of Defense, Secretary of Veterans Affairs, or
19 Secretary of Labor in the portions of 38 U.S.C. Chapter 43 adopted
20 under this section.

21 Sec. 5. Section 55-164, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 55-164. If any employer fails to comply with any of the
24 provisions of ~~sections 55-160 to 55-163~~ section 55-160 or 55-161,
25 the employee may, at his or her election, bring an action at law
26 for damages for such noncompliance. ~~He~~ The employee may also apply
27 to the courts for such equitable relief as may be just and proper

1 under the circumstances.

2 Sec. 6. Section 55-165, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 55-165. Any person, firm, or organization violating ~~the~~
5 ~~provisions of sections 55-160 to 55-164~~ section 55-160 or 55-161
6 shall be guilty of a Class IV misdemeanor, and, in addition
7 thereto, shall restore to the employee all rights of which he or
8 she has been illegally deprived.

9 Sec. 7. Section 79-990, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 79-990. (1) Any member who is eligible for reemployment
12 on or after December 12, 1994, pursuant to 38 U.S.C. chapter 43, as
13 ~~amended~~ adopted under section 55-161, or is eligible for
14 reemployment under ~~sections 55-160 to 55-163~~ section 55-160 may pay
15 to the retirement system after the date of his or her return from
16 active military service, and within the period required by law, not
17 to exceed five years, an amount equal to the sum of all deductions
18 which would have been made from the salary which he or she would
19 have received during the period of military service for which
20 creditable service is desired. If such payment is made, the member
21 shall be entitled to credit for membership service in determining
22 his or her annuity for the period for which contributions have been
23 made and the board shall be responsible for any funding necessary
24 to provide for the benefit which is attributable to this increase
25 in the member's creditable service. The member's payments shall be
26 paid as the trustees may direct, through direct payments to the
27 retirement system or on an installment basis pursuant to a binding

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1 irrevocable payroll deduction authorization between the member and
2 the school district. Creditable service may be purchased only in
3 one-half-year increments, starting with the most recent year's
4 salary.

5 (2) Under such rules and regulations as the board may
6 prescribe, any member who was away from his or her position while
7 on a leave of absence from such position authorized by the board of
8 education of the school district by which he or she was employed at
9 the time of such leave of absence or pursuant to any contractual
10 agreement entered into by such school district may receive credit
11 for any or all time he or she was on leave of absence. Such time
12 shall be included in creditable service when determining
13 eligibility for death, disability, termination, and retirement
14 benefits. The member who receives the credit shall earn benefits
15 during the leave based on salary at the level received immediately
16 prior to the leave of absence. Such credit shall be received if
17 such member pays into the retirement system (a) an amount equal to
18 the sum of the deductions from his or her salary for the portion of
19 the leave for which creditable service is desired, (b) any
20 contribution which the school district would have been required to
21 make for the portion of the leave for which creditable service is
22 desired had he or she continued to receive salary at the level
23 received immediately prior to the leave of absence, and (c) regular
24 interest on these combined payments from the date such deductions
25 would have been made to the date of repayment. Such amounts shall
26 be paid as the trustees may direct, through direct payments to the
27 retirement system or on an installment basis pursuant to a binding

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1 irrevocable payroll deduction authorization between the member and
2 the school district over a period not to exceed five years from the
3 date of the termination of his or her leave of absence. Interest
4 on any delayed payment shall be at the rate of regular interest.
5 Creditable service may be purchased only in one-half-year
6 increments, starting with the most recent year's salary, and if
7 payments are made on an installment basis, creditable service will
8 be credited only as payment has been made to the retirement system
9 to purchase each additional one-half-year increment. Leave of
10 absence shall be construed to include, but not be limited to,
11 sabbaticals, maternity leave, exchange teaching programs, full-time
12 leave as an elected official of a professional association or
13 collective-bargaining unit, or leave of absence to pursue further
14 education or study. A leave of absence granted pursuant to this
15 section shall not exceed four years in length, and in order to
16 receive credit for the leave of absence, the member must return to
17 employment with the Class V school district within one year after
18 termination of the leave of absence.

19 Sec. 8. Original sections 48-230, 48-231, 55-160,
20 55-161, 55-164, 55-165, and 79-990, Reissue Revised Statutes of
21 Nebraska, are repealed.

22 Sec. 9. The following sections are outright repealed:
23 Sections 55-162 and 55-163, Reissue Revised Statutes of Nebraska."