

LEGISLATURE OF NEBRASKA
 NINETY-NINTH LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 503
 FINAL READING
 (SECOND)

Introduced by Nebraska Retirement Systems Committee:
 Stuhr, 24, Chairperson; Bourne, 8; Erdman, 47;
 Price, 26

Read first time January 14, 2005

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 72-1238,
 2 72-1239, 72-1243, 79-902, 79-906, 79-958, and 84-1309.01,
 3 Reissue Revised Statutes of Nebraska, and sections
 4 23-2309.01, 23-2310.05, 23-2312, 24-704, 79-1028,
 5 81-2017, 81-2021, 84-1305.01, 84-1310.01, 84-1311.03,
 6 84-1502, 84-1503, 84-1503.03, and 84-1512, Revised
 7 Statutes Supplement, 2004; to change contribution and
 8 investment provisions; to change provisions relating to
 9 membership, per diems, and powers and duties of the
 10 Nebraska Investment Council; to change provisions
 11 relating to the Public Employees Retirement Board and
 12 director of the retirement systems; to change school
 13 employee retirement calculations and tax levy provisions;
 14 to provide for an internal auditor; to harmonize

1 provisions; to provide operative dates; to repeal the

2 original sections; and to declare an emergency.

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

1 Section 1. Section 23-2309.01, Revised Statutes
2 Supplement, 2004, is amended to read:

3 23-2309.01. (1) Each member employed and participating
4 in the retirement system prior to January 1, 2003, who has elected
5 not to participate in the cash balance benefit, shall be allowed to
6 allocate all contributions to his or her employee account to
7 various investment options. The investment options shall include,
8 but not be limited to, the following:

9 (a) An investor select account which shall be invested
10 under the direction of the state investment officer with an asset
11 allocation and investment strategy substantially similar to the
12 investment allocations made by the state investment officer for the
13 defined benefit plans under the retirement systems described in
14 subdivision (1) (a) of section 84-1503. Investments shall most
15 likely include domestic and international equities, fixed income
16 investments, and real estate, as well as potentially additional
17 asset classes;

18 ~~(a)~~ (b) A stable return account which shall be invested
19 by or under the direction of the state investment officer in one or
20 more guaranteed investment contracts;

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

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

26 ~~(d)~~ (e) An index fund account which shall be invested by
27 or under the direction of the state investment officer in a
28 portfolio of common stocks designed to closely duplicate the total

1 return of the Standard and Poor's 500 Index;

2 ~~(e)~~ (f) A fixed income account which shall be invested by
3 or under the direction of the state investment officer in fixed
4 income instruments; ~~and~~

5 ~~(f)~~ (g) A money market account which shall be invested by
6 or under the direction of the state investment officer in
7 short-term fixed income securities; and

8 (h) Beginning July 1, 2006, an age-based account which
9 shall be invested under the direction of the state investment
10 officer with an asset allocation and investment strategy that
11 changes based upon the age of the member. The board shall develop
12 an account mechanism that changes the investments as the employee
13 nears retirement age. The asset allocation and asset classes
14 utilized in the investments shall move from aggressive, to
15 moderate, and then to conservative as retirement age approaches.

16 If a member fails to select an option or combination of
17 options, all of his or her funds shall be placed in the option
18 described in subdivision ~~(a)~~ (b) of this subsection. Each member
19 shall be given a detailed current description of each investment
20 option prior to making or revising his or her allocation.

21 (2) Members of the retirement system may allocate their
22 contributions to the investment options in percentage increments as
23 set by the board in any proportion, including full allocation to
24 any one option. A member may transfer any portion of his or her
25 funds among the options, except for restrictions on transfers to or
26 from the stable return account pursuant to rule or regulation. The
27 board shall adopt and promulgate rules and regulations for changes
28 of a member's allocation of contributions to his or her accounts

1 after his or her most recent allocation and for transfers from one
2 investment account to another.

3 (3) The board shall develop a schedule for the allocation
4 of administrative costs of maintaining the various investment
5 options and shall assess the costs so that each member pays a
6 reasonable fee as determined by the board. The money forfeited
7 pursuant to section 23-2319.01 shall not be used to pay the
8 administrative costs incurred pursuant to this section.

9 (4) In order to carry out this section, the board may
10 enter into administrative services agreements for accounting or
11 record-keeping services. No agreement shall be entered into unless
12 the board determines that it will result in administrative economy
13 and will be in the best interests of the county and its
14 participating employees.

15 (5) The state, the board, the state investment officer,
16 the members of the Nebraska Investment Council, or the county shall
17 not be liable for any investment results resulting from the
18 member's exercise of control over the assets in the employee
19 account.

20 Sec. 2. Section 23-2310.05, Revised Statutes Supplement,
21 2004, is amended to read:

22 23-2310.05. (1) Each member employed and participating
23 in the retirement system prior to January 1, 2003, who has elected
24 not to participate in the cash balance benefit, shall be allowed to
25 allocate all contributions to his or her employer account to
26 various investment options.

27 ~~(a) Prior to July 16, 2004.~~

28 ~~(i) Such investment options shall be limited to the~~

1 following:

2 (A) An account which shall be invested by or under the
3 direction of the state investment officer in approximately
4 twenty-five percent equities and seventy-five percent fixed income
5 instruments;

6 (B) An account which shall be invested by or under the
7 direction of the state investment officer in approximately fifty
8 percent equities and fifty percent fixed income instruments; and

9 (C) An account which shall be invested by or under the
10 direction of the state investment officer in approximately
11 seventy-five percent equities and twenty-five percent fixed income
12 instruments; and

13 (ii) If a member fails to select an option or combination
14 of options, all of his or her funds in the employer account shall
15 be placed in one of the options described in subdivision (a)(i)(A),
16 (a)(i)(B), or (a)(i)(C) of this subsection as determined by the
17 board. Each member shall be given a detailed current description
18 of each investment option prior to making or revising his or her
19 allocation.

20 (b) On and after July 16, 2004:

21 (i) Such investment options shall be the same as the
22 investment options of the employee account as provided in
23 subsection (1) of section 23-2309.01. + and (ii) If a member fails
24 to select an option or combination of options, all of his or her
25 funds in the employer account shall be placed in the balanced
26 account option described in subdivision ~~(1)(c)~~ (1)(d) of section
27 23-2309.01. Each member shall be given a detailed current
28 description of each investment option prior to making or revising

1 his or her allocation.

2 (2) Each member of the retirement system may allocate
3 contributions to his or her employer account to the investment
4 options in percentage increments as set by the board in any
5 proportion, including full allocation to any one option. A member
6 may transfer any portion of his or her funds among the options.
7 The board shall adopt and promulgate rules and regulations for
8 changes of a member's allocation of contributions to his or her
9 accounts after his or her most recent allocation and for transfers
10 from one investment account to another.

11 (3) The board shall develop a schedule for the allocation
12 of administrative costs of maintaining the various investment
13 options and shall assess the costs so that each member pays a
14 reasonable fee as determined by the board. The money forfeited
15 pursuant to section 23-2319.01 shall not be used to pay the
16 administrative costs incurred pursuant to this section.

17 (4) In order to carry out the provisions of this section,
18 the board may enter into administrative services agreements for
19 accounting or record-keeping services. No agreement shall be
20 entered into unless the board determines that it will result in
21 administrative economy and will be in the best interests of the
22 ~~state~~ county and its participating employees.

23 (5) The state, the board, the state investment officer,
24 the members of the Nebraska Investment Council, or the county shall
25 not be liable for any investment results resulting from the
26 member's exercise of control over the assets in the employer
27 account.

28 Sec. 3. Section 23-2312, Revised Statutes Supplement,

1 2004, is amended to read:

2 23-2312. (1) The director of the Nebraska Public
3 Employees Retirement Systems shall keep a complete record of all
4 members with respect to names, current addresses, ages,
5 contributions, and any other facts as may be necessary in the
6 administration of the County Employees Retirement Act. The
7 information in the records shall be provided by the employer in an
8 accurate and verifiable form, as specified by the director. The
9 director ~~may~~ shall, from time to time, carry out ~~sampling~~ testing
10 procedures pursuant to section 84-1512 to verify the accuracy of
11 such information. For the purpose of obtaining such facts and
12 information, the director shall have access to the records of the
13 various counties and state departments and agencies and the holder
14 of the records shall comply with a request by the director for
15 access by providing such facts and information to the director in a
16 timely manner. A certified copy of a birth certificate or delayed
17 birth certificate shall be prima facie evidence of the age of the
18 person named in the certificate.

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

24 Sec. 4. Section 24-704, Revised Statutes Supplement,
25 2004, is amended to read:

26 24-704. (1) The general administration of the retirement
27 system for judges provided for in the Judges Retirement Act, except
28 the investment of funds, is hereby vested in the board. The

1 Auditor of Public Accounts shall make an annual audit of the
2 retirement system and file an annual report of its condition with
3 the Clerk of the Legislature. Each member of the Legislature shall
4 receive a copy of the annual report by making a request for such
5 report to the Auditor of Public Accounts. The board shall adopt
6 and promulgate rules and regulations as may be necessary to carry
7 out the Judges Retirement Act.

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

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

28 (c) The director shall develop and implement an employer

1 education program using principles generally accepted by public
2 employee retirement systems so that all employers have the
3 knowledge and information necessary to prepare and file reports as
4 the board requires.

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

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

21 Sec. 5. Section 72-1238, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 72-1238. ~~The~~ (1) Prior to July 1, 2005, the appointed
24 members of the council shall have at least ten years of experience
25 in the financial affairs of a public or private organization or
26 have at least five years of experience in the field of investment
27 management or analysis. For members appointed on or after July 1,
28 2005, the appointed members of the council shall have at least

1 seven years of experience in the field of investment management or
2 analysis or have at least twelve years of experience in the
3 financial management of a public or private organization. There is
4 a preference for members who are appointed to have experience in
5 investment management or analysis.

6 (2) The members serving on ~~July 19, 1996~~ July 1, 2005,
7 shall serve for the remainder of their five-year terms which will
8 be extended until the date on which the successor's appointment is
9 effective.

10 Sec. 6. Section 72-1239, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 72-1239. The purpose of the council is to formulate and
13 establish such policies as it may deem necessary and proper which
14 shall govern the methods, practices, and procedures followed by the
15 state investment officer for the investment or reinvestment of
16 state funds and funds described in section 83-133 and the purchase,
17 sale, or exchange of securities as provided by the Nebraska State
18 Funds Investment Act. The council shall meet from time to time as
19 directed by the Governor or the chairperson or as requested by the
20 state investment officer. The members of the council, except the
21 State Treasurer and the director of the Nebraska Public Employees
22 Retirement Systems, shall be paid ~~twenty~~ seventy-five dollars per
23 diem. The ~~7 and all~~ members shall be reimbursed for their actual
24 and necessary expenses incurred in connection with the performance
25 of their duties as members as provided in sections 81-1174 to
26 81-1177.

27 Sec. 7. Section 72-1243, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 72-1243. (1) Except as otherwise specifically provided
2 by law, the state investment officer shall direct the investment
3 and reinvestment of money in all state funds not currently needed
4 and all funds described in section 83-133 and order the purchase,
5 sale, or exchange of securities for such funds. He or she shall
6 notify the State Treasurer of any payment, receipt, or delivery
7 that may be required as a result of any investment decision, which
8 notification shall be the authorization and direction for the State
9 Treasurer to make such disbursement, receipt, or delivery from the
10 appropriate fund.

11 (2) The council ~~and the Public Employees Retirement Board~~
12 shall ~~jointly~~ have an analysis made of the investment ~~return~~
13 returns that ~~has~~ have been achieved on the assets of each
14 retirement system administered by the ~~board~~ Public Employees
15 Retirement Board as provided in section 84-1503. By March ~~±~~ 15 of
16 each year, the analysis shall be presented to the board and the
17 Nebraska Retirement Systems Committee. The analysis shall be
18 prepared by an independent organization which has demonstrated
19 expertise to perform this type of analysis and for which there
20 exists no conflict of interest in the analysis being provided. The
21 analysis may be waived by the council for any retirement system
22 with assets of less than one million dollars.

23 (3) By March ~~±~~ 15 of each year, the council shall prepare
24 a written plan of action and shall present such plan to the
25 Nebraska Retirement Systems Committee at a public hearing. The
26 plan shall include, but not be limited to, the council's investment
27 ~~policy portfolio portfolios,~~ investment strategies, the duties and
28 limitations of the state investment officer, ~~and limits on his or~~

1 ~~her authority,~~ and an organizational structure of the council's
2 office.

3 Sec. 8. Section 79-902, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 79-902. For purposes of the School Employees Retirement
6 Act, unless the context otherwise requires:

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

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

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

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

23 (5) Creditable service means prior service for which
24 credit is granted under sections 79-926 to 79-929, service credit
25 purchased under sections 79-933.03 to 79-933.06 and 79-933.08, and
26 all service rendered while a contributing member of the retirement
27 system. Creditable service includes working days, sick days,
28 vacation days, holidays, and any other leave days for which the

1 employee is paid regular wages as part of the employee's agreement
2 with the employer. Creditable service does not include lump-sum
3 payments to the employee upon termination or retirement in lieu of
4 accrued benefits for such days, eligibility and vesting credit, nor
5 service years for which member contributions are withdrawn and not
6 repaid. Creditable service also does not include service rendered
7 by a member for which the retirement board determines that the
8 member was paid less in compensation than the minimum wage as
9 provided in the Wage and Hour Act or service which the board
10 determines was rendered with the intent to defraud the retirement
11 system;

12 (6) Disability retirement allowance means the annuity
13 paid to a person upon retirement for disability under section
14 79-952;

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

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

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

26 (10) School employee means a contributing member who
27 earns service credit pursuant to section 79-927. For purposes of
28 this section, contributing member means the following persons who

1 receive compensation from a public school: (a) Regular employees;
2 (b) regular employees having retired pursuant to the School
3 Employees Retirement Act who subsequently provide compensated
4 service on a regular basis in any capacity; and (c) regular
5 employees hired by a public school on an ongoing basis to assume
6 the duties of other regular employees who are temporarily absent.
7 Substitute employees shall not be considered school employees;

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

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

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

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

1 (15) Retirement system means the School Retirement System
2 of the State of Nebraska;

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

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

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

23 (19) School retirement allowance means the total of the
24 savings annuity and the service annuity or formula annuity paid a
25 person who has retired under sections 79-931 to 79-935. The
26 monthly payments shall be payable at the end of each calendar month
27 during the life of a retired member. The first payment shall
28 include all amounts accrued since the effective date of the award

1 of annuity. The last payment shall be at the end of the calendar
2 month in which such member dies or in accordance with the payment
3 option chosen by the member;

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

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

9 (22) State school official means the Commissioner of
10 Education and his or her professional staff;

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

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

1 (25) Actuarial equivalent means the equality in value of
2 the aggregate amounts expected to be received under different forms
3 of payment. The determinations shall be based on the 1994 Group
4 Annuity Mortality Table reflecting sex-distinct factors blended
5 using twenty-five percent of the male table and seventy-five
6 percent of the female table. An interest rate of eight percent per
7 annum shall be reflected in making these determinations except when
8 a lump-sum settlement is made to an estate. If the lump-sum
9 settlement is made to an estate, the interest rate will be
10 determined by the Moody's Triple A Bond Index as of the prior June
11 30, rounded to the next lower quarter percent;

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

21 (27) Disability retirement date means the first day of
22 the month following the date upon which a member's request for
23 disability retirement is received on a retirement application
24 provided by the retirement system if the member has terminated
25 employment in the school system and has complied with sections
26 79-951 to 79-954 as such sections refer to disability retirement;

27 (28) Retirement application means the form approved by
28 the retirement system for acceptance of a member's request for

1 either regular or disability retirement;

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

8 (30) (a) Final average compensation means the sum of the
9 member's total compensation during the three twelve-month periods
10 of 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
15 by the total number of months of his or her creditable service
16 therefor.

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

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

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

28 (33) Initial benefit means the retirement benefit

1 calculated at the time of retirement;

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

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

23 (b) Compensation does not include ~~amounts which~~ (i)
24 fraudulently obtained amounts as determined by the retirement
25 board, (ii) amounts ~~determines were fraudulently obtained,~~
26 compensation for unused sick leave or unused vacation leave
27 converted to cash payments, (iii) insurance premiums converted into
28 cash payments, (iv) reimbursement for expenses incurred, (v) fringe

1 benefits, ~~or~~ (vi) bonuses for services not actually rendered,
2 including, but not limited to, early retirement inducements, cash
3 awards, and severance pay, or (vii) beginning on the effective date
4 of Legislative Bill 329, Ninety-ninth Legislature, First Session,
5 2005, employer contributions made for the purposes of separation
6 payments made at retirement and early retirement inducements as
7 provided for in section 79-514. ~~, except for retroactive salary~~
8 ~~payments paid pursuant to court order, arbitration, or litigation~~
9 ~~and grievance settlements. Compensation includes overtime pay,~~
10 ~~member retirement contributions, and amounts contributed by the~~
11 ~~member to plans under sections 125, 403(b), and 457 of the Internal~~
12 ~~Revenue Code as defined in section 49-801.01 or any other section~~
13 ~~of the code which defers or excludes such amounts from income.~~

14 ~~(b)~~ (c) Compensation in excess of the limitations set
15 forth in section 401(a)(17) of the Internal Revenue Code as defined
16 in section 49-801.01 shall be disregarded. For an employee who was
17 a member of the retirement system before the first plan year
18 beginning after December 31, 1995, the limitation on compensation
19 shall not be less than the amount which was allowed to be taken
20 into account under the retirement system as in effect on July 1,
21 1993.

22 ~~(e)~~ (d)(i) In the determination of compensation for
23 members on or after July 1, 2002, through June 30, 2005, that part
24 of a member's compensation for the fiscal year which exceeds the
25 member's compensation with the same employer for the preceding
26 fiscal year by more than ten percent shall be excluded unless (A)
27 the member experienced a substantial change in employment position
28 or (B) the excess compensation occurred as the result of a

1 collective-bargaining agreement between the employer and a
 2 recognized collective-bargaining unit or category of school
 3 employee.

4 (ii) For purposes of this subdivision: r

5 (A) ~~category~~ Category of school employee means either all
 6 certificated employees of the employer or all noncertificated
 7 employees of the employer or both; and

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

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

1 (ii) For purposes of this subdivision:

2 (A) Category of school employee means either all
3 certificated employees of the employer or all noncertificated
4 employees of the employer or both;

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

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

17 (36) Termination of employment occurs on the date on
18 which the member experiences a bona fide separation from service of
19 employment with the member's current employer, the date of which
20 separation is determined by the employer. The employer shall
21 notify the board of the date on which such a termination has
22 occurred. Termination of employment does not include ceasing
23 employment if the member subsequently provides service on a regular
24 basis in any capacity for any school district other than a Class V
25 school district within one hundred eighty calendar days after
26 ceasing employment or if the board determines that a purported
27 termination was not a bona fide separation from service with the
28 employer;

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

5 (38) Substitute employee means a person hired by a public
6 school as a temporary employee on an intermittent basis to assume
7 the duties of regular employees due to the temporary absence of the
8 regular employees. Substitute employee does not mean a person
9 hired as a regular employee on an ongoing basis to assume the
10 duties of other regular employees who are temporarily absent;

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

14 (40) Regular employee means an employee hired by a public
15 school or under contract in a regular full-time or part-time
16 position who works a full-time or part-time schedule on an ongoing
17 basis for fifteen or more hours per week; and

18 (41) Temporary employee means an employee hired by a
19 public school who is not a regular employee.

20 Sec. 9. Section 79-906, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 79-906. (1) The director in charge of the retirement
23 system shall keep a complete record of all members with respect to
24 name, current address, age, contributions, and any other facts as
25 may be necessary in the administration of the School Employees
26 Retirement Act. The information in the records shall be provided
27 by the employer in an accurate and verifiable form, as specified by
28 the director. The director ~~may~~ shall, from time to time, carry out

1 ~~sampling~~ testing procedures pursuant to section 84-1512 to verify
2 the accuracy of such information. For the purpose of obtaining
3 such facts and information, the director shall have access to the
4 records of the various employers and state departments and agencies
5 and the holder of the records shall comply with a request by the
6 director for access by providing such facts and information to the
7 director in a timely manner. A certified copy of a birth
8 certificate or delayed birth certificate shall be prima facie
9 evidence of the age of the person named in the certificate.

10 (2) If a member's compensation for a plan year exceeds
11 the member's compensation with the same employer for the preceding
12 plan year by more than seven percent of the compensation base, then
13 the employer shall, within thirty days of such occurrence, provide
14 information indicating to the director that the member's
15 compensation has exceeded seven percent of the compensation base.
16 Such information shall be provided in an accurate and verifiable
17 form as specified by the director.

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

23 Sec. 10. Section 79-958, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 79-958. (1) ~~For~~ Prior to September 1, 2005, and after
26 August 31, 2007, for the purpose of providing the funds to pay for
27 formula annuities, every employee shall be required to deposit in
28 the School Retirement Fund seven and twenty-five hundredths percent

1 of compensation. Beginning on September 1, 2005, and ending August
2 31, 2006, for the purpose of providing the funds to pay for formula
3 annuities, every employee shall be required to deposit in the
4 School Retirement Fund seven and ninety-eight hundredths percent of
5 compensation. Beginning on September 1, 2006, and ending August
6 31, 2007, for the purpose of providing the funds to pay for formula
7 annuities, every employee shall be required to deposit in the
8 School Retirement Fund seven and eighty-three hundredths percent of
9 compensation. Such deposits shall be transmitted at the same time
10 and in the same manner as required employer contributions.

11 (2) For the purpose of providing the funds to pay for
12 formula annuities, every employer shall be required to deposit in
13 the School Retirement Fund one hundred one percent of the required
14 contributions of the school employees of each employer. Such
15 deposits shall be transmitted to the retirement board at the same
16 time and in the same manner as such required employee
17 contributions.

18 (3) The employer shall pick up the member contributions
19 required by this section for all compensation paid on or after
20 January 1, 1986, and the contributions so picked up shall be
21 treated as employer contributions in determining federal tax
22 treatment under the Internal Revenue Code as defined in section
23 49-801.01, except that the employer shall continue to withhold
24 federal income taxes based upon these contributions until the
25 Internal Revenue Service or the federal courts rule that, pursuant
26 to section 414(h) of the code, these contributions shall not be
27 included as gross income of the member until such time as they are
28 distributed or made available. The employer shall pay these member

1 contributions from the same source of funds which is used in paying
2 earnings to the member. The employer shall pick up these
3 contributions by a compensation deduction through a reduction in
4 the cash compensation of the member. Member contributions picked
5 up shall be treated for all purposes of the School Employees
6 Retirement Act in the same manner and to the same extent as member
7 contributions made prior to the date picked up.

8 (4) The employer shall pick up the member contributions
9 made through irrevocable payroll deduction authorizations pursuant
10 to sections 79-921, 79-933.03 to 79-933.06, and 79-933.08, and the
11 contributions so picked up shall be treated as employer
12 contributions in the same manner as contributions picked up under
13 subsection (3) of this section.

14 Sec. 11. Section 79-1028, Revised Statutes Supplement,
15 2004, is amended to read:

16 79-1028. (1) A Class II, III, IV, V, or VI school
17 district may exceed the local system's applicable allowable growth
18 rate for (a) expenditures in support of a service which is the
19 subject of an agreement or a modification of an existing agreement
20 whether operated by one of the parties to the agreement or an
21 independent joint entity or joint public agency, (b) expenditures
22 to pay for repairs to infrastructure damaged by a natural disaster
23 which is declared a disaster emergency pursuant to the Emergency
24 Management Act, (c) expenditures to pay for judgments, except
25 judgments or orders from the Commission of Industrial Relations,
26 obtained against a school district which require or obligate a
27 school district to pay such judgment, to the extent such judgment
28 is not paid by liability insurance coverage of a school district,

1 (d) expenditures to pay for sums agreed to be paid by a school
 2 district to certificated employees in exchange for a voluntary
 3 termination of employment, or (e) expenditures to pay for
 4 lease-purchase contracts approved on or after July 1, 1997, and
 5 before July 1, 1998, to the extent the lease payments were not
 6 budgeted expenditures for fiscal year 1997-98.

7 (2) A Class II, III, IV, V, or VI district may exceed its
 8 applicable allowable growth rate by a specific dollar amount if the
 9 district projects an increase in formula students in the district
 10 over the current school year greater than twenty-five students or
 11 greater than those listed in the schedule provided in this
 12 subsection, whichever is less. Districts shall project increases
 13 in formula students on forms prescribed by the department. The
 14 department shall approve, deny, or modify the projected increases.

15	Average daily	Projected increase
16	membership of	of formula students
17	district	by percentage
18	0 - 50	10
19	50.01 - 250	5
20	250.01 - 1,000	3
21	1,000.01 and over	1

22 The department shall compute the district's estimated
 23 allowable budget per pupil using the budgeted general fund
 24 expenditures found on the budget statement for the current school
 25 year divided by the number of formula students in the current
 26 school year and multiplied by the district's applicable allowable
 27 growth rate. The resulting allowable budget per pupil shall be
 28 multiplied by the projected formula students to arrive at the

1 estimated budget needs for the ensuing year. The department shall
2 allow the district to increase its general fund budget of
3 expenditures for the ensuing school year by the amount necessary to
4 fund the estimated budget needs of the district as computed
5 pursuant to this subsection. On or before July 1, the department
6 shall make available to districts which have been allowed
7 additional growth pursuant to this subsection the necessary
8 document to recalculate the actual formula students of such
9 district. Such document shall be filed with the department under
10 subsection (1) of section 79-1024.

11 (3) A Class II, III, IV, V, or VI district may exceed its
12 applicable allowable growth rate by a specific dollar amount if
13 construction, expansion, or alteration of district buildings will
14 cause an increase in building operation and maintenance costs of at
15 least five percent. The department shall document the projected
16 increase in building operation and maintenance costs and may allow
17 a Class II, III, IV, V, or VI district to exceed the local system's
18 applicable allowable growth rate by the amount necessary to fund
19 such increased costs. The department shall compute the actual
20 increased costs for the school year and shall notify the district
21 on or before July 1 of the recovery of the additional growth
22 pursuant to this subsection.

23 (4) A Class II, III, IV, V, or VI district may exceed its
24 applicable allowable growth rate by a specific dollar amount if the
25 district demonstrates to the satisfaction of the department that it
26 will exceed its applicable allowable growth rate as a result of
27 costs pursuant to the Retirement Incentive Plan authorized in
28 section 79-855 or the Staff Development Assistance authorized in

1 section 79-856. The department shall compute the amount by which
2 the increased cost of such program or programs exceeds the
3 district's applicable allowable growth rate and shall allow the
4 district to increase its general fund expenditures by such amount
5 for that fiscal year.

6 (5) A Class II, III, IV, or V district may exceed its
7 applicable allowable growth rate by the specific dollar amount of
8 incentive payments or base fiscal year incentive payments to be
9 received in such school fiscal year pursuant to section 79-1011.

10 (6) For school fiscal year 2005-06, a Class II, III, IV,
11 V, or VI district may exceed its applicable allowable growth rate
12 by a specific dollar amount not to exceed seventy-four hundredths
13 percent of the amount budgeted for employee salaries for such
14 school fiscal year. For school fiscal year 2006-07, a Class II,
15 III, IV, V, or VI district may exceed its applicable allowable
16 growth rate by a specific dollar amount not to exceed fifty-nine
17 hundredths percent of the amount budgeted for employee salaries for
18 such school fiscal year.

19 Sec. 12. Section 81-2017, Revised Statutes Supplement,
20 2004, is amended to read:

21 81-2017. (1) Prior to July 1, 1995, each officer while
22 in the service of the Nebraska State Patrol shall pay or have paid
23 on his or her behalf a sum equal to eight percent of his or her
24 monthly compensation. Commencing July 1, 1995, and through June
25 30, 1996, each officer while in the service of the Nebraska State
26 Patrol shall pay or have paid on his or her behalf a sum equal to
27 ten percent of his or her monthly compensation. Commencing July 1,
28 1996, and through June 30, 2004, each officer while in the service

1 of the Nebraska State Patrol shall pay or have paid on his or her
2 behalf a sum equal to eleven percent of his or her monthly
3 compensation. Commencing ~~7 except that commencing~~ July 1, 2004,
4 and through June 30, 2005, each officer while in the service of the
5 Nebraska State Patrol shall pay or have paid on his or her behalf a
6 sum equal to twelve percent of his or her monthly compensation.
7 Commencing July 1, 2005, and through June 30, 2007, each officer
8 while in the service of the Nebraska State Patrol shall pay or have
9 paid on his or her behalf a sum equal to thirteen percent of his or
10 her monthly compensation. Commencing July 1, 2007, each officer
11 while in the service of the Nebraska State Patrol shall pay or have
12 paid on his or her behalf a sum equal to twelve percent of his or
13 her monthly compensation. Such amounts shall be deducted monthly
14 by the Director of Administrative Services who shall draw a warrant
15 monthly in the amount of the total deductions from the compensation
16 of members of the Nebraska State Patrol in accordance with
17 subsection ~~(2)~~ (4) of this section, and the State Treasurer shall
18 credit the amount of such warrant to the State Patrol Retirement
19 Fund. The director shall cause a detailed report of all monthly
20 deductions to be made each month to the board.

21 (2) In addition, through June 30, 2004, there shall be
22 transferred from the General Fund monthly by the State Treasurer a
23 sum equal to the amount of such compensation deductions each month
24 which shall be credited to the State Patrol Retirement Fund.
25 Commencing ~~7 except that commencing~~ July 1, 2004, and through June
26 30, 2005, there shall be transferred from the General Fund monthly
27 by the State Treasurer a sum equal to the amount of twelve percent
28 of each officer's monthly compensation which shall be credited to

1 the State Patrol Retirement Fund. Commencing July 1, 2005, and
2 through June 30, 2007, there shall be assessed against the
3 appropriation of the Nebraska State Patrol a sum equal to the
4 amount of fifteen percent of each officer's monthly compensation
5 which shall be credited to the State Patrol Retirement Fund.
6 Commencing July 1, 2007, there shall be assessed against the
7 appropriation of the Nebraska State Patrol a sum equal to the
8 amount of thirteen percent of each officer's monthly compensation
9 which shall be credited to the State Patrol Retirement Fund. The
10 fund shall further be supplemented annually by an appropriation in
11 such amount, if any, as may be determined on the basis of an
12 actuarial valuation prepared by a member of the American Academy of
13 Actuaries to be sufficient to fully fund the unfunded accrued
14 liability of the system as of June 30, 1988, by January 1, 2005.

15 (3) For the fiscal year beginning on July 1, 2002, and
16 each fiscal year thereafter, the actuary for the board shall
17 perform an actuarial valuation of the system using the entry age
18 actuarial cost method. Under this method, the actuarially required
19 funding rate is equal to the normal cost rate, plus the
20 contribution rate necessary to amortize the unfunded actuarial
21 accrued liability on a level payment basis. The normal cost under
22 this method shall be determined for each individual member on a
23 level percentage of salary basis. The normal cost amount is then
24 summed for all members. The initial unfunded actual accrued
25 liability as of July 1, 2002, if any, shall be amortized over a
26 twenty-five-year period. During each subsequent actuarial
27 valuation, changes in the funded actuarial accrued liability due to
28 changes in benefits, actuarial assumptions, the asset valuation

1 method, or actuarial gains or losses shall be measured and
2 amortized over a twenty-five-year period beginning on the valuation
3 date of such change. If the unfunded actuarial accrued liability
4 under the entry age actuarial cost method is zero or less than zero
5 on an actuarial valuation date, then all prior unfunded actuarial
6 accrued liabilities shall be considered fully funded and the
7 unfunded actuarial accrued liability shall be reinitialized and
8 amortized over a twenty-five-year period as of the actuarial
9 valuation date. If the actuarially required contribution rate
10 exceeds the rate of all contributions required pursuant to the
11 Nebraska State Patrol Retirement Act, there shall be a supplemental
12 appropriation sufficient to pay for the differences between the
13 actuarially required contribution rate and the rate of all
14 contributions required pursuant to the Nebraska State Patrol
15 Retirement Act. Such valuation shall be on the basis of actuarial
16 assumptions recommended by the actuary, approved by the board, and
17 kept on file with the board.

18 ~~(2)~~ (4) The state shall pick up the member contributions
19 required by this section for all compensation paid on or after
20 January 1, 1985, and the contributions so picked up shall be
21 treated as employer contributions in determining federal tax
22 treatment under the Internal Revenue Code as defined in section
23 49-801.01, except that the state shall continue to withhold federal
24 income taxes based upon these contributions until the Internal
25 Revenue Service or the federal courts rule that, pursuant to
26 section 414(h) of the code, these contributions shall not be
27 included as gross income of the member until such time as they are
28 distributed or made available. The state shall pay these member

1 contributions from the same source of funds which is used in paying
2 earnings to the member. The state shall pick up these
3 contributions by a compensation deduction through a reduction in
4 the cash compensation of the member. Member contributions picked
5 up shall be treated for all purposes of the Nebraska State Patrol
6 Retirement Act in the same manner and to the extent as member
7 contributions made prior to the date picked up.

8 Sec. 13. Section 81-2021, Revised Statutes Supplement,
9 2004, is amended to read:

10 81-2021. (1) The director in charge of the system shall
11 keep a record of all acts and proceedings taken by the board. He
12 or she shall keep a complete record of all members with respect to
13 name, current address, age, contributions, length of service,
14 compensation, and any other facts as may be necessary in the
15 administration of the Nebraska State Patrol Retirement Act. The
16 board shall prescribe the form in which such information shall be
17 reported by the Nebraska State Patrol to the board. The
18 information in the records shall be provided by the Nebraska State
19 Patrol in an accurate and verifiable form, as specified by the
20 director. The director ~~may~~ shall, from time to time, carry out
21 ~~sampling testing procedures pursuant to section 84-1512~~ to verify
22 the accuracy of such information. For the purpose of obtaining
23 such facts and information, the director shall have access to the
24 records of the various state departments and agencies and the
25 holder of the records shall comply with a request by the director
26 for access by providing such facts and information to the director
27 in a timely manner. A certified copy of a birth certificate or
28 delayed birth certificate shall be prima facie evidence of the age

1 of the person named in the certificate.

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

7 Sec. 14. Section 84-1305.01, Revised Statutes
8 Supplement, 2004, is amended to read:

9 84-1305.01. (1) The director of the Nebraska Public
10 Employees Retirement Systems shall keep a complete record of all
11 members with respect to name, current address, age, contributions,
12 and any other facts as may be necessary in the administration of
13 the State Employees Retirement Act. The information in the records
14 shall be provided by the employer in an accurate and verifiable
15 form, as specified by the director. The director ~~may~~ shall, from
16 time to time, carry out ~~sampling~~ testing procedures pursuant to
17 section 84-1512 to verify the accuracy of such information. For
18 the purpose of obtaining such facts and information, the director
19 shall have access to the records of the various state departments
20 and agencies and the holder of the records shall comply with a
21 request by the director for access by providing such facts and
22 information to the director in a timely manner. A certified copy
23 of a birth certificate or delayed birth certificate shall be prima
24 facie evidence of the age of the person named in the certificate.

25 (2) The director shall develop and implement an employer
26 education program using principles generally accepted by public
27 employee retirement systems so that all employers have the
28 knowledge and information necessary to prepare and file reports as

1 the board requires.

2 Sec. 15. Section 84-1309.01, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 84-1309.01. The board shall provide benefit liability
5 information and other assistance to the Nebraska Investment Council
6 for the establishment of policy portfolio objectives for the
7 investing and reinvesting of the assets of the retirement system.
8 The board shall verify that the investments of the assets of the
9 retirement system by the council and the state investment officer
10 are invested and reinvested for the exclusive purposes of providing
11 benefits to members and members' beneficiaries and that the assets
12 of the retirement system are not invested with the sole or primary
13 investment objective of economic development or social purposes or
14 objectives. Such verification shall be included in the ~~joint~~
15 ~~analysis of the investment return~~ written plan of action pursuant
16 to subsection (3) of section 84-1503.

17 Sec. 16. Section 84-1310.01, Revised Statutes
18 Supplement, 2004, is amended to read:

19 84-1310.01. (1) Each member employed and participating
20 in the retirement system prior to January 1, 2003, who has elected
21 not to participate in the cash balance benefit, shall be allowed to
22 allocate all contributions to his or her employee account to
23 various investment options. Such investment options shall include,
24 but not be limited to, the following:

25 (a) An investor select account which shall be invested
26 under the direction of the state investment officer with an asset
27 allocation and investment strategy substantially similar to the
28 investment allocations made by the state investment officer for the

1 defined benefit plans under the retirement systems described in
2 subdivision (1)(a) of section 84-1503. Investments shall most
3 likely include domestic and international equities, fixed income
4 investments, and real estate, as well as potentially additional
5 asset classes;

6 ~~(a)~~ (b) A stable return account which shall be invested
7 by or under the direction of the state investment officer in one or
8 more guaranteed investment contracts;

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

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

14 ~~(d)~~ (e) An index fund account which shall be invested by
15 or under the direction of the state investment officer in a
16 portfolio of common stocks designed to closely duplicate the total
17 return of the Standard and Poor's 500 Index;

18 ~~(e)~~ (f) A fixed income account which shall be invested by
19 or under the direction of the state investment officer in fixed
20 income instruments; ~~and~~

21 ~~(f)~~ (g) A money market account which shall be invested by
22 or under the direction of the state investment officer in
23 short-term fixed income securities; and

24 (h) Beginning on July 1, 2006, an age-based account which
25 shall be invested under the direction of the state investment
26 officer with an asset allocation and investment strategy that
27 changes based upon the age of the member. The board shall develop
28 an account mechanism that changes the investments as the employee

1 nears retirement age. The asset allocation and asset classes
2 utilized in the investments shall move from aggressive, to
3 moderate, and then to conservative as retirement age approaches.

4 If a member fails to select an option or combination of
5 options, all of his or her funds shall be placed in the option
6 described in subdivision ~~(a)~~ (b) of this subsection. Each member
7 shall be given a detailed current description of each investment
8 option prior to making or revising his or her allocation.

9 (2) Members of the retirement system may allocate their
10 contributions to the investment options in percentage increments as
11 set by the board in any proportion, including full allocation to
12 any one option. A member may transfer any portion of his or her
13 funds among the options, except for restrictions on transfers to or
14 from the stable return account pursuant to rule or regulation. The
15 board shall adopt and promulgate rules and regulations for changes
16 of a member's allocation of contributions to his or her accounts
17 after his or her most recent allocation and for transfers from one
18 investment account to another.

19 (3) The board shall develop a schedule for the allocation
20 of administrative costs of maintaining the various investment
21 options and shall assess the costs so that each member pays a
22 reasonable fee as determined by the board. The money forfeited
23 pursuant to section 84-1321.01 shall not be used to pay the
24 administrative costs incurred pursuant to this section.

25 (4) In order to carry out the provisions of this section,
26 the board may enter into administrative services agreements for
27 accounting or record-keeping services. No agreement shall be
28 entered into unless the board determines that it will result in

1 administrative economy and will be in the best interests of the
2 state and its participating employees.

3 (5) The state, the board, the state investment officer,
4 the members of the Nebraska Investment Council, or the agency shall
5 not be liable for any investment results resulting from the
6 member's exercise of control over the assets in the employee
7 account.

8 Sec. 17. Section 84-1311.03, Revised Statutes
9 Supplement, 2004, is amended to read:

10 84-1311.03. (1) Each member employed and participating
11 in the retirement system prior to January 1, 2003, who has elected
12 not to participate in the cash balance benefit, shall be allowed to
13 allocate all contributions to his or her employer account to
14 various investment options.

15 ~~(a) Prior to July 16, 2004.~~

16 ~~(i) Such investment options shall be limited to the~~
17 ~~following:~~

18 ~~(A) An account which shall be invested by or under the~~
19 ~~direction of the state investment officer in approximately~~
20 ~~twenty-five percent equities and seventy-five percent fixed income~~
21 ~~instruments;~~

22 ~~(B) An account which shall be invested by or under the~~
23 ~~direction of the state investment officer in approximately fifty~~
24 ~~percent equities and fifty percent fixed income instruments; and~~

25 ~~(C) An account which shall be invested by or under the~~
26 ~~direction of the state investment officer in approximately~~
27 ~~seventy-five percent equities and twenty-five percent fixed income~~
28 ~~instruments; and~~

1 ~~(ii) If a member fails to select an option or combination~~
2 ~~of options, all of his or her funds in the employer account shall~~
3 ~~be placed in one of the options described in subdivision (a)(i)(A),~~
4 ~~(a)(i)(B), or (a)(i)(C) of this subsection as determined by the~~
5 ~~board. Each member shall be given a detailed current description~~
6 ~~of each investment option prior to making or revising his or her~~
7 ~~allocation.~~

8 ~~(b) On and after July 16, 2004:~~

9 ~~(i) Such investment options shall be the same as the~~
10 investment options of the employee account as provided in
11 subsection (1) of section 84-1310.01. ~~+ and (ii) If a member fails~~
12 to select an option or combination of options, all of his or her
13 funds in the employer account shall be placed in the balanced
14 account option described in subdivision ~~(1)(e)~~ (1)(d) of section
15 84-1310.01. Each member shall be given a detailed current
16 description of each investment option prior to making or revising
17 his or her allocation.

18 (2) Each member of the retirement system may allocate
19 contributions to his or her employer account to the investment
20 options in percentage increments as set by the board in any
21 proportion, including full allocation to any one option. A member
22 may transfer any portion of his or her funds among the options.
23 The board shall adopt and promulgate rules and regulations for
24 changes of a member's allocation of contributions to his or her
25 accounts after his or her most recent allocation and for transfers
26 from one investment account to another.

27 (3) The board shall develop a schedule for the allocation
28 of administrative costs of maintaining the various investment

1 options and shall assess the costs so that each member pays a
2 reasonable fee as determined by the board. The money forfeited
3 pursuant to section 84-1321.01 shall not be used to pay the
4 administrative costs incurred pursuant to this section.

5 (4) In order to carry out the provisions of this section,
6 the board may enter into administrative services agreements for
7 accounting or record-keeping services. No agreement shall be
8 entered into unless the board determines that it will result in
9 administrative economy and will be in the best interests of the
10 state and its participating employees.

11 (5) The state, the board, the state investment officer,
12 the members of the Nebraska Investment Council, or the agency shall
13 not be liable for any investment results resulting from the
14 member's exercise of control over the assets in the employer
15 account.

16 Sec. 18. Section 84-1502, Revised Statutes Supplement,
17 2004, is amended to read:

18 84-1502. (1) Within thirty days after its appointment,
19 the ~~board~~ Public Employees Retirement Board shall meet and select a
20 chairperson and secretary. Thereafter, the chairperson and the
21 secretary shall be elected in January of each year.

22 (2) The board shall meet upon call of the chairperson or
23 upon the request of three members of the board filed with the board
24 office. Meetings of the board shall be held in this state and may
25 be held by telecommunication equipment if the requirements of the
26 Open Meetings Act are met.

27 (3) The members of the board, except the state investment
28 officer, shall be paid fifty dollars per diem, and all members

1 shall be reimbursed for their actual and necessary expenses
2 incurred in connection with the performance of their duties as
3 board members as provided in sections 81-1174 to 81-1177.

4 Sec. 19. Section 84-1503, Revised Statutes Supplement,
5 2004, is amended to read:

6 84-1503. (1) It shall be the duty of the Public
7 Employees Retirement Board:

8 (a) To administer the retirement systems provided for in
9 the County Employees Retirement Act, the Judges Retirement Act, the
10 Nebraska State Patrol Retirement Act, the School Employees
11 Retirement Act, and the State Employees Retirement Act. The agency
12 for the administration of the retirement systems and under the
13 direction of the board shall be known and may be cited as the
14 Nebraska Public Employees Retirement Systems;

15 (b) To appoint a director to administer the systems under
16 the direction of the board. The appointment shall be subject to
17 the approval of the Governor and a majority of the Legislature.
18 The director shall be qualified by training and have at least five
19 years of experience in the administration of a qualified public or
20 private employee retirement plan. The director shall not be a
21 member of the board. The salary of the director shall be set by
22 the board. The director shall serve without term and may be
23 removed by the board;

24 (c) To provide for an equitable allocation of expenses
25 among the retirement systems administered by the board, and all
26 expenses shall be provided from the investment income earned by the
27 various retirement funds unless alternative sources of funds to pay
28 expenses are specified by law;

1 (d) To administer the deferred compensation program
2 authorized in section 84-1504;

3 (e) To hire an attorney, admitted to the Nebraska State
4 Bar Association, to advise the board in the administration of the
5 retirement systems listed in subdivision (a) of this subsection;

6 (f) To hire an internal auditor to perform the duties
7 described in section 20 of this act who meets the minimum standards
8 as described in section 84-304.03;

9 (g) To adopt and implement procedures for reporting
10 information by employers, as well as ~~sampling~~ testing and
11 monitoring procedures in order to verify the accuracy of such
12 information. The information necessary to determine membership
13 shall be provided by the employer. The board shall adopt and
14 promulgate rules and regulations and prescribe such forms necessary
15 to carry out this subdivision. Nothing in this subdivision shall
16 be construed to require the board to conduct onsite audits of
17 political subdivisions for compliance with statutes, rules, and
18 regulations governing the retirement systems listed in subdivision
19 (1) (a) of this section regarding membership and contributions; and

20 ~~(g)~~ (h) To prescribe and furnish forms for the public
21 retirement system plan reports required to be filed pursuant to
22 sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017,
23 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987
24 and to notify the Nebraska Retirement Systems Committee of the
25 Legislature of the failure of any governmental entity to file such
26 reports.

27 (2) In administering the retirement systems listed in
28 subdivision (1) (a) of this section, it shall be the duty of the

1 board:

2 (a) To determine, based on information provided by the
3 employer, the prior service annuity, if any, for each person who is
4 an employee of the county on the date of adoption of the retirement
5 system;

6 (b) To determine the eligibility of an individual to be a
7 member of the retirement system and other questions of fact in the
8 event of a dispute between an individual and the individual's
9 employer;

10 (c) To adopt and promulgate rules and regulations for the
11 management of the board;

12 (d) To keep a complete record of all proceedings taken at
13 any meeting of the board;

14 (e) To obtain, by a competitive, formal, and sealed
15 bidding process through the materiel division of the Department of
16 Administrative Services, actuarial services on behalf of the State
17 of Nebraska as may be necessary in the administration and
18 development of the retirement systems. Any contract for actuarial
19 services shall contain a provision allowing the actuary, without
20 prior approval of the board, to perform actuarial studies of the
21 systems as requested by entities other than the board, if notice,
22 which does not identify the entity or substance of the request, is
23 given to the board, all costs are paid by the requesting entity,
24 results are provided to the board upon being made public, and such
25 actuarial studies do not interfere with the actuary's ongoing
26 responsibility to the board. The term of the contract shall be for
27 up to three years. A competitive, formal, and sealed bidding
28 process shall be completed at least once in every three years,

1 unless the board determines that such a process would not be cost
 2 effective under the circumstances and that the actuarial services
 3 performed have been satisfactory, in which case the contract may
 4 also contain an option for renewal without a competitive, formal,
 5 and sealed bidding process for up to three additional years. An
 6 actuary under contract for the State of Nebraska shall be a member
 7 of the American Academy of Actuaries;

8 (f) To direct the State Treasurer to transfer funds, as
 9 an expense of the retirement systems, to the Legislative Council
 10 Retirement Study Fund. Such transfer shall occur beginning on or
 11 after ~~July 31, 1992~~ 1, 2005, and at intervals of not less than ~~ten~~
 12 five years and not more than fifteen years and shall be in such
 13 amounts as the Legislature shall direct; ~~7~~ ~~except that up to~~
 14 ~~seventy-five thousand dollars may be transferred in FY1993-94 to~~
 15 ~~assist in completing the study authorized in Legislative Resolution~~
 16 ~~328, Ninety-second Legislature, Second Session, 1992;~~

17 (g) To adopt and promulgate rules and regulations to
 18 carry out the provisions of each retirement system described in
 19 subdivision (1)(a) of this section, which shall include, but not be
 20 limited to, the crediting of military service, direct rollover
 21 distributions, and the acceptance of rollovers;

22 (h) To obtain, by a competitive, formal, and sealed
 23 bidding process through the materiel division of the Department of
 24 Administrative Services, auditing services for a separate
 25 compliance audit of the retirement systems to be completed by
 26 December 31, ~~1997~~ 2007, and from time to time thereafter at the
 27 request of the Nebraska Retirement Systems Committee, to be
 28 completed not more than every four years but not less than every

1 ten years. The compliance audit shall be in addition to the annual
2 audit conducted by the Auditor of Public Accounts. The compliance
3 audit shall include, but not be limited to, an examination of
4 records, files, and other documents and an evaluation of all
5 policies and procedures to determine compliance with all state and
6 federal laws. A copy of the compliance audit shall be given to the
7 Governor, the board, and the Nebraska Retirement Systems Committee
8 and shall be presented to the committee at a public hearing;

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

19 (j) To administer all retirement system plans in a manner
20 which will maintain each plan's status as a qualified plan pursuant
21 to the Internal Revenue Code. The board shall adopt and promulgate
22 rules and regulations necessary or appropriate to maintain such
23 status including, but not limited to, rules or regulations which
24 restrict discretionary or optional contributions to a plan or which
25 limit distributions from a plan.

26 (3) The board and the Nebraska Investment Council shall
27 jointly have an analysis made of the investment return that has
28 been achieved on the assets of each retirement system administered

1 by the board. The analysis shall be prepared annually as of
2 January 1. The analysis shall be prepared by an independent
3 private organization which has demonstrated expertise to perform
4 this type of analysis and which is unrelated to any organization
5 offering investment advice or providing investment management
6 services to the retirement system. The analysis may be waived
7 jointly by the board and the council for any retirement system with
8 assets of less than ten million dollars. A copy of the analysis
9 shall be given to the board, the council, and the Nebraska
10 Retirement Systems Committee. By March 1 of each year, the
11 analysis shall be presented to the Nebraska Retirement Systems
12 Committee.

13 ~~(4)~~ By March 15 of each year, the board shall prepare a
14 written plan of action and shall present such plan to the Nebraska
15 Retirement Systems Committee at a public hearing. The plan shall
16 include, but not be limited to, the board's funding policy, the
17 administrative costs and other fees associated with each fund and
18 plan overseen by the board, member education and informational
19 programs, the director's duties and ~~the limits on his or her~~
20 authority limitations, an organizational structure of the office of
21 the Nebraska Public Employees Retirement Systems, and the internal
22 control structure of such office to ensure compliance with state
23 and federal laws.

24 Sec. 20. The duties and responsibilities of the internal
25 auditor employed by the Public Employees Retirement Board shall be
26 consistent with the suggested standards for the professional
27 practice of internal auditing as adopted by the Institute of
28 Internal Auditors and include the following:

1 (1) Prepare a formal written three-year audit plan and
2 work schedule each year and present them to the board;

3 (2) Conduct ongoing reviews of the internal procedures of
4 the Nebraska Public Employees Retirement Systems and recommend
5 improvements to the board;

6 (3) Ensure that the Nebraska Public Employees Retirement
7 Systems' internal accounting and operational controls are
8 appropriate and operating correctly and report inconsistencies to
9 the board;

10 (4) Examine and evaluate system records and operating
11 procedures; verify compliance with established plans, policies,
12 procedures, and control systems; assure compliance with regulatory
13 and statutory conditions; and assure adherence to generally
14 accepted accounting and auditing principles and report
15 inconsistencies to the board;

16 (5) Perform internal auditing functions, including review
17 of contributions received and creditable service granted; review
18 benefit payments for completeness of information, appropriateness,
19 accuracy, and timeliness; verify accuracy of data and financial
20 information reported to the systems' actuary for all applicable
21 plans; and verify accuracy of data and financial information
22 reported to the systems' record keeper for all applicable plans;
23 and

24 (6) Develop standards to be used by independent auditors
25 in their review of the practices and procedures used by various
26 employers to provide for employee participation in the respective
27 retirement systems included in subdivision (1)(a) of section
28 84-1503.

1 Sec. 21. Section 84-1503.03, Revised Statutes
2 Supplement, 2004, is amended to read:

3 84-1503.03. The director of the Nebraska Public
4 Employees Retirement Systems shall employ qualified personnel as
5 may be required to carry out the duties and responsibilities
6 required under sections 84-1501 to 84-1514. Such employees shall
7 be deemed state employees and covered by the State Personnel System
8 pursuant to sections 81-1301 to 81-1368 and other personnel rules
9 or regulations, and such employees shall include the internal
10 auditor and the attorney hired by the board pursuant to section
11 84-1503. The director shall be exempt from the State Personnel
12 System. All employees shall comply with state accounting
13 regulations and applicable state and federal laws in the discharge
14 of their duties.

15 Sec. 22. Section 84-1512, Revised Statutes Supplement,
16 2004, is amended to read:

17 84-1512. (1) The Public Employees Retirement Board, for
18 purposes of administering the various retirement systems under its
19 jurisdiction, shall receive from the Department of Administrative
20 Services and other employers such information as is necessary for
21 the efficient and accurate administration of the systems and shall
22 consult with the Department of Administrative Services and other
23 employers as to the form in which the information is to be
24 presented and received by the board. The information in the
25 records shall be provided by the employers in an accurate and
26 verifiable form, as specified by the director of the Nebraska
27 Public Employees Retirement Systems. The director ~~may~~ shall, from
28 time to time, carry out ~~sampling~~ testing procedures to verify the

1 accuracy of such information. The director ~~and~~ shall have access
2 to records maintained by the Department of Administrative Services
3 on the Nebraska employees information system data base for the
4 purpose of obtaining any information which may be necessary to
5 verify the accuracy of information and administer the systems and
6 the holder of the records shall comply with a request by the
7 director for access by providing such facts and information to the
8 director in a timely manner. By January 1, 2006, the director
9 shall develop procedures necessary to carry out the testing
10 procedures described in this section and sections 23-2312, 24-704,
11 79-906, 81-2021, and 84-1305.01.

12 (2) The director shall develop and implement an employer
13 education program using principles generally accepted by public
14 employee retirement systems so that all employers have the
15 knowledge and information necessary to prepare and file reports as
16 the board requires.

17 Sec. 23. Sections 1, 2, 16, 17, and 25 of this act
18 become operative three calendar months after adjournment of this
19 legislative session. The other sections of this act become
20 operative on July 1, 2005.

21 Sec. 24. Original sections 72-1238, 72-1239, 72-1243,
22 79-902, 79-906, 79-958, and 84-1309.01, Reissue Revised Statutes of
23 Nebraska, and sections 23-2312, 24-704, 79-1028, 81-2017, 81-2021,
24 84-1305.01, 84-1502, 84-1503, 84-1503.03, and 84-1512, Revised
25 Statutes Supplement, 2004, are repealed.

26 Sec. 25. Original sections 23-2309.01, 23-2310.05,
27 84-1310.01, and 84-1311.03, Revised Statutes Supplement, 2004, are
28 repealed.

1 Sec. 26. Since an emergency exists, this act takes
2 effect when passed and approved according to law.