

E AND R AMENDMENTS TO LB 509

Introduced by Larson, 40, Chairperson Enrollment and Review

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

3 Section 1. Section 4-108, Revised Statutes Cumulative
4 Supplement, 2010, is amended to read:

5 4-108 (1) Notwithstanding any other provisions of law,
6 unless exempted from verification under section 4-110 or pursuant
7 to federal law, no state agency or political subdivision of the
8 State of Nebraska shall provide public benefits to a person not
9 lawfully present in the United States.

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

17 (3) On and after October 1, 2009, no employee of a state
18 agency or political subdivision of the State of Nebraska shall be
19 authorized to participate in any retirement system, including, but
20 not limited to, the systems provided for in the Class V School
21 Employees Retirement Act, the County Employees Retirement Act,
22 the Judges Retirement Act, the Nebraska State Patrol Retirement
23 Act, the School Employees Retirement Act, and the State Employees

1 Retirement Act, unless the employee (a) is a United States citizen
2 or (b) is a qualified alien under the federal Immigration and
3 Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on
4 January 1, ~~2009~~, 2011, and is lawfully present in the United
5 States.

6 Sec. 2. Section 23-2301, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 23-2301 For purposes of the County Employees Retirement
9 Act, unless the context otherwise requires:

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

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

1 member;

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

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

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

24 (b) Compensation in excess of the limitations set forth
25 in section 401(a)(17) of the Internal Revenue Code shall be
26 disregarded. For an employee who was a member of the retirement
27 system before the first plan year beginning after December 31,

1 1995, the limitation on compensation shall not be less than the
2 amount which was allowed to be taken into account under the
3 retirement system as in effect on July 1, 1993;

4 (6) Date of adoption of the retirement system by each
5 county means the first day of the month next following the date of
6 approval of the retirement system by the county board or January 1,
7 1987, whichever is earlier;

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

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

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

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

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

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

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

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

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

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

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

22 (17) Guaranteed investment contract means an investment
23 contract or account offering a return of principal invested plus
24 interest at a specified rate. For investments made after July
25 19, 1996, guaranteed investment contract does not include direct
26 obligations of the United States or its instrumentalities, bonds,
27 participation certificates or other obligations of the Federal

1 National Mortgage Association, the Federal Home Loan Mortgage
2 Corporation, or the Government National Mortgage Association,
3 or collateralized mortgage obligations and other derivative
4 securities. This subdivision shall not be construed to require the
5 liquidation of investment contracts or accounts entered into prior
6 to July 19, 1996;

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

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

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

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

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

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

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

16 (25) Prior service means service prior to the date of
17 adoption of the retirement system;

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

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

24 (28) Retirement means qualifying for and accepting
25 the retirement benefit granted under the act after terminating
26 employment;

27 (29) Retirement board or board means the Public Employees

1 Retirement Board;

2 (30) Retirement system means the Retirement System for
3 Nebraska Counties;

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

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

25 (33) Termination of employment occurs on the date on
26 which a county which is a member of the retirement system
27 determines that its employer-employee relationship with an employee

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

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

22 Sec. 3. Section 23-2302, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 23-2302 (1) A county employees retirement system shall be
25 established for the purpose of providing a retirement annuity or
26 other benefits for employees as provided by the County Employees
27 Retirement Act. It shall be known as the Retirement System for

1 Nebraska Counties, and by such name shall transact all business
2 and hold all cash and other property as provided in the County
3 Employees Retirement Act.

4 (2) The retirement system shall not accept as
5 contributions any money from members or participating counties
6 except the following:

7 (a) Mandatory contributions and fees established by
8 sections 23-2307 and 23-2308;

9 (b) Payments on behalf of transferred employees made
10 pursuant to section 23-2306.02 or 23-2306.03;

11 (c) Money that is a repayment of refunded contributions
12 made pursuant to section 23-2320;

13 (d) Contributions for military service credit made
14 pursuant to section 23-2323.01;

15 (e) Actuarially required contributions pursuant to
16 subdivision (4)(b) of section 23-2317;

17 (f) Trustee-to-trustee transfers pursuant to section
18 23-2323.04; or

19 (g) Corrections ordered by the board pursuant to section
20 23-2305.01.

21 Sec. 4. Section 23-2306, Revised Statutes Cumulative
22 Supplement, 2010, is amended to read:

23 23-2306 (1) The membership of the retirement system shall
24 be composed of all persons who are or were employed by member
25 counties and who maintain an account balance with the retirement
26 system.

27 (2) The following employees of member counties are

1 authorized to participate in the retirement system: (a) All
2 permanent full-time employees shall begin participation in the
3 retirement system upon employment and full-time elected officials
4 shall begin participation in the retirement system upon taking
5 office, (b) all permanent part-time employees who have attained
6 the age of ~~twenty~~ eighteen years may exercise the option to begin
7 participation in the retirement system, and (c) all part-time
8 elected officials may exercise the option to begin participation
9 in the retirement system. An employee who exercises the option to
10 begin participation in the retirement system shall remain in the
11 system until termination or retirement, regardless of any change of
12 status as a permanent or temporary employee.

13 (3) On and after July 1, 2010, no employee of a member
14 county shall be authorized to participate in the retirement system
15 provided for in the County Employees Retirement Act unless the
16 employee (a) is a United States citizen or (b) is a qualified alien
17 under the federal Immigration and Nationality Act, 8 U.S.C. 1101
18 et seq., as such act existed on January 1, 2009, and is lawfully
19 present in the United States.

20 (4) Within the first one hundred eighty days of
21 employment, a full-time employee may apply to the board for
22 vesting credit for years of participation in another Nebraska
23 governmental plan, as defined by section 414(d) of the Internal
24 Revenue Code. During the years of participation in the other
25 Nebraska governmental plan, the employee must have been a full-time
26 employee, as defined in the Nebraska governmental plan in which
27 the credit was earned. The board may adopt and promulgate rules

1 and regulations governing the assessment and granting of vesting
2 credit.

3 (5) Any employee who qualifies for membership in the
4 retirement system pursuant to this section may not be disqualified
5 from membership in the retirement system solely because such
6 employee also maintains separate employment which qualifies the
7 employee for membership in another public retirement system,
8 nor may membership in this retirement system disqualify such an
9 employee from membership in another public retirement system solely
10 by reason of separate employment which qualifies such employee for
11 membership in this retirement system.

12 (6) A full-time or part-time employee of a city, village,
13 or township who becomes a county employee pursuant to a merger
14 of services shall receive vesting credit for his or her years
15 of participation in a Nebraska governmental plan, as defined by
16 section 414(d) of the Internal Revenue Code, of the city, village,
17 or township.

18 (7) A full-time or part-time employee of a city, village,
19 fire protection district, or township who becomes a municipal
20 county employee shall receive credit for his or her years of
21 employment with the city, village, fire protection district, or
22 township for purposes of the vesting provisions of this section.

23 (8) Counties shall ensure that employees authorized to
24 participate in the retirement system pursuant to this section shall
25 enroll and make required contributions to the retirement system
26 immediately upon becoming an employee. Information necessary to
27 determine membership in the retirement system shall be provided by

1 the employer.

2 Sec. 5. Section 23-2308, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 23-2308 (1) The County Employees Retirement Fund is
5 created. The fund shall be administered by the board and shall
6 consist of contributions and other such sums as provided in section
7 23-2302.

8 (2) The county clerk shall pay to the board or an entity
9 designated by the board an amount equal to two hundred fifty
10 percent of the amounts deducted from the compensation of employees
11 in accordance with the provisions of section 23-2307, which two
12 hundred fifty percent equals the employees' contributions plus
13 the county's contributions of one hundred fifty percent of the
14 employees' contributions.

15 (3) The board may charge the county an administrative
16 processing fee of twenty-five dollars if the reports of necessary
17 information or payments made pursuant to this section are received
18 later than the date on which the board requires that such
19 information or money should be received. In addition, the board may
20 charge the county a late fee of thirty-eight thousandths of one
21 percent of the amount required to be submitted pursuant to this
22 section for each day such amount has not been received or in an
23 amount equal to the amount of any costs incurred by the member due
24 to the late receipt of contributions, whichever is greater. The
25 late fee may be used to make a member's account whole for any costs
26 that may have been incurred by the member due to the late receipt
27 of contributions.

1 Sec. 6. Section 23-2308.01, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 23-2308.01 (1) It is the intent of the Legislature that,
4 in order to improve the competitiveness of the retirement plan
5 for county employees, a cash balance benefit shall be added to
6 the County Employees Retirement Act on and after January 1, 2003.
7 Each member who is employed and participating in the retirement
8 system prior to January 1, 2003, may either elect to continue
9 participation in the defined contribution benefit as provided in
10 the act prior to January 1, 2003, or elect to participate in the
11 cash balance benefit as set forth in this section. The member
12 shall make the election prior to January 1, 2003, or on or after
13 November 1, 2007, but before January 1, 2008. If no election
14 is made prior to January 1, 2003, or on or after November 1,
15 2007, but before January 1, 2008, the member shall be treated as
16 though he or she elected to continue participating in the defined
17 contribution benefit as provided in the act prior to January 1,
18 2003. Members who elect to participate in the cash balance benefit
19 on or after November 1, 2007, but before January 1, 2008, shall
20 commence participation in the cash balance benefit on January 1,
21 2008. Any member who made the election prior to January 1, 2003,
22 does not have to reelect the cash balance benefit on or after
23 November 1, 2007, but before January 1, 2008. A member employed
24 and participating in the retirement system prior to January 1,
25 2003, who terminates employment on or after January 1, 2003, and
26 returns to employment prior to having a five-year break in service
27 shall participate in the cash balance benefit as set forth in this

1 section.

2 (2) For a member employed and participating in the
3 retirement system beginning on and after January 1, 2003, or a
4 member employed and participating in the retirement system on
5 January 1, 2003, who, prior to January 1, 2003, or on or after
6 November 1, 2007, but before January 1, 2008, elects to convert his
7 or her employee and employer accounts to the cash balance benefit:

8 (a) The Except as provided in subdivision (2)(b) of
9 section 23-2319.01, the employee cash balance account shall, at any
10 time, be equal to the following:

11 (i) The initial employee account balance, if any,
12 transferred from the defined contribution plan account described in
13 section 23-2309; plus

14 (ii) Employee contribution credits deposited in
15 accordance with section 23-2307; plus

16 (iii) Interest credits credited in accordance with
17 subdivision (19) of section 23-2301; plus

18 (iv) Dividend amounts credited in accordance with
19 subdivision (4)(c) of section 23-2317; and

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

22 (i) The initial employer account balance, if any,
23 transferred from the defined contribution plan account described in
24 section 23-2310; plus

25 (ii) Employer contribution credits deposited in
26 accordance with section 23-2308; plus

27 (iii) Interest credits credited in accordance with

1 subdivision (19) of section 23-2301; plus

2 (iv) Dividend amounts credited in accordance with
3 subdivision (4)(c) of section 23-2317.

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

14 Sec. 7. Section 23-2319.01, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 23-2319.01 (1) For a member who has terminated employment
17 and is not vested, the balance of the member's employer account
18 or employer cash balance account shall be forfeited. The forfeited
19 account shall be credited to the County Employees Retirement Fund
20 and shall first be used to meet the expense charges incurred
21 by the retirement board in connection with administering the
22 retirement system, which charges shall be credited to the County
23 Employees Defined Contribution Retirement Expense Fund, if the
24 member participated in the defined contribution option, or to
25 the County Employees Cash Balance Retirement Expense Fund, if the
26 member participated in the cash balance option, and the remainder,
27 if any, shall then be used to reduce the county contribution

1 which would otherwise be required to fund future service retirement
2 benefits or to restore employer accounts or employer cash balance
3 accounts. No forfeited amounts shall be applied to increase the
4 benefits any member would otherwise receive under the County
5 Employees Retirement Act.

6 ~~(2)~~ (2)(a) If a member ceases to be an employee due
7 to the termination of his or her employment by the county and a
8 grievance or other appeal of the termination is filed, transactions
9 involving forfeiture of his or her employer account or employer
10 cash balance account and, except as provided in subdivision (b)
11 of this subsection, transactions for payment of benefits under
12 sections 23-2315 and 23-2319 shall be suspended pending the final
13 outcome of the grievance or other appeal.

14 (b) If a member elects to receive benefits payable under
15 sections 23-2315 and 23-2319 after a grievance or appeal is filed,
16 the member may receive an amount up to the balance of his or
17 her employee account or member cash balance account or twenty-five
18 thousand dollars payable from the employee account or member cash
19 balance account, whichever is less.

20 (3) The County Employer Retirement Expense Fund is
21 created. The fund shall be administered by the Public Employees
22 Retirement Board. The fund shall consist of any reduction in a
23 county contribution which would otherwise be required to fund
24 future service retirement benefits or to restore employer accounts
25 or employer cash balance accounts referred to in subsection (1) of
26 this section. The fund shall be established and maintained separate
27 from any funds held in trust for the benefit of members under the

1 county employees retirement system. Expenses incurred as a result
2 of a county depositing amounts into the fund shall be deducted
3 prior to any additional expenses being allocated. Any remaining
4 amount shall be allocated in accordance with section 23-2319.02.
5 Any money in the fund available for investment shall be invested
6 by the state investment officer pursuant to the Nebraska Capital
7 Expansion Act and the Nebraska State Funds Investment Act.

8 Sec. 8. Section 23-2320, Revised Statutes Cumulative
9 Supplement, 2010, is amended to read:

10 23-2320 (1) Except as otherwise provided in this section,
11 a member of the retirement system who has a five-year break in
12 service shall upon reemployment be considered a new employee with
13 respect to the County Employees Retirement Act and shall not
14 receive credit for service prior to his or her reemployment date.

15 (2) (a) A member who ceases to be an employee before
16 becoming eligible for retirement under section 23-2315 and
17 again becomes a permanent full-time or permanent part-time
18 county employee prior to having a five-year break in service
19 shall immediately be reenrolled in the retirement system and
20 resume making contributions. For purposes of vesting employer
21 contributions made prior to and after the reentry into the
22 retirement system under subsection (3) of section 23-2319, years
23 of participation include years of participation prior to such
24 employee's original termination. For a member who is not vested and
25 has received a termination benefit pursuant to section 23-2319,
26 the years of participation prior to such employee's original
27 termination shall be limited in a ratio equal to the amount that

1 the member repays divided by the termination benefit withdrawn
2 pursuant to section 23-2319.

3 (b) The reemployed member may repay the value of, or
4 a portion of the value of, the termination benefit withdrawn
5 pursuant to section 23-2319. A reemployed member who elects to
6 repay all or a portion of the value of the termination benefit
7 withdrawn pursuant to section 23-2319 shall repay the actual
8 earnings on such value. Repayment of the termination benefit shall
9 commence within three years of reemployment and shall be completed
10 within five years of reemployment or prior to termination of
11 employment, whichever occurs first, through (i) direct payments to
12 the retirement system, (ii) installment payments made pursuant to
13 a binding irrevocable payroll deduction authorization made by the
14 member, (iii) an eligible rollover distribution as provided under
15 the Internal Revenue Code, or (iv) a direct rollover distribution
16 made in accordance with section 401(a)(31) of the Internal Revenue
17 Code.

18 (c) The value of the member's forfeited employer account
19 or employer cash balance account, as of the date of forfeiture,
20 shall be restored in a ratio equal to the amount of the benefit
21 that the member has repaid divided by the termination benefit
22 received. The employer account or employer cash balance account
23 shall be restored first out of the current forfeiture amounts and
24 then by additional employer contributions.

25 (3) For a member who retired pursuant to section 23-2315
26 and becomes a permanent full-time employee or permanent part-time
27 employee with a county under the County Employees Retirement Act

1 more than one hundred twenty days after his or her retirement
2 date, the member shall continue receiving retirement benefits. Such
3 a retired member or a retired member who received a lump-sum
4 distribution of his or her benefit shall be considered a new
5 employee as of the date of reemployment and shall not receive
6 credit for any service prior to the member's retirement for
7 purposes of the act.

8 (4) A member who is reinstated as an employee pursuant to
9 a grievance or appeal of his or her termination by the county shall
10 be a member upon reemployment and shall not be considered to have
11 a break in service for such period of time that the grievance or
12 appeal was pending. Following reinstatement, the member shall repay
13 the value of the amount received from his or her employee account
14 or member cash balance account under subdivision (2)(b) of section
15 23-2319.01.

16 Sec. 9. Section 24-701.01, Revised Statutes Cumulative
17 Supplement, 2010, is amended to read:

18 24-701.01 Sections 24-701 to 24-714 and section 10 of
19 this act shall be known and may be cited as the Judges Retirement
20 Act.

21 Sec. 10. (1) Beginning July 1, 2011, and each July
22 1 thereafter, the board shall determine the number of eligible
23 retirees in the retirement system and an annual benefit adjustment
24 shall be made by the board for each retired member or beneficiary
25 under one of the cost-of-living adjustment calculation methods
26 found in subsection (2), (3), or (4) of this section. Each retired
27 member or beneficiary, if eligible, shall receive an annual benefit

1 adjustment under the cost-of-living adjustment calculation method
2 that provides the retired member or beneficiary the greatest annual
3 benefit adjustment increase. No retired member or beneficiary shall
4 receive an annual benefit adjustment under more than one of the
5 cost-of-living adjustment calculation methods provided in this
6 section.

7 (2) The current benefit paid to a retired member or
8 beneficiary under this subsection shall be adjusted so that
9 the purchasing power of the benefit being paid is not less
10 than seventy-five percent of the purchasing power of the initial
11 benefit. The purchasing power of the initial benefit in any year
12 following the year in which the initial benefit commenced shall
13 be calculated by dividing the United States Department of Labor,
14 Bureau of Labor Statistics, Consumer Price Index for Urban Wage
15 Earners and Clerical Workers factor on June 30 of the current year
16 by the Consumer Price Index for Urban Wage Earners and Clerical
17 Workers factor on June 30 of the year in which the benefit
18 commenced. The result shall be multiplied by the product that
19 results when the amount of the initial benefit is multiplied by
20 seventy-five percent. In any year in which applying the adjustment
21 provided in subsection (3) of this section results in a benefit
22 which would be less than seventy-five percent of the purchasing
23 power of the initial benefit as calculated in this subsection, the
24 adjustment shall instead be equal to the percentage change in the
25 Consumer Price Index for Urban Wage Earners and Clerical Workers
26 factor from the prior year to the current year.

27 (3) The current benefit paid to a retired member or

1 beneficiary under this subsection shall be increased annually by
2 the lesser of (a) the percentage change in the Consumer Price Index
3 for Urban Wage Earners and Clerical Workers for the period between
4 June 30 of the prior year to June 30 of the present year or (b) two
5 and one-half percent.

6 (4) (a) The current benefit paid to a retired member
7 or beneficiary under this subsection shall be calculated by
8 multiplying the retired member's or beneficiary's total monthly
9 benefit by the lesser of (i) the cumulative change in the Consumer
10 Price Index for Urban Wage Earners and Clerical Workers from the
11 last adjustment of the total monthly benefit of each retired member
12 or beneficiary through June 30 of the year for which the annual
13 benefit adjustment is being calculated or (ii) an amount equal to
14 three percent per annum compounded for the period from the last
15 adjustment of the total monthly benefit of each retired member
16 or beneficiary through June 30 of the year for which the annual
17 benefit adjustment is being calculated.

18 (b) In order for a retired member or beneficiary to
19 receive the cost-of-living adjustment calculation method provided
20 in this subsection, the retired member or beneficiary shall be
21 (i) a retired member or beneficiary who has been receiving a
22 retirement benefit for at least five years if the member had at
23 least twenty-five years of creditable service, (ii) a member who
24 has been receiving a disability retirement benefit for at least
25 five years pursuant to section 24-709, or (iii) a beneficiary who
26 has been receiving a death benefit pursuant to section 24-707 or
27 24-707.01 for at least five years, if the member's or beneficiary's

1 monthly accrual rate is less than or equal to the minimum accrual
2 rate as determined by this subsection.

3 (c) The monthly accrual rate under this subsection is the
4 retired member's or beneficiary's total monthly benefit divided by
5 the number of years of creditable service earned by the retired or
6 deceased member.

7 (d) The total monthly benefit under this subsection is
8 the total benefit received by a retired member or beneficiary
9 pursuant to the Judges Retirement Act and previous adjustments made
10 pursuant to this section or any other provision of the act that
11 grants a benefit or cost-of-living increase, but the total monthly
12 benefit shall not include sums received by an eligible retired
13 member or eligible beneficiary from federal sources.

14 (e) The minimum accrual rate under this subsection is
15 forty-five dollars and thirty cents until adjusted pursuant to this
16 subsection. Beginning July 1, 2011, the board shall annually adjust
17 the minimum accrual rate to reflect the cumulative percentage
18 change in the Consumer Price Index for Urban Wage Earners and
19 Clerical Workers from the last adjustment of the minimum accrual
20 rate.

21 (5) Beginning July 1, 2011, and each July 1 thereafter,
22 each retired member or beneficiary shall receive the sum of the
23 annual benefit adjustment and such retiree's total monthly benefit
24 less withholding, which sum shall be the retired member's or
25 beneficiary's adjusted total monthly benefit. Each retired member
26 or beneficiary shall receive the adjusted total monthly benefit
27 until the expiration of the annuity option selected by the member

1 or until the retired member or beneficiary again qualifies for the
2 annual benefit adjustment, whichever occurs first.

3 (6) The annual benefit adjustment pursuant to this
4 section shall not cause a current benefit to be reduced, and
5 a retired member or beneficiary shall never receive less than the
6 adjusted total monthly benefit until the annuity option selected by
7 the member expires.

8 (7) The board shall adjust the annual benefit adjustment
9 provided in this section so that the cost-of-living adjustment
10 provided to the retired member or beneficiary at the time of
11 the annual benefit adjustment does not exceed the change in the
12 Consumer Price Index for Urban Wage Earners and Clerical Workers
13 for the period between June 30 of the prior year to June 30
14 of the present year. If the consumer price index used in this
15 section is discontinued or replaced, a substitute index published
16 by the United States Department of Labor shall be selected by the
17 board which shall be a reasonable representative measurement of the
18 cost-of-living for retired employees.

19 (8) The state shall contribute to the Nebraska Retirement
20 Fund for Judges an annual level dollar payment certified by the
21 board. For the 2011-12 fiscal year through the 2012-13 fiscal year,
22 the annual level dollar payment certified by the board shall equal
23 1.04778 percent of six million eight hundred ninety-five thousand
24 dollars.

25 Sec. 11. Section 24-710, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 24-710 (1) The retirement annuity of a judge who is

1 an original member, who has not made the election provided for
2 in subsection (8) of section 24-703 or section 24-710.01, and
3 who retires under section 24-708 or 24-709 shall be computed as
4 follows: Each such judge shall be entitled to receive an annuity,
5 each monthly payment of which shall be in an amount equal to three
6 and one-third percent of his or her final average compensation
7 as such judge, multiplied by the number of his or her years of
8 creditable service. The amount stated in this section shall be
9 supplemental to any benefits received by such judge under the
10 Nebraska and federal old age and survivors' insurance acts at the
11 date of retirement, but the monthly combined benefits received
12 thereunder and by the Judges Retirement Act shall not exceed
13 sixty-five percent of the final average compensation such judge was
14 receiving when he or she last served as such judge. The amount of
15 retirement annuity of a judge who retires under section 24-708 or
16 24-709 shall not be less than twenty-five dollars per month if he
17 or she has four years or more of service credit.

18 (2) The retirement annuity of a judge who is a future
19 member and who retires after July 1, 1986, under section 24-708
20 or 24-709 shall be computed as follows: Each such judge shall be
21 entitled to receive an annuity, each monthly payment of which shall
22 be in an amount equal to three and one-half percent of his or her
23 final average compensation as such judge, multiplied by the number
24 of his or her years of creditable service, except that prior to an
25 actuarial factor adjustment for purposes of calculating an optional
26 form of annuity benefits under subsection (3) of this section, the
27 monthly benefits received under this subsection shall not exceed

1 seventy percent of the final average compensation such judge was
2 receiving when he or she last served as such judge.

3 (3) Except as provided in section 42-1107, any member
4 may, when filing an application as provided by the retirement
5 system, elect to receive, in lieu of the normal form annuity
6 benefits to which the member or his or her beneficiary may
7 otherwise be entitled under the Judges Retirement Act, ~~any~~
8 an optional form of annuity benefits which the board may by
9 rules and regulations provide, the value of which, determined
10 by accepted actuarial methods and on the basis of actuarial
11 assumptions recommended by the actuary, approved by the board,
12 and kept on file in the office of the director, is equal to
13 the value of the benefit replaced. The board shall (a) adopt and
14 promulgate appropriate rules and regulations establishing joint and
15 survivorship annuities, with and without reduction on the death of
16 the first annuitant, and such other forms of annuities as may in
17 its judgment be appropriate and establishing benefits as provided
18 in sections 24-707 and 24-707.01, (b) prescribe appropriate forms
19 for making the election by the members, and (c) provide for the
20 necessary actuarial services to make the required valuations.

21 (4) A one-time cost-of-living adjustment shall be made
22 for each retired judge and each surviving beneficiary who is
23 receiving a retirement annuity as provided for in this section. The
24 annuity shall be adjusted by the increase in the cost of living
25 or wage levels between the effective date of retirement and June
26 30, 1992, except that such increases shall not exceed three percent
27 per year of retirement and the total increase shall not exceed two

1 hundred fifty dollars per month.

2 Sec. 12. Section 42-1102, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 42-1102 For purposes of the Spousal Pension Rights Act:

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

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

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

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

26 (5) Qualified domestic relations order means a domestic
27 relations order which creates or recognizes the existence of an

1 alternate payee's right, or assigns to an alternate payee the
2 right, to receive all or a portion of the benefits payable with
3 respect to a member under a statewide public retirement system,
4 which directs the system to disburse benefits to the alternate
5 payee, and which meets the requirements of section 42-1103;

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

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

18 Sec. 13. Section 68-621, Revised Statutes Cumulative
19 Supplement, 2010, is amended to read:

20 68-621 (1) A referendum group, as referred to in sections
21 68-621 to 68-630, shall consist of the employees of the state, a
22 single political subdivision of this state, or any instrumentality
23 jointly created by this state and any other state or states, the
24 employees of which are or may be members of a retirement system
25 covering such employees, except that: (a) The employees of the
26 University of Nebraska shall constitute a referendum group; (b)
27 the employees of a Class V school district shall constitute a

1 referendum group; (c) all employees of the State of Nebraska who
2 are or may be members of the School Employees Retirement System of
3 the State of Nebraska, including employees of institutions operated
4 by the Board of Trustees of the Nebraska State Colleges, employees
5 of institutions operated by the Department of Correctional Services
6 and the Department of Health and Human Services, and employees
7 subordinate to the State Board of Education, shall constitute a
8 referendum group; and (d) all employees of school districts of
9 the State of Nebraska, county superintendents, and county school
10 administrators, who are or may be members of the School Employees
11 Retirement System of the State of Nebraska, shall constitute a
12 single referendum group.

13 (2) The managing authority of a political subdivision or
14 educational institution shall be the board, committee, or council
15 having general authority over a political subdivision, university,
16 college, or school district whose employees constitute or are
17 included in a referendum group; the managing authority of the state
18 shall be the Governor; and insofar as sections 68-601 to 68-631
19 may be applicable to county superintendents and county school
20 administrators, managing authority shall mean the board of county
21 commissioners or county supervisors of the county in which the
22 county superintendent was elected or with which the county school
23 administrator contracted.

24 (3) Eligible employees, as referred to in sections 68-621
25 to 68-630, shall mean those employees of the state or any political
26 subdivision thereof who at or during the time of voting in a
27 referendum as herein provided are in positions covered by a

1 retirement system, are members of such retirement system, and
2 were in such positions at the time of giving of the notice of
3 such referendum, as herein required, except that no such employee
4 shall be considered an eligible employee if at the time of such
5 voting such employee is in a position to which the state agreement
6 applies or if such employee is in service in a police officer or
7 firefighter position.

8 (4) State agreement, as referred to in sections 68-621 to
9 68-630, shall mean the agreement between the State of Nebraska and
10 the designated officer of the United States of America entered into
11 pursuant to section 68-603.

12 Sec. 14. Section 72-1243, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 72-1243 (1) Except as otherwise specifically provided by
15 law, the state investment officer shall direct the investment and
16 reinvestment of money in all state funds not currently needed
17 and all funds described in section 83-133 and order the purchase,
18 sale, or exchange of securities for such funds. He or she shall
19 notify the State Treasurer of any payment, receipt, or delivery
20 that may be required as a result of any investment decision, which
21 notification shall be the authorization and direction for the State
22 Treasurer to make such disbursement, receipt, or delivery from the
23 appropriate fund.

24 (2) The council shall have an analysis made of the
25 investment returns that have been achieved on the assets of each
26 retirement system administered by the Public Employees Retirement
27 Board as provided in section 84-1503. By March ~~15~~ 31 of each year,

1 the analysis shall be presented to the board and the Nebraska
2 Retirement Systems Committee of the Legislature. The analysis shall
3 be prepared by an independent organization which has demonstrated
4 expertise to perform this type of analysis and for which there
5 exists no conflict of interest in the analysis being provided. The
6 analysis may be waived by the council for any retirement system
7 with assets of less than one million dollars.

8 (3) By March ~~15~~ 31 of each year, the council shall
9 prepare a written plan of action and shall present such plan to
10 the Nebraska Retirement Systems Committee of the Legislature at a
11 public hearing. The plan shall include, but not be limited to,
12 the council's investment portfolios, investment strategies, the
13 duties and limitations of the state investment officer, and an
14 organizational structure of the council's office.

15 Sec. 15. Section 79-408, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 79-408 The territory now or hereafter embraced within
18 each incorporated city of the primary class in the State of
19 Nebraska that is not in part within the boundaries of a learning
20 community, such adjacent territory as now or hereafter may be
21 included therewith for school purposes, and such territory not
22 adjacent thereto as may have been added thereto by law shall
23 constitute a Class IV school district, except that nothing in this
24 section shall be construed to change the boundaries of any school
25 district that is a member of a learning community. A Class IV
26 school district shall be a body corporate and possess all the
27 usual powers of a corporation for public purposes, may sue and

1 be sued, and may purchase, hold, and sell such personal and real
2 estate and contract such obligations as are authorized by law.
3 The powers of a Class IV district include, but are not limited
4 to, the power to adopt, administer, and amend from time to time
5 such retirement, annuity, insurance, and other benefit plans for
6 its present and future employees after their retirement, or any
7 reasonable classification thereof, as may be deemed proper by the
8 board of education. The board of education shall not establish
9 a retirement system for new employees supplemental to the School
10 Employees Retirement System of the State of Nebraska.

11 The title to all real or personal property owned by
12 such school district shall, upon the organization of the school
13 district, vest immediately in the school district so created. The
14 board of education shall have exclusive control of all property
15 belonging to the school district.

16 In the discretion of the board of education, funds
17 accumulated in connection with a retirement plan may be transferred
18 to and administered by a trustee or trustees to be selected by the
19 board of education, or if the retirement plan is in the form of
20 annuity or insurance contracts, such funds, or any part thereof,
21 may be paid to a duly licensed insurance carrier or carriers
22 selected by the board of education. Funds accumulated in connection
23 with any such retirement plan, and any other funds of the school
24 district which are not immediately required for current needs or
25 expenses, may be invested and reinvested by the board of education
26 or by its authority in securities of a type permissible either for
27 the investment of funds of a domestic legal reserve life insurance

1 company or for the investment of trust funds, according to the laws
2 of the State of Nebraska.

3 Sec. 16. Section 79-901, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 79-901 Sections 79-901 to 79-977.03 and section 32 of
6 this act shall be known and may be cited as the School Employees
7 Retirement Act.

8 Sec. 17. Section 79-902, Revised Statutes Cumulative
9 Supplement, 2010, is amended to read:

10 79-902 For purposes of the School Employees Retirement
11 Act, unless the context otherwise requires:

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

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

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

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

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

18 (6) Disability retirement allowance means the annuity
19 paid to a person upon retirement for disability under section
20 79-952;

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

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

27 (9) Regular interest means interest fixed at a rate equal

1 to the daily treasury yield curve for one-year treasury securities,
2 as published by the Secretary of the Treasury of the United States,
3 that applies on July 1 of each year, which may be credited monthly,
4 quarterly, semiannually, or annually as the board may direct;

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

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

19 (12) Public school means any and all schools offering
20 instruction in elementary or high school grades, as defined in
21 section 79-101, which schools are supported by public funds and are
22 wholly under the control and management of the State of Nebraska
23 or any subdivision thereof, including (a) schools or other entities
24 established, maintained, and controlled by the school boards of
25 local school districts, except Class V school districts, (b) any
26 educational service unit, and (c) any other educational institution
27 wholly supported by public funds, except schools under the control

1 and management of the Board of Trustees of the Nebraska State
2 Colleges, the Board of Regents of the University of Nebraska, or
3 the community college boards of governors for any community college
4 areas;

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

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

10 (15) Retirement system means the School Employees
11 Retirement System of the State of Nebraska;

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

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

19 (18) Service means employment as a school employee and
20 shall not be deemed interrupted by (a) termination at the end of
21 the school year of the contract of employment of an employee in a
22 public school if the employee enters into a contract of employment
23 in any public school, except a school in a Class V school district,
24 for the following school year, (b) temporary or seasonal suspension
25 of service that does not terminate the employee's employment,
26 (c) leave of absence authorized by the employer for a period
27 not exceeding twelve months, (d) leave of absence because of

1 disability, or (e) military service when properly authorized by
2 the retirement board. Service does not include any period of
3 disability for which disability retirement benefits are received
4 under sections 79-951 to 79-953;

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

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

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

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

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

26 (24) Emeritus member means a person (a) who has entered
27 retirement under the provisions of the act, including those persons

1 who have retired since July 1, 1945, under any other regularly
2 established retirement or pension system as contemplated by section
3 79-916, (b) who has thereafter been reemployed in any capacity
4 by a public school, a Class V school district, or a school
5 under the control and management of the Board of Trustees of the
6 Nebraska State Colleges, the Board of Regents of the University of
7 Nebraska, or a community college board of governors or has become
8 a state school official or county school official subsequent to
9 such retirement, and (c) who has applied to the board for emeritus
10 membership in the retirement system. The school district or agency
11 shall certify to the retirement board on forms prescribed by the
12 retirement board that the annuitant was reemployed, rendered a
13 service, and was paid by the district or agency for such services;

14 (25) Actuarial equivalent means the equality in value of
15 the aggregate amounts expected to be received under different forms
16 of payment. The determinations shall be based on the 1994 Group
17 Annuity Mortality Table reflecting sex-distinct factors blended
18 using twenty-five percent of the male table and seventy-five
19 percent of the female table. An interest rate of eight percent
20 per annum shall be reflected in making these determinations except
21 when a lump-sum settlement is made to an estate. If the lump-sum
22 settlement is made to an estate, the interest rate will be
23 determined by the Moody's Triple A Bond Index as of the prior June
24 30, rounded to the next lower quarter percent;

25 (26) Retirement date means (a) if the member has
26 terminated employment, the first day of the month following the
27 date upon which a member's request for retirement is received on

1 a retirement application provided by the retirement system or (b)
2 if the member has filed an application but has not yet terminated
3 employment, the first day of the month following the date on which
4 the member terminates employment. An application may be filed no
5 more than ninety days prior to the effective date of the member's
6 initial benefit;

7 (27) Disability retirement date means the first day of
8 the month following the date upon which a member's request for
9 disability retirement is received on a retirement application
10 provided by the retirement system if the member has terminated
11 employment in the school system and has complied with sections
12 79-951 to 79-954 as such sections refer to disability retirement;

13 (28) Retirement application means the form approved by
14 the retirement system for acceptance of a member's request for
15 either regular or disability retirement;

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

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

26 (b) If a member has such compensation for less than
27 thirty-six months, his or her final average compensation shall be

1 determined by dividing his or her total compensation in all months
2 by the total number of months of his or her creditable service
3 therefor.

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

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

10 (32) Current benefit means (a) until July 1, 2000, the
11 initial benefit increased by all adjustments made pursuant to
12 section 79-947.02 and (b) on or after July 1, 2000, the initial
13 benefit increased by all adjustments made pursuant to the School
14 Employees Retirement Act;

15 (33) Initial benefit means the retirement benefit
16 calculated at the time of retirement;

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

1 the surviving spouse for the balance of the benefits;

2 (35)(a) Compensation means gross wages or salaries
3 payable to the member for personal services performed during the
4 plan year and includes (i) overtime pay, (ii) member retirement
5 contributions, (iii) retroactive salary payments paid pursuant to
6 court order, arbitration, or litigation and grievance settlements,
7 and (iv) amounts contributed by the member to plans under sections
8 125, 403(b), and 457 of the Internal Revenue Code as defined in
9 section 49-801.01 or any other section of the code which defers or
10 excludes such amounts from income.

11 (b) Compensation does not include (i) fraudulently
12 obtained amounts as determined by the retirement board, (ii)
13 amounts for unused sick leave or unused vacation leave converted
14 to cash payments, (iii) insurance premiums converted into cash
15 payments, (iv) reimbursement for expenses incurred, (v) fringe
16 benefits, (vi) bonuses for services not actually rendered,
17 including, but not limited to, early retirement inducements, cash
18 awards, and severance pay, or (vii) beginning on September 4, 2005,
19 employer contributions made for the purposes of separation payments
20 made at retirement and early retirement inducements as provided for
21 in section 79-514.

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

1 into account under the retirement system as in effect on July 1,
2 1993.

3 ~~(d)(i) In the determination of compensation for members~~
4 ~~on or after July 1, 2002, through June 30, 2005, that part of~~
5 ~~a member's compensation for the fiscal year which exceeds the~~
6 ~~member's compensation with the same employer for the preceding~~
7 ~~fiscal year by more than ten percent shall be excluded unless~~
8 ~~(A) the member experienced a substantial change in employment~~
9 ~~position or (B) the excess compensation occurred as the result~~
10 ~~of a collective-bargaining agreement between the employer and~~
11 ~~a recognized collective-bargaining unit or category of school~~
12 ~~employee.~~

13 ~~(ii) For purposes of this subdivision:~~

14 ~~(A) Category of school employee means either all~~
15 ~~employees of the employer who are administrators or certificated~~
16 ~~teachers, or all employees of the employer who are not~~
17 ~~administrators or certificated teachers, or both; and~~

18 ~~(B) Recognized collective-bargaining unit means a group~~
19 ~~of employees similarly situated with a similar community of~~
20 ~~interest appropriate for bargaining recognized as such by a school~~
21 ~~board.~~

22 ~~(e)(i) In (d)(i) For purposes of section 79-934, in the~~
23 ~~determination of compensation for members on or after July 1,~~
24 ~~2005, that part of a member's compensation for the plan year~~
25 ~~which exceeds the member's compensation with the same employer~~
26 ~~for the preceding plan year by more than seven percent of the~~
27 ~~compensation base during the sixty months preceding the member's~~

1 retirement shall be excluded unless (A) the member experienced a
2 substantial change in employment position, (B) as verified by the
3 school board, the excess compensation above seven percent occurred
4 as the result of a collective-bargaining agreement between the
5 employer and a recognized collective-bargaining unit or category of
6 school employee, and the percentage increase in compensation above
7 seven percent shall not be excluded for employees outside of a
8 collective-bargaining unit or within the same category of school
9 employee, or (C) the excess compensation occurred as the result
10 of a districtwide permanent benefit change made by the employer
11 for a category of school employee in accordance with subdivision
12 (35)(a)(iv) of this section.

13 (ii) For purposes of ~~this~~ subdivision (35)(d) of this
14 section:

15 (A) Category of school employee means either all
16 employees of the employer who are administrators or certificated
17 teachers, or all employees of the employer who are not
18 administrators or certificated teachers, or both;

19 (B) Compensation base means (I) for current members
20 employed with the same employer, the member's compensation for the
21 plan year ending June 30, 2005, or (II) for members newly hired or
22 hired by a separate employer on or after July 1, 2005, the member's
23 compensation for the first full plan year following the member's
24 date of hiring. Thereafter, the member's compensation base shall
25 be increased each plan year by the lesser of seven percent of the
26 member's preceding plan year's compensation base or the member's
27 actual annual compensation increase during the preceding plan year;

1 and

2 (C) Recognized collective-bargaining unit means a group
3 of employees similarly situated with a similar community of
4 interest appropriate for bargaining recognized as such by a school
5 board.

6 (e) (i) In the determination of compensation for members
7 on or after July 1, 2012, until July 1, 2013, that part of a
8 member's compensation for the plan year which exceeds the member's
9 compensation with the same employer for the preceding plan year by
10 more than nine percent of the compensation base during the sixty
11 months preceding the member's retirement shall be excluded.

12 (ii) For purposes of subdivision (35) (e) of this section:

13 (A) Category of school employee means either all
14 employees of the employer who are administrators or certificated
15 teachers, or all employees of the employer who are not
16 administrators or certificated teachers, or both; and

17 (B) Compensation base means (I) for current members
18 employed with the same employer, the member's compensation for the
19 plan year ending June 30, 2012, or (II) for members newly hired or
20 hired by a separate employer on or after July 1, 2012, the member's
21 compensation for the first full plan year following the member's
22 date of hiring. Thereafter, the member's compensation base shall
23 be increased each plan year by the lesser of nine percent of the
24 member's preceding plan year's compensation base or the member's
25 actual annual compensation increase during the preceding plan year.

26 (f) (i) In the determination of compensation for members
27 on or after July 1, 2013, that part of a member's compensation for

1 the plan year which exceeds the member's compensation with the same
2 employer for the preceding plan year by more than eight percent
3 of the compensation base during the sixty months preceding the
4 member's retirement shall be excluded.

5 (ii) For purposes of subdivision (35)(f) of this section:

6 (A) Category of school employee means either all
7 employees of the employer who are administrators or certificated
8 teachers, or all employees of the employer who are not
9 administrators or certificated teachers, or both; and

10 (B) Compensation base means (I) for current members
11 employed with the same employer, the member's compensation for the
12 plan year ending June 30, 2013, or (II) for members newly hired or
13 hired by a separate employer on or after July 1, 2013, the member's
14 compensation for the first full plan year following the member's
15 date of hiring. Thereafter, the member's compensation base shall
16 be increased each plan year by the lesser of eight percent of the
17 member's preceding plan year's compensation base or the member's
18 actual annual compensation increase during the preceding plan year;

19 (36) Termination of employment occurs on the date on
20 which the member experiences a bona fide separation from service of
21 employment with the member's current employer, the date of which
22 separation is determined by the employer. The employer shall notify
23 the board of the date on which such a termination has occurred.
24 A member shall not be deemed to have terminated employment if the
25 member subsequently provides service to any employer participating
26 in the retirement system provided for in the School Employees
27 Retirement Act within one hundred eighty calendar days after

1 ceasing employment unless such service:

2 (a) Is voluntary or substitute service provided on an
3 intermittent basis; or

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

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

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

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

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

21 (40) Regular employee means an employee hired by a public
22 school or under contract in a regular full-time or part-time
23 position who works a full-time or part-time schedule on an ongoing
24 basis for fifteen or more hours per week. An employee hired as
25 described in this subdivision to provide service for less than
26 fifteen hours per week but who provides service for an average
27 of fifteen hours or more per week in each calendar month of any

1 three calendar months of a plan year shall immediately commence
2 contributions and shall be deemed a regular employee; and

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

10 Sec. 18. Section 79-903, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 79-903 A school retirement system is hereby established
13 for the purpose of providing retirement allowances or other
14 benefits for the school employees of the State of Nebraska as
15 provided in the School Employees Retirement Act. It shall have the
16 powers and privileges of a corporation, insofar as may be necessary
17 to carry out ~~the provisions of~~ the act, shall be known as the
18 School Employees Retirement System of the State of Nebraska, and by
19 such name shall transact all business as provided in the act.

20 Sec. 19. Section 79-904, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 79-904 The general administration of the ~~School~~
23 ~~Retirement System of the State of Nebraska,~~ retirement system,
24 except the investment of funds, is hereby vested in the retirement
25 board. The board shall, by a majority vote of its members, adopt
26 bylaws and adopt and promulgate rules and regulations, from time to
27 time, to carry out the School Employees Retirement Act. The board

1 shall perform such other duties as may be required to execute the
2 ~~provisions of the act.~~

3 Sec. 20. Section 79-904.01, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 79-904.01 (1) If the board determines that the retirement
6 system has previously received contributions or distributed
7 benefits which for any reason are not in accordance with the
8 statutory provisions of the School Employees Retirement Act, the
9 board shall refund contributions, require additional contributions,
10 adjust benefits, or require repayment of benefits paid. In the
11 event of an overpayment of a benefit, the board may, in addition to
12 other remedies, offset future benefit payments by the amount of the
13 prior overpayment, together with regular interest thereon. In the
14 event of an underpayment of a benefit, the board shall immediately
15 make payment equal to the deficit amount plus regular interest.

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

26 (3) The board shall not refund contributions made on
27 compensation in excess of the limitations imposed by subdivision

1 (35) (d) (i) of section 79-902.

2 Sec. 21. Section 79-916, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 79-916 ~~(1)(a)~~ Beginning July 1, 2002, and until June 30,
5 2004, the board shall transfer the actuarial value of the service
6 annuity liability accrued within the prior fiscal year of the
7 employees who serve a Class V school district and participate in
8 the retirement system established pursuant to the Class V School
9 Employees Retirement Act upon receipt of a certification from the
10 school district as to the number of employees who have accrued a
11 service annuity benefit for such fiscal year. Upon receipt of the
12 certification, the board shall cause to be transferred to the funds
13 of the retirement system of which such employees are members the
14 actuarial value, as determined pursuant to section 79-966.01, of
15 the service annuities to be paid by the state for the years of
16 service thus certified in the same amount and basis as provided for
17 members of the School Retirement System of the State of Nebraska
18 under sections 79-933 and 79-952. Such transfer of actuarial value
19 to the Class V School Employees Retirement System shall be in
20 lieu of the payment of the service annuity to which such employees
21 would be otherwise entitled. The Class V school district which
22 such employees serve shall furnish to the retirement board all
23 information required by the retirement board regarding service
24 records of its employees.

25 ~~(b)~~ (1) (a) On July 1, 2004, the board shall transfer from
26 the School Retirement Fund to the Service Annuity Fund an amount
27 equal to the funded ratio of the retirement system which is equal

1 to the market value of the retirement system assets divided by
2 the actuarial accrued liability of the retirement system, times the
3 actuarial accrued liability of the service annuity, as determined
4 pursuant to section 79-966.01, of the employees who are members of
5 the retirement system established pursuant to the Class V School
6 Employees Retirement Act. Such actuarial accrued liability shall be
7 determined for each employee on a level dollar basis. On or before
8 July 1 of each fiscal year thereafter, the state shall deposit
9 into the Service Annuity Fund such amounts as may be necessary to
10 pay the normal cost and amortize the unfunded actuarial accrued
11 liability of the service annuity, as determined pursuant to section
12 79-966.01, as of the end of the previous fiscal year of the
13 employees who are members of the retirement system established
14 pursuant to the Class V School Employees Retirement Act. Based on
15 the fiscal year of the retirement system established pursuant to
16 the Class V School Employees Retirement Act, the administrator of
17 such system shall provide all membership information needed for the
18 actuary engaged by the retirement board to determine the normal
19 cost and the amortization payment of the unfunded actuarial accrued
20 liability, as determined pursuant to section 79-966.01, to be paid
21 by the state to the Service Annuity Fund each fiscal year as
22 required by this subdivision.

23 ~~(e)~~ (b) At the time of retirement of any employee
24 who is a member of the retirement system established pursuant
25 to the Class V School Employees Retirement Act, the retirement
26 board shall, upon receipt of a certification of the administrator
27 of such retirement system of the name, identification number,

1 date of birth, retirement date, last date of employment, type
2 of retirement, and number of years of service credited to such
3 eligible employee at the date of retirement, transfer to such
4 retirement system from the Service Annuity Fund the actuarial
5 accrued liability of the service annuity to be paid by the state
6 to the eligible employee for the years of service thus certified
7 as provided for members of the School Employees Retirement System
8 of the State of Nebraska under sections 79-933 and 79-952. Such
9 transfer of the actuarial accrued liability to the retirement
10 system established pursuant to the Class V School Employees
11 Retirement Act shall be in lieu of the payment of the service
12 annuity to which the employee would be entitled.

13 ~~(d)~~ (c) The Service Annuity Fund is created. The fund
14 shall consist of the amounts paid by the state and transferred
15 from the School Retirement Fund pursuant to this section to pay
16 the service annuity to be paid by the state to employees who are
17 members of the retirement system established pursuant to the Class
18 V School Employees Retirement Act. Any money in the ~~fund~~ Service
19 Annuity Fund available for investment shall be invested by the
20 state investment officer pursuant to the Nebraska Capital Expansion
21 Act and the Nebraska State Funds Investment Act.

22 (2) In addition to the transfer of the actuarial accrued
23 liability of the service annuity to be paid by the state, the
24 state shall also transfer to the funds of the Class V school
25 district's retirement system an amount determined by multiplying
26 the compensation of all members of such retirement system by
27 the percent specified in subsection (2) of section 79-966 for

1 determining the amount of the state's payment to the School
2 Retirement Fund. The transfer shall be made annually on or before
3 July 1 of each fiscal year.

4 Sec. 22. Section 79-920, Revised Statutes Cumulative
5 Supplement, 2010, is amended to read:

6 79-920 (1) An individual who was, prior to July 19, 1980,
7 a state school official and did not become a member of the State
8 Employees Retirement System of the State of Nebraska pursuant to
9 the State Employees Retirement Act may, within sixty days after
10 September 1, 1986, elect to become a member of such system. An
11 individual so electing shall pay the contributions required by such
12 system when the service and minimum age requirements have been met.

13 (2) (a) An individual (i) who is or was previously a
14 school employee or who was employed in an out-of-state or a
15 Class V school district, (ii) who becomes employed by the State
16 Department of Education after July 1, 1989, and (iii) who is
17 a state school official may file with the retirement board
18 within thirty days after employment an election to become or
19 remain a member of the School Employees Retirement System of the
20 State of Nebraska. Employees electing not to participate in the
21 School Employees Retirement System shall participate in the State
22 Employees Retirement System of the State of Nebraska.

23 (b) An individual shall be required to participate in
24 the State Employees Retirement System if (i) the individual
25 terminated employment from a public school participating in the
26 School Employees Retirement System and retired pursuant to the
27 School Employees Retirement Act and (ii) the employment by the

1 State Department of Education began or will begin within one
2 hundred eighty days after terminating employment from the school.

3 (3) An employee electing not to be covered by the School
4 Employees Retirement System of the State of Nebraska under this
5 section shall not be subject to section 79-957 but shall be allowed
6 to retain his or her accumulated contribution in the system and
7 continue to become vested in the state's accumulated contribution
8 as well as the State Employees Retirement System of the State of
9 Nebraska according to the following:

10 (a) The years of participation in the School Employees
11 Retirement System of the State of Nebraska before an election
12 is made plus the years of participation in the State Employees
13 Retirement System of the State of Nebraska after the election is
14 made shall both be credited toward compliance with the service
15 requirements provided under section 79-931; and

16 (b) The years of participation in the School Employees
17 Retirement System of the State of Nebraska before the election
18 is made plus the years of participation in the State Employees
19 Retirement System of the State of Nebraska after the election is
20 made shall both be credited toward compliance with section 84-1321.

21 Sec. 23. Section 79-926, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 79-926 (1) Under such rules and regulations as the
24 retirement board adopts and promulgates, each person who was a
25 school employee at any time prior to the establishment of the
26 retirement system and who becomes a member of the retirement system
27 shall, within two years after becoming a member, file a detailed

1 statement of all service as a school employee rendered by him or
2 her prior to the date of establishment of the retirement system. In
3 order to qualify for prior service credit toward a service annuity,
4 a school employee, unless temporarily out of service for further
5 professional education, for service in the armed forces, or for
6 temporary disability, must have completed four years of service
7 on a part-time or full-time basis during the five calendar years
8 immediately preceding July 1, 1945, or have completed eighteen
9 years out of the last twenty-five years prior to July 1, 1945, full
10 time or part time, and two years out of the five years immediately
11 preceding July 1, 1945, full time or part time, or such school
12 employee must complete, unless temporarily out of service for
13 further professional education, for service in the armed forces,
14 or for temporary disability, four years of service within the
15 five calendar years immediately following July 1, 1945. In order
16 to qualify for prior service credit toward a service annuity,
17 a school employee who becomes a member of the ~~School Retirement~~
18 ~~System of the State of Nebraska~~ retirement system on or before
19 September 30, 1951, or from July 1, 1945, to the date of becoming a
20 member shall have been continuously employed in a public school in
21 Nebraska operating under any other regularly established retirement
22 or pension system.

23 (2) Any person who, after having served or signing
24 a contract to serve as a school employee, entered into and
25 served or enters into and serves in the armed forces of the
26 United States during a declared emergency or was drafted under a
27 federal mandatory draft law into the armed forces of the United

1 States during a time of peace, as described and prescribed under
2 such rules and regulations as the retirement board adopts and
3 promulgates, and who, within three calendar years after honorable
4 discharge or honorable separation from active duty or within
5 one year from the date of completion of training provided in
6 the federal Servicemen's Readjustment Act of 1944 or the federal
7 ~~Veterans~~ Veterans' Readjustment Assistance Act of 1952, became
8 or becomes a school employee shall be credited, in determining
9 benefits due such member from the retirement system, for a maximum
10 of five years of the time actually served in the armed forces as if
11 such person had been a school employee throughout such time.

12 (3) Under such rules and regulations as the retirement
13 board adopts and promulgates, any school employee who is reemployed
14 on or after December 12, 1994, pursuant to 38 U.S.C. 4301
15 et seq., shall be treated as not having incurred a break in
16 service by reason of his or her period of military service. Such
17 military service shall be credited for purposes of determining the
18 nonforfeitability of the member's accrued benefits and the accrual
19 of benefits under the plan. The employer shall be liable for
20 funding any obligation of the plan to provide benefits based upon
21 such period of military service.

22 ~~(4) Retirement benefits for persons who have retired~~
23 ~~prior to April 18, 1992, shall not be affected by changes made to~~
24 ~~this section which become effective on such date.~~

25 Sec. 24. Section 79-933.03, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 79-933.03 (1) Under such rules and regulations as the

1 board shall adopt and promulgate, a contributing member under
2 contract or employed on July 19, 1996, may receive credit for not
3 to exceed ten years of creditable teaching service rendered in
4 public schools in another state or schools in this state covered by
5 a school retirement system established pursuant to section 79-979,
6 if such member files an application for service credit within
7 three years of membership or reinstatement in the School Employees
8 Retirement System of the State of Nebraska and makes payment into
9 the retirement system of an amount equal to the required deposits
10 he or she would have paid had he or she been employed in this
11 state by a school covered by the ~~School Retirement System of the~~
12 ~~State of Nebraska,~~ retirement system, plus the interest which would
13 have accrued on such amount. Payment must be completed within five
14 years of membership or reinstatement in the retirement system, or
15 prior to termination of employment, whichever occurs first, and
16 may be made through direct payment, installment payments, or an
17 irrevocable payroll deduction authorization.

18 (2) A member who retires as a school employee of this
19 state shall not receive credit for time in service outside of this
20 state or in a school in this state covered by the school retirement
21 system established pursuant to section 79-979 in excess of the time
22 he or she has been in service as a school employee in this state
23 of a school covered by the School Employees Retirement System of
24 the State of Nebraska. The board shall refund to the member the
25 payments made pursuant to subsection (1) of this section to the
26 extent that the member does not receive credit for such service.

27 (3) A member who purchases service credit pursuant to

1 this section shall provide such documentation as the board may
2 require to prove that the member has forfeited the receipt of any
3 benefits from the retirement system of the public school in another
4 state or a school in this state covered by a retirement system
5 established pursuant to section 79-979 for the creditable service
6 rendered in such school.

7 Sec. 25. Section 79-933.05, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 79-933.05 (1) A contributing member may purchase service
10 credit for not to exceed ten years of creditable service rendered
11 in public schools in another state or schools in this state covered
12 by the school retirement system established pursuant to section
13 79-979. The amount to be paid by the member for such service credit
14 shall equal the actuarial cost to the School Employees Retirement
15 System of the State of Nebraska for allowing such additional
16 service credit to the employee. Payment shall be completed within
17 five years after making the election to purchase service credit
18 or prior to termination of employment, whichever occurs first, and
19 may be made through direct payment, installment payments, or an
20 irrevocable payroll deduction authorization.

21 (2) A member who retires as a school employee of this
22 state shall not receive credit for time in service outside of this
23 state or in a school in this state covered by the school retirement
24 system established pursuant to section 79-979 in excess of the
25 time he or she has been in service as a school employee in this
26 state of a school covered by the School Employees Retirement System
27 of the State of Nebraska. The board shall refund to the member

1 the payments made pursuant to this section to the extent that the
2 member does not receive credit for such service.

3 (3) Compensation for the period of service purchased
4 shall not be included in determining the member's final average
5 compensation.

6 (4) A member who purchases service credit pursuant to
7 this section shall provide such documentation as the board may
8 require to prove that the member has forfeited the receipt of any
9 benefits from the retirement system of the public school in another
10 state or a school in this state covered by a retirement system
11 established pursuant to section 79-979 for the creditable service
12 rendered in such school.

13 Sec. 26. Section 79-933.06, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 79-933.06 (1) Any contributing member may purchase
16 service credit for time he or she was on a leave of absence
17 authorized by the school board or board of education of the school
18 district by which he or she was employed at the time of such
19 leave of absence or pursuant to any contractual agreement entered
20 into by such school district. Such credit shall increase the
21 benefits provided by the retirement system and shall be included
22 in creditable service when determining eligibility for death,
23 disability, termination of employment, and retirement benefits.
24 The amount to be paid by the member for such service credit shall
25 equal the actuarial cost to the ~~School Retirement System of the~~
26 ~~State of Nebraska~~ retirement system for allowing such additional
27 service credit to the employee. Payment shall be completed within

1 five years after such member's election to purchase service credit
2 or prior to termination of employment, whichever occurs first, and
3 may be made through direct payment, installment payments, or an
4 irrevocable payroll deduction authorization.

5 (2) Leave of absence shall be construed to include, but
6 not be limited to, sabbaticals, maternity leave, exchange teaching
7 programs, full-time leave as an elected official of a professional
8 association or collective-bargaining unit, or leave of absence to
9 pursue further education or study. Such leave shall not exceed
10 four years in length, and in order to receive credit for the leave
11 of absence the member must return to employment with a school
12 district, other than a Class V school district, in the state within
13 one year after termination of the leave of absence.

14 (3) Compensation for the period of service purchased
15 shall not be included in determining the member's final average
16 compensation.

17 Sec. 27. Section 79-941, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 79-941 For purposes of sections ~~79-940~~ 79-941 to 79-946,
20 unless the context otherwise requires, total monthly benefit means
21 the benefit that would have been received under a monthly life
22 annuity with no refund or death benefit option even though a
23 different option, as provided in section 79-938, has been selected.
24 The total monthly benefit shall be computed as if the person had
25 retired at age sixty-five or at the actual age of retirement,
26 whichever is later.

27 Sec. 28. Section 79-942, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 79-942 For each person who qualifies under sections
3 ~~79-940~~ 79-941 to 79-946, the retirement board shall determine the
4 value of the total monthly benefit being received from the School
5 Employees Retirement System of the State of Nebraska or from the
6 retirement system for Class V districts as provided by the Class
7 V School Employees Retirement Act. From one hundred fifty-five
8 dollars, the retirement board shall subtract the total monthly
9 benefit. Such difference, if positive, shall be the supplemental
10 benefit and shall be paid to the retired person each month ~~until~~
11 ~~July 1, 2004,~~ ~~from the Retired Teachers Supplementary Benefits Fund~~
12 ~~and on and after July 1, 2004,~~ from the School Retirement Fund,
13 except that if this difference is less than five dollars, a minimum
14 payment of five dollars per month shall be made to such person.

15 Sec. 29. Section 79-944, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 79-944 If a beneficiary is receiving the annuity provided
18 through the School Employees Retirement System of the State of
19 Nebraska or through the retirement system for Class V districts
20 as provided by the Class V School Employees Retirement Act, the
21 supplemental benefit shall be the benefit that would be computed
22 under section 79-942 had the deceased retired person still been
23 alive. The beneficiary will continue to receive the supplemental
24 benefit until the expiration of the annuity option selected by the
25 member.

26 Sec. 30. Section 79-947, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 79-947 (1) Commencing October 1, 1988, the retirement
2 board shall determine an adjusted supplemental retirement benefit
3 to reflect changes in the cost of living and wage levels that
4 have occurred subsequent to the date of retirement for each person
5 who is retired from the School Employees Retirement System of the
6 State of Nebraska or from the retirement system for Class V school
7 districts as provided by the Class V School Employees Retirement
8 Act with twenty-five or more years of creditable service as of
9 October 1, 1988.

10 (2) For each person who qualifies under subsection (1)
11 of this section, the retirement board shall determine the value
12 of the total monthly benefit being received from the School
13 Employees Retirement System of the State of Nebraska or from the
14 retirement system for Class V school districts as provided by
15 the Class V School Employees Retirement Act and the supplemental
16 benefit provided by section 79-942 if applicable. From two hundred
17 fifty dollars, the board shall subtract the total monthly benefit.
18 Such difference, if positive, shall be the adjusted supplemental
19 retirement benefit and shall be paid to the retired person each
20 month, except that if this difference is less than five dollars,
21 a minimum payment of five dollars per month shall be made to such
22 person. The adjusted supplemental retirement benefit shall be paid
23 to a retired person during his or her life.

24 (3) The retirement board may buy a paid-up annuity
25 for a retired person which guarantees the adjusted supplemental
26 retirement benefit provided under this section.

27 (4) The adjusted supplemental retirement benefit provided

1 under this section shall be funded from the Contingent Account but
2 only from such income that is attributable to employer and employee
3 contributions.

4 Sec. 31. Section 79-955, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 79-955 Upon termination of employment for any cause other
7 than death or retirement, the retirement board shall, upon the
8 member's demand, terminate his or her membership in the retirement
9 system and cause to be paid to such member the accumulated
10 contributions standing to the credit of his or her individual
11 account in the School Retirement Fund. Any member who attains
12 or has attained membership in another Nebraska state or school
13 retirement system authorized by the Legislature and who elects
14 not to be or remain a member of the School Employees Retirement
15 System of the State of Nebraska shall have his or her accumulated
16 contributions returned to him or her forthwith.

17 Sec. 32. (1) Beginning July 1, 2011, and each July
18 1 thereafter, the board shall determine the number of eligible
19 retirees in the retirement system and an annual benefit adjustment
20 shall be made by the board for each retired member or beneficiary
21 under one of the cost-of-living adjustment calculation methods
22 found in subsection (2), (3), or (4) of this section. Each retired
23 member or beneficiary, if eligible, shall receive an annual benefit
24 adjustment under the cost-of-living adjustment calculation method
25 that provides the retired member or beneficiary the greatest annual
26 benefit adjustment increase. No retired member or beneficiary shall
27 receive an annual benefit adjustment under more than one of the

1 cost-of-living adjustment calculation methods provided in this
2 section.

3 (2) The current benefit paid to a retired member or
4 beneficiary under this subsection shall be adjusted so that
5 the purchasing power of the benefit being paid is not less
6 than seventy-five percent of the purchasing power of the initial
7 benefit. The purchasing power of the initial benefit in any year
8 following the year in which the initial benefit commenced shall
9 be calculated by dividing the United States Department of Labor,
10 Bureau of Labor Statistics, Consumer Price Index for Urban Wage
11 Earners and Clerical Workers factor on June 30 of the current year
12 by the Consumer Price Index for Urban Wage Earners and Clerical
13 Workers factor on June 30 of the year in which the benefit
14 commenced. The result shall be multiplied by the product that
15 results when the amount of the initial benefit is multiplied by
16 seventy-five percent. In any year in which applying the adjustment
17 provided in subsection (3) of this section results in a benefit
18 which would be less than seventy-five percent of the purchasing
19 power of the initial benefit as calculated in this subsection, the
20 adjustment shall instead be equal to the percentage change in the
21 Consumer Price Index for Urban Wage Earners and Clerical Workers
22 factor from the prior year to the current year.

23 (3) The current benefit paid to a retired member or
24 beneficiary under this subsection shall be increased annually by
25 the lesser of (a) the percentage change in the Consumer Price Index
26 for Urban Wage Earners and Clerical Workers for the period between
27 June 30 of the prior year to June 30 of the present year or (b) two

1 and one-half percent.

2 (4) (a) The current benefit paid to a retired member
3 or beneficiary under this subsection shall be calculated by
4 multiplying the retired member's or beneficiary's total monthly
5 benefit by the lesser of (i) the cumulative change in the Consumer
6 Price Index for Urban Wage Earners and Clerical Workers from the
7 last adjustment of the total monthly benefit of each retired member
8 or beneficiary through June 30 of the year for which the annual
9 benefit adjustment is being calculated or (ii) an amount equal to
10 three percent per annum compounded for the period from the last
11 adjustment of the total monthly benefit of each retired member
12 or beneficiary through June 30 of the year for which the annual
13 benefit adjustment is being calculated.

14 (b) In order for a retired member or beneficiary to
15 receive the cost-of-living adjustment calculation method provided
16 in this subsection, the retired member or beneficiary shall be (i)
17 a retired member or beneficiary who has been receiving a retirement
18 benefit for at least five years if the member had at least
19 twenty-five years of creditable service, (ii) a member who has been
20 receiving a disability retirement benefit for at least five years
21 pursuant to section 79-952, or (iii) a beneficiary who has been
22 receiving a death benefit pursuant to section 79-956 for at least
23 five years, if the member's or beneficiary's monthly accrual rate
24 is less than or equal to the minimum accrual rate as determined by
25 this subsection.

26 (c) The monthly accrual rate under this subsection is the
27 retired member's or beneficiary's total monthly benefit divided by

1 the number of years of creditable service earned by the retired or
2 deceased member.

3 (d) The total monthly benefit under this subsection is
4 the total benefit received by a retired member or beneficiary
5 pursuant to the School Employees Retirement Act and previous
6 adjustments made pursuant to this section or any other provision
7 of the act that grants a benefit or cost-of-living increase,
8 but the total monthly benefit shall not include sums received by
9 an eligible retired member or eligible beneficiary from federal
10 sources.

11 (e) The minimum accrual rate under this subsection is
12 twenty-three dollars and thirty-two cents until adjusted pursuant
13 to this subsection. Beginning July 1, 2011, the board shall
14 annually adjust the minimum accrual rate to reflect the cumulative
15 percentage change in the Consumer Price Index for Urban Wage
16 Earners and Clerical Workers from the last adjustment of the
17 minimum accrual rate.

18 (5) Beginning July 1, 2011, and each July 1 thereafter,
19 each retired member or beneficiary shall receive the sum of the
20 annual benefit adjustment and such retiree's total monthly benefit
21 less withholding, which sum shall be the retired member's or
22 beneficiary's adjusted total monthly benefit. Each retired member
23 or beneficiary shall receive the adjusted total monthly benefit
24 until the expiration of the annuity option selected by the member
25 or until the retired member or beneficiary again qualifies for the
26 annual benefit adjustment, whichever occurs first.

27 (6) The annual benefit adjustment pursuant to this

1 section shall not cause a current benefit to be reduced, and
2 a retired member or beneficiary shall never receive less than the
3 adjusted total monthly benefit until the annuity option selected by
4 the member expires.

5 (7) The board shall adjust the annual benefit adjustment
6 provided in this section so that the cost-of-living adjustment
7 provided to the retired member or beneficiary at the time of
8 the annual benefit adjustment does not exceed the change in the
9 Consumer Price Index for Urban Wage Earners and Clerical Workers
10 for the period between June 30 of the prior year to June 30
11 of the present year. If the consumer price index used in this
12 section is discontinued or replaced, a substitute index published
13 by the United States Department of Labor shall be selected by the
14 board which shall be a reasonable representative measurement of the
15 cost-of-living for retired employees.

16 (8) The state shall contribute to the Annuity Reserve
17 Fund an annual level dollar payment certified by the board. For
18 the 2011-12 fiscal year through the 2012-13 fiscal year, the annual
19 level dollar payment certified by the board shall equal 81.7873
20 percent of six million eight hundred ninety-five thousand dollars.

21 Sec. 33. Section 79-978.01, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 79-978.01 Sections 79-978 to 79-9,116 and sections 36 and
24 37 of this act shall be known and may be cited as the Class V
25 School Employees Retirement Act.

26 Sec. 34. Section 79-987, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 79-987 (1) An annual audit of the affairs of the
2 retirement system shall be conducted. At the option of the board,
3 such audit may be conducted by a certified public accountant or the
4 Auditor of Public Accounts. The costs of such audit shall be paid
5 from funds of the retirement system. A copy of such audit shall be
6 filed with the Auditor of Public Accounts.

7 ~~(2) Beginning December 31, 1998, and each December 31~~
8 ~~thereafter, the administrator of the retirement system established~~
9 ~~pursuant to section 79-979 and section 401(a) of the Internal~~
10 ~~Revenue Code, as defined in section 49-801.01, shall file with the~~
11 ~~Public Employees Retirement Board an annual report on such system~~
12 ~~and shall submit copies of such report to the members of the~~
13 ~~Nebraska Retirement Systems Committee of the Legislature by March~~
14 ~~15 of each year. The annual report shall be in a form prescribed~~
15 ~~by the Public Employees Retirement Board and shall contain the~~
16 ~~following information for each such retirement plan:~~

17 ~~(a) The number of persons participating in the retirement~~
18 ~~plan;~~

19 ~~(b) The contribution rates of participants in the plan;~~

20 ~~(c) Plan assets and liabilities;~~

21 ~~(d) The names and positions of persons administering the~~
22 ~~plan;~~

23 ~~(e) The names and positions of persons investing plan~~
24 ~~assets;~~

25 ~~(f) The form and nature of investments;~~

26 ~~(g) For each defined contribution plan, a full~~
27 ~~description of investment policies and options available to plan~~

1 ~~participants, and~~

2 ~~(h) For each defined benefit plan, the levels of benefits~~
3 ~~of participants in the plan, the number of members who are eligible~~
4 ~~for a benefit, and the total present value of such members'~~
5 ~~benefits, as well as the funding sources which will pay for such~~
6 ~~benefits.~~

7 If a plan contains no current active participants, the
8 administrator may file in place of such report a statement with the
9 Public Employees Retirement Board indicating the number of retirees
10 still drawing benefits, and the sources and amount of funding for
11 such benefits.

12 ~~(3)~~ (2) Beginning December 31, 1998, and every four years
13 March 31, 2012, and each March 31 thereafter, if such retirement
14 plan is a defined benefit plan, the trustees of a retirement system
15 established pursuant to section 79-979 shall cause to be prepared
16 a ~~quadrennial~~ an annual report and the administrator shall file
17 the same with the Public Employees Retirement Board and submit to
18 the members of the Nebraska Retirement Systems Committee of the
19 Legislature a copy of such report. The report shall consist of a
20 full actuarial analysis of each such retirement plan established
21 pursuant to section 79-979. The analysis shall be prepared by
22 an independent private organization or public entity employing
23 actuaries who are members in good standing of the American Academy
24 of Actuaries, and which organization or entity has demonstrated
25 expertise to perform this type of analysis and is unrelated to
26 any organization offering investment advice or which provides
27 investment management services to the retirement plan.

1 Sec. 35. Section 79-9,113, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 79-9,113 (1)(a) If, at any future time, a majority of
4 the eligible members of the retirement system votes to be included
5 under an agreement providing old age and survivors insurance under
6 the Social Security Act of the United States, the contributions
7 to be made by the member and the school district for membership
8 service, from and after the effective date of the agreement with
9 respect to services performed subsequent to December 31, 1954,
10 shall each be reduced from five to three percent but not less than
11 three percent of the member's salary per annum, and the credits
12 for membership service under this system, as provided in section
13 79-999, shall thereafter be reduced from one and one-half percent
14 to nine-tenths of one percent and not less than nine-tenths of
15 one percent of salary or wage earned by the member during each
16 fiscal year, and from one and sixty-five hundredths percent to one
17 percent and not less than one percent of salary or wage earned
18 by the member during each fiscal year and from two percent to
19 one and two-tenths percent of salary or wage earned by the member
20 during each fiscal year, and from two and four-tenths percent to
21 one and forty-four hundredths percent of salary or wage earned by
22 the member during each fiscal year, except that after September
23 1, 1963, and prior to September 1, 1969, all employees of the
24 school district shall contribute an amount equal to the membership
25 contribution which shall be two and three-fourths percent of salary
26 covered by old age and survivors insurance, and five percent above
27 that amount. Commencing September 1, 1969, all employees of the

1 school district shall contribute an amount equal to the membership
2 contribution which shall be two and three-fourths percent of the
3 first seven thousand eight hundred dollars of salary or wages
4 earned each fiscal year and five percent of salary or wages earned
5 above that amount in the same fiscal year. Commencing September
6 1, 1976, all employees of the school district shall contribute
7 an amount equal to the membership contribution which shall be two
8 and nine-tenths percent of the first seven thousand eight hundred
9 dollars of salary or wages earned each fiscal year and five and
10 twenty-five hundredths percent of salary or wages earned above
11 that amount in the same fiscal year. Commencing on September 1,
12 1982, all employees of the school district shall contribute an
13 amount equal to the membership contribution which shall be four and
14 nine-tenths percent of the compensation earned in each fiscal year.
15 Commencing September 1, 1989, all employees of the school district
16 shall contribute an amount equal to the membership contribution
17 which shall be five and eight-tenths percent of the compensation
18 earned in each fiscal year. Commencing September 1, 1995, all
19 employees of the school district shall contribute an amount equal
20 to the membership contribution which shall be six and three-tenths
21 percent of the compensation earned in each fiscal year. Commencing
22 September 1, 2007, all employees of the school district shall
23 contribute an amount equal to the membership contribution which
24 shall be seven and three-tenths percent of the compensation paid
25 in each fiscal year. Commencing September 1, 2009, all employees
26 of the school district shall contribute an amount equal to the
27 membership contribution which shall be eight and three-tenths

1 percent of the compensation paid in each fiscal year.

2 (b) The contributions by the school district in any
3 fiscal year beginning on or after September 1, 1999, shall be
4 the greater of (i) one hundred percent of the contributions by
5 the employees for such fiscal year or (ii) such amount as may be
6 necessary to maintain the solvency of the system, as determined
7 annually by the board upon recommendation of the actuary and the
8 trustees.

9 (c) The contributions by the school district in any
10 fiscal year beginning on or after September 1, 2007, shall be the
11 greater of (i) one hundred ~~and~~ one percent of the contributions
12 by the employees for such fiscal year or (ii) such amount as may
13 be necessary to maintain the solvency of the system, as determined
14 annually by the board upon recommendation of the actuary and the
15 trustees.

16 (d) The employee's contribution shall be made in the
17 form of a monthly deduction from compensation as provided in
18 subsection (2) of this section. Every employee who is a member of
19 the system shall be deemed to consent and agree to such deductions
20 and shall receipt in full for compensation, and payment to such
21 employee of compensation less such deduction shall constitute a
22 full and complete discharge of all claims and demands whatsoever
23 for services rendered by such employee during the period covered
24 by such payment except as to benefits provided under the Class V
25 School Employees Retirement Act.

26 (e) After September 1, 1963, and prior to September 1,
27 1969, all employees shall be credited with a membership service

1 annuity which shall be nine-tenths of one percent of salary or wage
2 covered by old age and survivors insurance and one and one-half
3 percent of salary or wages above that amount, except that those
4 employees who retire on or after August 31, 1969, shall be credited
5 with a membership service annuity which shall be one percent of
6 salary or wages covered by old age and survivors insurance and
7 one and sixty-five hundredths percent of salary or wages above
8 that amount for service performed after September 1, 1963, and
9 prior to September 1, 1969. Commencing September 1, 1969, all
10 employees shall be credited with a membership service annuity which
11 shall be one percent of the first seven thousand eight hundred
12 dollars of salary or wages earned by the employee during each
13 fiscal year and one and sixty-five hundredths percent of salary
14 or wages earned above that amount in the same fiscal year, except
15 that all employees retiring on or after August 31, 1976, shall be
16 credited with a membership service annuity which shall be one and
17 forty-four hundredths percent of the first seven thousand eight
18 hundred dollars of salary or wages earned by the employee during
19 such fiscal year and two and four-tenths percent of salary or
20 wages earned above that amount in the same fiscal year, and the
21 retirement annuities of employees who have not retired prior to
22 September 1, 1963, and who elected under the provisions of section
23 79-988 as such section existed immediately prior to February 20,
24 1982, not to become members of the system shall not be less than
25 they would have been had they remained under any preexisting system
26 to date of retirement.

27 (f) Members of this system having the service

1 qualifications of members of the School Employees Retirement System
2 of the State of Nebraska, as provided by section 79-926, shall
3 receive the state service annuity provided by sections 79-933 to
4 79-935 and 79-951.

5 (2) The school district shall pick up the employee
6 contributions required by this section for all compensation paid
7 on or after January 1, 1985, and the contributions so picked up
8 shall be treated as employer contributions in determining federal
9 tax treatment under the Internal Revenue Code, except that the
10 school district shall continue to withhold federal income taxes
11 based upon these contributions until the Internal Revenue Service
12 or the federal courts rule that, pursuant to section 414(h)
13 of the Internal Revenue Code, these contributions shall not be
14 included as gross income of the employee until such time as
15 they are distributed or made available. The school district shall
16 pay these employee contributions from the same source of funds
17 which is used in paying earnings to the employee. The school
18 district shall pick up these contributions by a salary deduction
19 either through a reduction in the cash salary of the employee
20 or a combination of a reduction in salary and offset against a
21 future salary increase. Beginning September 1, 1995, the school
22 district shall also pick up any contributions required by sections
23 79-990, 79-991, and 79-992 which are made under an irrevocable
24 payroll deduction authorization between the member and the school
25 district, and the contributions so picked up shall be treated as
26 employer contributions in determining federal tax treatment under
27 the Internal Revenue Code, except that the school district shall

1 continue to withhold federal and state income taxes based upon
2 these contributions until the Internal Revenue Service rules that,
3 pursuant to section 414(h) of the Internal Revenue Code, these
4 contributions shall not be included as gross income of the employee
5 until such time as they are distributed from the system. Employee
6 contributions picked up shall be treated for all purposes of the
7 Class V School Employees Retirement Act in the same manner and to
8 the extent as employee contributions made prior to the date picked
9 up.

10 Sec. 36. (1) The board shall establish a comprehensive
11 preretirement planning program for school employees who are members
12 of the retirement system. The program shall provide information and
13 advice regarding the many changes employees face upon retirement,
14 including, but not limited to, changes in physical and mental
15 health, housing, family life, leisure activity, and retirement
16 income.

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

21 (3) The preretirement planning program shall include
22 information on the federal and state income tax consequences of
23 the various annuity or retirement benefit options available to
24 the employee, information on social security benefits, information
25 on various local, state, and federal government programs and
26 programs in the private sector designed to assist elderly persons,
27 and information and advice the board deems valuable in assisting

1 employees in the transition from public employment to retirement.

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

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

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

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

22 Sec. 37. On and after the operative date of this act,
23 no employee shall be authorized to participate in the retirement
24 system unless the employee (1) is a United States citizen or (2)
25 is a qualified alien under the federal Immigration and Nationality
26 Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2011,
27 and is lawfully present in the United States.

1 Sec. 38. Section 79-1003, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 79-1003 For purposes of the Tax Equity and Educational
4 Opportunities Support Act:

5 (1) Adjusted general fund operating expenditures means
6 (a) for school fiscal years before school fiscal year 2007-08,
7 general fund operating expenditures as calculated pursuant to
8 subdivision (21) of this section minus the transportation allowance
9 and minus the special receipts allowance, (b) for school fiscal
10 year 2007-08, general fund operating expenditures as calculated
11 pursuant to subdivision (21) of this section minus the sum of
12 the transportation, special receipts, and distance education
13 and telecommunications allowances, (c) for school fiscal year
14 2008-09, the difference of the product of the general fund
15 operating expenditures as calculated pursuant to subdivision (21)
16 of this section multiplied by the cost growth factor calculated
17 pursuant to section 79-1007.10 minus the transportation allowance,
18 special receipts allowance, poverty allowance, limited English
19 proficiency allowance, distance education and telecommunications
20 allowance, elementary site allowance, elementary class size
21 allowance, summer school allowance, and focus school and program
22 allowance, (d) for school fiscal year 2009-10, the difference
23 of the product of the general fund operating expenditures
24 as calculated pursuant to subdivision (21) of this section
25 multiplied by the cost growth factor calculated pursuant to
26 section 79-1007.10 minus the transportation allowance, special
27 receipts allowance, poverty allowance, limited English proficiency

1 allowance, distance education and telecommunications allowance,
2 elementary site allowance, elementary class size allowance, summer
3 school allowance, instructional time allowance, and focus school
4 and program allowance, (e) for school fiscal years 2010-11 through
5 2012-13, the difference of the product of the general fund
6 operating expenditures as calculated pursuant to subdivision (21)
7 of this section multiplied by the cost growth factor calculated
8 pursuant to section 79-1007.10 minus the transportation allowance,
9 special receipts allowance, poverty allowance, limited English
10 proficiency allowance, distance education and telecommunications
11 allowance, elementary site allowance, elementary class size
12 allowance, summer school allowance, instructional time allowance,
13 teacher education allowance, and focus school and program
14 allowance, and (f) for school fiscal year 2013-14 and each
15 school fiscal year thereafter, the difference of the product of
16 the general fund operating expenditures as calculated pursuant
17 to subdivision (21) of this section multiplied by the cost
18 growth factor calculated pursuant to section 79-1007.10 minus
19 the transportation allowance, special receipts allowance, poverty
20 allowance, limited English proficiency allowance, distance
21 education and telecommunications allowance, elementary site
22 allowance, summer school allowance, instructional time allowance,
23 teacher education allowance, and focus school and program
24 allowance;

25 (2) Adjusted valuation means the assessed valuation of
26 taxable property of each local system in the state, adjusted
27 pursuant to the adjustment factors described in section 79-1016.

1 Adjusted valuation means the adjusted valuation for the property
2 tax year ending during the school fiscal year immediately preceding
3 the school fiscal year in which the aid based upon that value is
4 to be paid. For purposes of determining the local effort rate yield
5 pursuant to section 79-1015.01, adjusted valuation does not include
6 the value of any property which a court, by a final judgment from
7 which no appeal is taken, has declared to be nontaxable or exempt
8 from taxation;

9 (3) Allocated income tax funds means the amount of
10 assistance paid to a local system pursuant to section 79-1005.01 or
11 79-1005.02 as adjusted by the minimum levy adjustment pursuant to
12 section 79-1008.02;

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

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

23 (6) Base fiscal year means the first school fiscal year
24 following the school fiscal year in which the reorganization or
25 unification occurred;

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

27 (8) Categorical funds means funds limited to a specific

1 purpose by federal or state law, including, but not limited to,
2 Title I funds, Title VI funds, federal vocational education funds,
3 federal school lunch funds, Indian education funds, Head Start
4 funds, and funds from the Education Innovation Fund;

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

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

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

13 (12) Ensuing school fiscal year means the school fiscal
14 year following the current school fiscal year;

15 (13) Equalization aid means the amount of assistance
16 calculated to be paid to a local system pursuant to sections
17 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022, and
18 79-1022.02;

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

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

25 (16) Formula students means:

26 (a) For school fiscal years prior to school fiscal year
27 2008-09, (i) for state aid certified pursuant to section 79-1022,

1 the sum of fall membership from the school fiscal year immediately
2 preceding the school fiscal year in which the aid is to be paid,
3 multiplied by the average ratio of average daily membership to fall
4 membership for the second school fiscal year immediately preceding
5 the school fiscal year in which aid is to be paid and the prior
6 two school fiscal years, plus qualified early childhood education
7 fall membership plus tuitioned students from the school fiscal year
8 immediately preceding the school fiscal year in which the aid is
9 to be paid and (ii) for final calculation of state aid pursuant to
10 section 79-1065, the sum of average daily membership plus qualified
11 early childhood education average daily membership plus tuitioned
12 students from the school fiscal year immediately preceding the
13 school fiscal year in which the aid was paid; and

14 (b) For school fiscal year 2008-09 and each school fiscal
15 year thereafter, (i) for state aid certified pursuant to section
16 79-1022, the sum of the product of fall membership from the school
17 fiscal year immediately preceding the school fiscal year in which
18 the aid is to be paid multiplied by the average ratio of average
19 daily membership to fall membership for the second school fiscal
20 year immediately preceding the school fiscal year in which the aid
21 is to be paid and the prior two school fiscal years plus sixty
22 percent of the qualified early childhood education fall membership
23 plus tuitioned students from the school fiscal year immediately
24 preceding the school fiscal year in which aid is to be paid minus
25 the product of the number of students enrolled in kindergarten that
26 is not full-day kindergarten from the fall membership multiplied by
27 0.5 and (ii) for final calculation of state aid pursuant to section

1 79-1065, the sum of average daily membership plus sixty percent of
2 the qualified early childhood education average daily membership
3 plus tuitioned students minus the product of the number of students
4 enrolled in kindergarten that is not full-day kindergarten from the
5 average daily membership multiplied by 0.5 from the school fiscal
6 year immediately preceding the school fiscal year in which aid was
7 paid;

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

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

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

23 (20) General fund expenditures means all expenditures
24 from the general fund;

25 (21) General fund operating expenditures means:

26 (a) For state aid calculated for school fiscal years
27 prior to school fiscal year 2008-09, the total general fund

1 expenditures minus categorical funds, tuition paid, transportation
2 fees paid to other districts, adult education, summer school,
3 community services, redemption of the principal portion of general
4 fund debt service, retirement incentive plans, staff development
5 assistance, and transfers from other funds into the general fund
6 for the second school fiscal year immediately preceding the school
7 fiscal year in which aid is to be paid as reported on the annual
8 financial report prior to December 1 of the school fiscal year
9 immediately preceding the school fiscal year in which aid is to be
10 paid;

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

1 community services, redemption of the principal portion of general
2 fund debt service, retirement incentive plans authorized by section
3 79-855, and staff development assistance authorized by section
4 79-856, and (iii) the amount of any transfers from the general fund
5 to any bond fund and transfers from other funds into the general
6 fund;

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

1 the school fiscal year in which the expenses occurred; and

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

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

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

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

24 (23) Income tax liability means the amount of the
25 reported income tax liability for resident individuals pursuant
26 to the Nebraska Revenue Act of 1967 less all nonrefundable credits
27 earned and refunds made;

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

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

18 (26) Local system means a learning community for purposes
19 of calculation of state aid for the second full school fiscal
20 year after becoming a learning community and each school fiscal
21 year thereafter, a unified system, a Class VI district and the
22 associated Class I districts, or a Class II, III, IV, or V
23 district and any affiliated Class I districts or portions of
24 Class I districts. The membership, expenditures, and resources of
25 Class I districts that are affiliated with multiple high school
26 districts will be attributed to local systems based on the percent
27 of the Class I valuation that is affiliated with each high school

1 district;

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

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

21 (29) Most recently available complete data year means
22 the most recent single school fiscal year for which the annual
23 financial report, fall school district membership report, annual
24 statistical summary, Nebraska income tax liability by school
25 district for the calendar year in which the majority of the school
26 fiscal year falls, and adjusted valuation data are available;

27 (30) Poverty students means (a) for school fiscal years

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

13 (31) Qualified early childhood education average daily
14 membership means the product of the average daily membership for
15 school fiscal year 2006-07 and each school fiscal year thereafter
16 of students who will be eligible to attend kindergarten the
17 following school year and are enrolled in an early childhood
18 education program approved by the department pursuant to section
19 79-1103 for such school district for such school year multiplied by
20 the ratio of the actual instructional hours of the program divided
21 by one thousand thirty-two if: (a) The program is receiving a grant
22 pursuant to such section for the third year; (b) the program has
23 already received grants pursuant to such section for three years;
24 or (c) the program has been approved pursuant to subsection (5) of
25 section 79-1103 for such school year and the two preceding school
26 years, including any such students in portions of any of such
27 programs receiving an expansion grant;

1 (32) Qualified early childhood education fall membership
2 means the product of membership on the last Friday in September
3 2006 and each year thereafter of students who will be eligible
4 to attend kindergarten the following school year and are enrolled
5 in an early childhood education program approved by the department
6 pursuant to section 79-1103 for such school district for such
7 school year multiplied by the ratio of the planned instructional
8 hours of the program divided by one thousand thirty-two if: (a)
9 The program is receiving a grant pursuant to such section for the
10 third year; (b) the program has already received grants pursuant to
11 such section for three years; or (c) the program has been approved
12 pursuant to subsection (5) of section 79-1103 for such school year
13 and the two preceding school years, including any such students in
14 portions of any of such programs receiving an expansion grant;

15 (33) Regular route transportation means the
16 transportation of students on regularly scheduled daily routes to
17 and from the attendance center;

18 (34) Reorganized district means any district involved
19 in a consolidation and currently educating students following
20 consolidation;

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

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

25 (a) (i) Less than two students per square mile in the
26 county in which each high school is located, based on the school
27 district census, (ii) less than one formula student per square

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

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

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

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

16 (37) Special education means specially designed
17 kindergarten through grade twelve instruction pursuant to section
18 79-1125, and includes special education transportation;

19 (38) Special grant funds means the budgeted receipts for
20 grants, including, but not limited to, Title I funds, Title VI
21 funds, funds from the Education Innovation Fund, reimbursements
22 for wards of the court, short-term borrowings including, but
23 not limited to, registered warrants and tax anticipation notes,
24 interfund loans, insurance settlements, and reimbursements to
25 county government for previous overpayment. The state board shall
26 approve a listing of grants that qualify as special grant funds;

27 (39) State aid means the amount of assistance paid to a

1 district pursuant to the Tax Equity and Educational Opportunities
2 Support Act;

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

4 (41) State support means all funds provided to districts
5 by the State of Nebraska for the general fund support of elementary
6 and secondary education;

7 (42) Statewide average basic funding per formula student
8 means the statewide total basic funding for all districts divided
9 by the statewide total formula students for all districts;

10 (43) Statewide average general fund operating
11 expenditures per formula student means the statewide total
12 general fund operating expenditures for all districts divided by
13 the statewide total formula students for all districts;

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

15 (45) Temporary aid adjustment factor means (a) for school
16 fiscal years before school fiscal year 2007-08, one and one-fourth
17 percent of the sum of the local system's transportation allowance,
18 the local system's special receipts allowance, and the product
19 of the local system's adjusted formula students multiplied by
20 the average formula cost per student in the local system's
21 cost grouping and (b) for school fiscal year 2007-08, one and
22 one-fourth percent of the sum of the local system's transportation
23 allowance, special receipts allowance, and distance education and
24 telecommunications allowance and the product of the local system's
25 adjusted formula students multiplied by the average formula cost
26 per student in the local system's cost grouping;

27 (46) Tuitioned students means students in kindergarten

1 through grade twelve of the district whose tuition is paid by the
2 district to some other district or education agency; and

3 (47) Very sparse local system means a local system that
4 has:

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

11 (b) (i) More than four hundred fifty square miles in the
12 local system, (ii) less than one-half student per square mile in
13 the local system, and (iii) more than fifteen miles between each
14 high school attendance center and the next closest high school
15 attendance center on paved roads.

16 Sec. 39. Section 79-1028.01, Revised Statutes Cumulative
17 Supplement, 2010, is amended to read:

18 79-1028.01 (1) For each school fiscal year, a school
19 district may exceed its maximum general fund budget of expenditures
20 minus the special education budget of expenditures by a specific
21 dollar amount for:

22 (a) Expenditures for repairs to infrastructure damaged by
23 a natural disaster which is declared a disaster emergency pursuant
24 to the Emergency Management Act;

25 (b) Expenditures for judgments, except judgments or
26 orders from the Commission of Industrial Relations, obtained
27 against a school district which require or obligate a school

1 district to pay such judgment, to the extent such judgment is not
2 paid by liability insurance coverage of a school district;

3 (c) Expenditures pursuant to the Retirement Incentive
4 Plan authorized in section 79-855 or the Staff Development
5 Assistance authorized in section 79-856;

6 (d) Expenditures of incentive payments or base fiscal
7 year incentive payments to be received in such school fiscal year
8 pursuant to section 79-1011;

9 (e) Expenditures of amounts received from educational
10 entities as defined in section 79-1201.01 for providing distance
11 education courses through the Educational Service Unit Coordinating
12 Council to such educational entities;

13 (f) Either (i) the first and second school fiscal years
14 the district will be participating in Network Nebraska for the
15 full school fiscal year or (ii) school fiscal year 2008-09, if
16 the school district participated in Network Nebraska for all of
17 school fiscal year 2007-08, for the difference of the estimated
18 expenditures for such school fiscal year for telecommunications
19 services, access to data transmission networks that transmit data
20 to and from the school district, and the transmission of data on
21 such networks as such expenditures are defined by the department
22 for purposes of the distance education and telecommunications
23 allowance minus the dollar amount of such expenditures for the
24 second school fiscal year preceding the first full school fiscal
25 year the district participates in Network Nebraska;

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

1 (h) Expenditures in school fiscal years 2009-10 through
2 2013-14 to pay for employer contributions pursuant to subsection
3 (2) of section 79-958 to the School Employees Retirement System
4 of the State of Nebraska to the extent that such expenditures
5 exceed the employer contributions under such subsection that would
6 have been made at a contribution rate of seven and thirty-five
7 hundredths percent;

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

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

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

25 (l) Any expenditures in school fiscal years 2016-17
26 and 2017-18 of amounts specified in the notice provided by the
27 Commissioner of Education pursuant to section 79-309.01 for teacher

1 performance pay.

2 (2) The state board shall approve, deny, or modify the
3 amount allowed for any exception to the maximum general fund budget
4 of expenditures minus the special education budget of expenditures
5 pursuant to this section.

6 Sec. 40. Section 81-2014.01, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 81-2014.01 Sections 81-2014 to 81-2041 and section 41 of
9 this act shall be known and may be cited as the Nebraska State
10 Patrol Retirement Act.

11 Sec. 41. (1) Beginning July 1, 2011, and each July
12 1 thereafter, the board shall determine the number of eligible
13 retirees in the retirement system and an annual benefit adjustment
14 shall be made by the board for each retired member or beneficiary
15 under one of the cost-of-living adjustment calculation methods
16 found in subsection (2), (3), or (4) of this section. Each retired
17 member or beneficiary, if eligible, shall receive an annual benefit
18 adjustment under the cost-of-living adjustment calculation method
19 that provides the retired member or beneficiary the greatest annual
20 benefit adjustment increase. No retired member or beneficiary shall
21 receive an annual benefit adjustment under more than one of the
22 cost-of-living adjustment calculation methods provided in this
23 section.

24 (2) The current benefit paid to a retired member or
25 beneficiary under this subsection shall be adjusted so that the
26 purchasing power of the benefit being paid is not less than
27 sixty percent of the purchasing power of the initial benefit. The

1 purchasing power of the initial benefit in any year following the
2 year in which the initial benefit commenced shall be calculated
3 by dividing the United States Department of Labor, Bureau of
4 Labor Statistics, Consumer Price Index for Urban Wage Earners and
5 Clerical Workers factor on June 30 of the current year by the
6 Consumer Price Index for Urban Wage Earners and Clerical Workers
7 factor on June 30 of the year in which the benefit commenced. The
8 result shall be multiplied by the product that results when the
9 amount of the initial benefit is multiplied by sixty percent. In
10 any year in which applying the adjustment provided in subsection
11 (3) of this section results in a benefit which would be less
12 than sixty percent of the purchasing power of the initial benefit
13 as calculated in this subsection, the adjustment shall instead be
14 equal to the percentage change in the Consumer Price Index for
15 Urban Wage Earners and Clerical Workers factor from the prior year
16 to the current year.

17 (3) The current benefit paid to a retired member or
18 beneficiary under this subsection shall be increased annually by
19 the lesser of (i) the percentage change in the Consumer Price Index
20 for Urban Wage Earners and Clerical Workers for the period between
21 June 30 of the prior year to June 30 of the present year or (ii)
22 two and one-half percent.

23 (4)(a) The current benefit paid to a retired member
24 or beneficiary under this subsection shall be calculated by
25 multiplying the retired member's or beneficiary's total monthly
26 benefit by the lesser of (i) the cumulative change in the Consumer
27 Price Index for Urban Wage Earners and Clerical Workers from the

1 last adjustment of the total monthly benefit of each retired member
2 or beneficiary through June 30 of the year for which the annual
3 benefit adjustment is being calculated or (ii) an amount equal to
4 three percent per annum compounded for the period from the last
5 adjustment of the total monthly benefit of each retired member
6 or beneficiary through June 30 of the year for which the annual
7 benefit adjustment is being calculated.

8 (b) In order for a retired member or beneficiary to
9 receive the cost-of-living adjustment calculation method in this
10 subsection, the retired member or beneficiary shall be (i) a
11 retired member or beneficiary who has been receiving a retirement
12 benefit for at least five years if the member had at least
13 twenty-five years of creditable service, (ii) a member who has been
14 receiving a disability retirement benefit for at least five years
15 pursuant to section 81-2025, or (iii) a beneficiary who has been
16 receiving a death benefit pursuant to section 81-2026 for at least
17 five years, if the member's or beneficiary's monthly accrual rate
18 is less than or equal to the minimum accrual rate as determined by
19 this subsection.

20 (c) The monthly accrual rate under this subsection is the
21 retired member's or beneficiary's total monthly benefit divided by
22 the number of years of creditable service earned by the retired or
23 deceased member.

24 (d) The total monthly benefit under this subsection is
25 the total benefit received by a retired member or beneficiary
26 pursuant to the Nebraska State Patrol Retirement Act and previous
27 adjustments made pursuant to this section or any other provision

1 of the act that grants a benefit or cost-of-living increase,
2 but the total monthly benefit shall not include sums received by
3 an eligible retired member or eligible beneficiary from federal
4 sources.

5 (e) The minimum accrual rate under this subsection is
6 thirty-eight dollars and eighty-four cents until adjusted pursuant
7 to this subsection. Beginning July 1, 2011, the board shall
8 annually adjust the minimum accrual rate to reflect the cumulative
9 percentage change in the Consumer Price Index for Urban Wage
10 Earners and Clerical Workers from the last adjustment of the
11 minimum accrual rate.

12 (5) Beginning July 1, 2011, and each July 1 thereafter,
13 each retired member or beneficiary shall receive the sum of the
14 annual benefit adjustment and such retiree's total monthly benefit
15 less withholding, which sum shall be the retired member's or
16 beneficiary's adjusted total monthly benefit. Each retired member
17 or beneficiary shall receive the adjusted total monthly benefit
18 until the expiration of the annuity option selected by the member
19 or until the retired member or beneficiary again qualifies for the
20 annual benefit adjustment, whichever occurs first.

21 (6) The annual benefit adjustment pursuant to this
22 section shall not cause a current benefit to be reduced, and
23 a retired member or beneficiary shall never receive less than the
24 adjusted total monthly benefit until the annuity option selected by
25 the member expires.

26 (7) The board shall adjust the annual benefit adjustment
27 provided in this section so that the cost-of-living adjustment

1 provided to the retired member or beneficiary at the time of
2 the annual benefit adjustment does not exceed the change in the
3 Consumer Price Index for Urban Wage Earners and Clerical Workers
4 for the period between June 30 of the prior year to June 30
5 of the present year. If the consumer price index used in this
6 section is discontinued or replaced, a substitute index published
7 by the United States Department of Labor shall be selected by the
8 board which shall be a reasonable representative measurement of the
9 cost-of-living for retired employees.

10 (8) The state shall contribute to the State Patrol
11 Retirement Fund an annual level dollar payment certified by the
12 board. For the 2011-12 fiscal year through the 2012-13 fiscal year,
13 the annual level dollar payment certified by the board shall equal
14 3.04888 percent of six million eight hundred ninety-five thousand
15 dollars.

16 Sec. 42. Section 81-2026, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 81-2026 (1) (a) Any officer qualified for an annuity as
19 provided in section 81-2025 for reasons other than disability
20 shall be entitled to receive a monthly annuity for the remainder
21 of the officer's life. The annuity payments shall continue until
22 the end of the calendar month in which the officer dies. The
23 amount of the annuity shall be a percentage of the officer's
24 final average monthly compensation. For retirement on or after the
25 fifty-fifth birthday of the member or on or after the fiftieth
26 birthday of a member who has been in the employ of the state for
27 twenty-five years, as calculated in section 81-2033, the percentage

1 shall be three percent multiplied by the number of years of
2 creditable service, as calculated in section 81-2033, except that
3 the percentage shall never be greater than seventy-five percent.

4 (b) For retirement pursuant to subsection (2) of section
5 81-2025 on or after the fiftieth birthday of the member but prior
6 to the fifty-fifth birthday of the member who has been in the
7 employ of the state for less than twenty-five years, as calculated
8 in section 81-2033, the annuity which would apply if the member
9 were age fifty-five at the date of retirement shall be reduced
10 by five-ninths of one percent for each month by which the early
11 retirement date precedes age fifty-five or for each month by which
12 the early retirement date precedes the date upon which the member
13 has served for twenty-five years, whichever is earlier. Any officer
14 who has completed thirty years of creditable service with the
15 Nebraska State Patrol shall have retirement benefits computed as if
16 the officer had reached age fifty-five.

17 (c) For purposes of this computation, final average
18 monthly compensation shall mean the sum of the officer's total
19 compensation during the three twelve-month periods of service as
20 an officer in which compensation was the greatest divided by
21 thirty-six, and for any officer employed on or before January
22 4, 1979, the officer's total compensation shall include payments
23 received for unused vacation and sick leave accumulated during the
24 final three years of service.

25 (2) Any officer qualified for an annuity as provided
26 in section 81-2025 for reasons of disability shall be entitled
27 to receive a monthly annuity for the remainder of the period

1 of disablement as provided in sections 81-2028 to 81-2030. The
2 amount of the annuity shall be fifty percent of the officer's
3 monthly compensation at the date of disablement if the officer
4 has completed seventeen or fewer years of creditable service. If
5 the officer has completed more than seventeen years of creditable
6 service, the amount of the annuity shall be three percent of the
7 final monthly compensation at the date of disablement multiplied
8 by the total years of creditable service but not to exceed
9 seventy-five percent of the final average monthly compensation as
10 defined in subsection (1) of this section. The date of disablement
11 shall be the date on which the benefits as provided in section
12 81-2028 have been exhausted.

13 (3) Upon the death of an officer after retirement for
14 reasons other than disability, benefits shall be provided as a
15 percentage of the amount of the officer's annuity, calculated as
16 follows:

17 (a) If there is a surviving spouse but no dependent
18 child or children of the officer under nineteen years of age,
19 the surviving spouse shall receive a benefit equal to seventy-five
20 percent of the amount of the officer's annuity for the remainder
21 of the surviving spouse's life; ~~or until the surviving spouse~~
22 ~~remarries;~~

23 (b) If there is a surviving spouse and the surviving
24 spouse has in his or her care a dependent child or children of the
25 officer under nineteen years of age and there is no other dependent
26 child or children of the officer not in the care of the surviving
27 spouse under nineteen years of age, the benefit shall be equal

1 to one hundred percent of the officer's annuity. When there is no
2 remaining dependent child of the officer under nineteen years of
3 age, the benefit shall be seventy-five percent of the amount of the
4 officer's annuity to the surviving spouse for the remainder of the
5 surviving spouse's life; ~~or until the surviving spouse remarries;~~

6 (c) If there is a surviving spouse and the surviving
7 spouse has in his or her care a dependent child or children of the
8 officer under nineteen years of age or there is another dependent
9 child or children of the officer under nineteen years of age not in
10 the care of the surviving spouse, the benefit shall be twenty-five
11 percent of the amount of the officer's annuity to the surviving
12 spouse and seventy-five percent of the amount of the officer's
13 annuity to the dependent children of the officer under nineteen
14 years of age to be divided equally among such dependent children
15 but in no case shall the benefit received by a surviving spouse
16 and dependent children residing with such spouse be less than fifty
17 percent of the amount of the officer's annuity. At such time as
18 any dependent child of the officer attains nineteen years of age,
19 the benefit shall be divided equally among the remaining dependent
20 children of the officer who have not yet attained nineteen years
21 of age. When there is no remaining dependent child of the officer
22 under nineteen years of age, the benefit shall be seventy-five
23 percent of the amount of the officer's annuity to the surviving
24 spouse for the remainder of the surviving spouse's life; ~~or until~~
25 ~~the surviving spouse remarries;~~

26 (d) If there is no surviving spouse and a dependent child
27 or children of the officer under nineteen years of age, the benefit

1 shall be equal to seventy-five percent of the officer's annuity
2 to the dependent children of the officer under nineteen years of
3 age to be divided equally among such dependent children. At such
4 time as any dependent child of the officer attains nineteen years
5 of age, the benefit shall be divided equally among the remaining
6 dependent children of the officer who have not yet attained
7 nineteen years of age; and

8 (e) If there is no surviving spouse or no dependent child
9 or children of the officer under nineteen years of age, the amount
10 of benefit such officer has received under the Nebraska State
11 Patrol Retirement Act shall be computed. If such amount is less
12 than the contributions to the State Patrol Retirement Fund made by
13 such officer, plus regular interest, the difference shall be paid
14 to the officer's designated beneficiary or estate.

15 (4) Upon the death of an officer after retirement for
16 reasons of disability, benefits shall be provided as if the officer
17 had retired for reasons other than disability.

18 (5) Upon the death of an officer before retirement,
19 benefits shall be provided as if the officer had retired for
20 reasons of disability on the date of such officer's death,
21 calculated as follows:

22 (a) If there is a surviving spouse but no dependent
23 child or children of the officer under nineteen years of age,
24 the surviving spouse shall receive a benefit equal to seventy-five
25 percent of the amount of the officer's annuity for the remainder
26 of the surviving spouse's life; ~~or until the surviving spouse~~
27 ~~remarries;~~

1 (b) If there is a surviving spouse and the surviving
2 spouse has in his or her care a dependent child or children of the
3 officer under nineteen years of age and there is no other dependent
4 child or children of the officer not in the care of the surviving
5 spouse under nineteen years of age, the benefit shall be equal
6 to one hundred percent of the officer's annuity. When there is no
7 remaining dependent child of the officer under nineteen years of
8 age, the benefit shall be seventy-five percent of the amount of the
9 officer's annuity to the surviving spouse for the remainder of the
10 surviving spouse's life; ~~or until the surviving spouse remarries;~~

11 (c) If there is a surviving spouse and the surviving
12 spouse has in his or her care a dependent child or children of the
13 officer under nineteen years of age or there is another dependent
14 child or children of the officer under nineteen years of age not in
15 the care of the surviving spouse, the benefit shall be twenty-five
16 percent of the amount of the officer's annuity to the surviving
17 spouse and seventy-five percent of the amount of the officer's
18 annuity to the dependent children of the officer under nineteen
19 years of age to be divided equally among such dependent children
20 but in no case shall the benefit received by a surviving spouse
21 and dependent children residing with such spouse be less than fifty
22 percent of the amount of the officer's annuity. At such time as
23 any dependent child of the officer attains nineteen years of age,
24 the benefit shall be divided equally among the remaining dependent
25 children of the officer who have not yet attained nineteen years
26 of age. When there is no remaining dependent child of the officer
27 under nineteen years of age, the benefit shall be seventy-five

1 percent of the amount of the officer's annuity to the surviving
2 spouse for the remainder of the surviving spouse's life; ~~or until~~
3 ~~the surviving spouse remarries;~~

4 (d) If there is no surviving spouse and a dependent child
5 or children of the officer under nineteen years of age, the benefit
6 shall be equal to seventy-five percent of the officer's annuity
7 to the dependent children of the officer under nineteen years of
8 age to be divided equally among such dependent children. At such
9 time as any dependent child of the officer attains nineteen years
10 of age, the benefit shall be divided equally among the remaining
11 dependent children of the officer who have not yet attained
12 nineteen years of age; and

13 (e) If no benefits are paid to a surviving spouse or
14 dependent child or children of the officer, benefits will be paid
15 as described in subsection (1) of section 81-2031.

16 (6) Any changes made to this section by Laws 2004, LB
17 1097, shall apply only to retirements, disabilities, and deaths
18 occurring on or after July 16, 2004.

19 Sec. 43. Section 81-2041, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 81-2041 (1) Any member who meets the participation
22 requirements of subsection (2) of this section may participate
23 in DROP. DROP provides that subsequent to attaining normal age and
24 service retirement eligibility, a member may voluntarily choose to
25 participate in DROP upon its adoption which, for purposes of this
26 section, shall be the earlier of September 1, 2008, or the first
27 of the month following a favorable letter determination by the

1 Internal Revenue Service. If the member chooses to participate in
2 DROP, the member shall be deemed to have retired, but the member
3 may continue in active employment for up to a five-year period.
4 During the DROP period, the member's retirement benefit payments
5 shall be deposited into the DROP account for the benefit of the
6 member until the member actually retires from active employment at
7 or before the expiration of the DROP period. Thereafter, future
8 retirement benefit payments shall be made directly to the member,
9 and the member shall have access to all funds in the DROP account
10 designated for the benefit of the member.

11 (2) To participate in the DROP program, a member shall
12 meet the following requirements:

13 (a) A member shall be eligible to enter DROP at any time
14 subsequent to the date when the member has (i) attained normal
15 retirement age and (ii) completed twenty-five years of service.
16 Members having attained normal retirement age and completed
17 twenty-five years of service on or before the date of adoption of
18 DROP shall be eligible to enter DROP at any future date;

19 (b) A member who elects to enter DROP shall be entitled
20 to receive regular age and service retirement benefits in
21 accordance with section 81-2026. A member is entitled to remain in
22 DROP for a maximum of five years subsequent to the date of the
23 member's DROP election. A member may separate from service and
24 thereby exit DROP at any time during the DROP period. On or before
25 the completion of the DROP period, the member must separate from
26 active employment and exit DROP. During the DROP period, a member's
27 retirement benefit shall be payable to the DROP account vendor

1 designated in the member's name. Amounts transferred or paid to
2 a participating member's DROP account shall not constitute annual
3 additions under section 415 of the Internal Revenue Code;

4 (c) A member electing to enter DROP shall choose an
5 annuity payment option. After the option is chosen, the member
6 shall not be entitled to any retirement benefit changes, for
7 reasons including, but not limited to, wage increases, promotions,
8 and demotions, except that the restriction on retirement benefit
9 changes shall not apply in the event of duty-related death or
10 duty-related disability. The benefit amount shall be fixed as of
11 the date of election and shall be payable as if the employee
12 retired on that date and separated from active employment. Upon the
13 death of a member during the DROP period, monthly benefits shall
14 be provided as a percentage of the amount of the member's annuity
15 as set forth in subsection (3) of section 81-2026 based upon
16 the annuity benefit calculation made at commencement of the DROP
17 period. In addition, the balance of the DROP account, if any, shall
18 be provided to the beneficiary or beneficiaries of the member or,
19 if no beneficiary is provided, to the estate of the member. Upon
20 the disability of a member during the DROP period, the member shall
21 be deemed to have completed the DROP period, shall begin receiving
22 the annuity benefit as calculated at the commencement of the DROP
23 period, and shall be paid the balance of the DROP account, if any;

24 (d) No member shall be allowed to continue making the
25 required contributions while the member is enrolled in DROP;

26 (e) During the DROP period, the Nebraska State Patrol
27 shall not be assessed the amount required under subsection (2) of

1 section 81-2017 nor shall such amount be credited to the State
2 Patrol Retirement Fund;

3 (f) The member shall be paid the balance of the DROP
4 account upon the member's separation from active employment or
5 at the expiration of the DROP period thereby ending the member's
6 participation in DROP. If a member has not voluntarily separated
7 from active employment on or before the completion of the DROP
8 period, the member's retirement benefit shall be paid directly
9 to the member thereby ending the member's active employment. The
10 member's DROP account shall consist of accrued retirement benefits
11 and interest on such benefits;

12 (g) Any member that is enrolled in DROP shall be
13 responsible for directing the DROP account designated for the
14 benefit of the member by investing the account in any DROP
15 investment options. There shall be no guaranteed rate of investment
16 return on DROP account assets. Any losses, charges, or expenses
17 incurred by the participating DROP member in such member's DROP
18 account by virtue of the investment options selected by the
19 participating DROP member shall not be made up by the retirement
20 system but all of the same shall be born by the participating DROP
21 member. The retirement system, the state, the board, and the state
22 investment officer shall not be responsible for any investment
23 results under the DROP agreement. Transfers between investment
24 options shall be in accordance with the rules and regulations of
25 DROP. A DROP account shall be established for each participating
26 DROP member. Such DROP account shall be adjusted no less frequently
27 than annually for the member's retirement benefit distributions and

1 net investment earnings and losses;

2 (h) If the DROP account is subject to administrative or
3 other fees or charges, such fees or charges shall be charged to the
4 participating DROP member's DROP account; and

5 (i) Cost-of-living adjustments as provided for in section
6 ~~81-2027.03~~ 41 of this act shall not be applied to retirement
7 benefits during the DROP period.

8 Sec. 44. Section 84-1301, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 84-1301 For purposes of the State Employees Retirement
11 Act, unless the context otherwise requires:

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

22 (2) Annuity means equal monthly payments provided by the
23 retirement system to a member or beneficiary under forms determined
24 by the board beginning the first day of the month after an
25 annuity election is received in the office of the Nebraska Public
26 Employees Retirement Systems or the first day of the month after
27 the employee's termination of employment, whichever is later. The

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

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

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

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

26 (b) Compensation in excess of the limitations set forth
27 in section 401(a)(17) of the Internal Revenue Code shall be

1 disregarded. For an employee who was a member of the retirement
2 system before the first plan year beginning after December 31,
3 1995, the limitation on compensation shall not be less than the
4 amount which was allowed to be taken into account under the
5 retirement system as in effect on July 1, 1993;

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

8 (7) Defined contribution benefit means a member's
9 retirement benefit from a money purchase plan in which member
10 benefits equal annual contributions and earnings pursuant to
11 section 84-1310 and, if vested, employer contributions and earnings
12 pursuant to section 84-1311;

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

17 (9) Employee means any employee of the State Board of
18 Agriculture who is a member of the state retirement system on
19 July 1, 1982, and any person or officer employed by the State of
20 Nebraska whose compensation is paid out of state funds or funds
21 controlled or administered by a state department through any of
22 its executive or administrative officers when acting exclusively in
23 their respective official, executive, or administrative capacities.
24 Employee does not include (a) judges as defined in section 24-701,
25 (b) members of the Nebraska State Patrol, except for those members
26 of the Nebraska State Patrol who elected pursuant to section
27 60-1304 to remain members of the State Employees Retirement System

1 of the State of Nebraska, (c) employees of the University of
2 Nebraska, (d) employees of the state colleges, (e) employees
3 of community colleges, (f) employees of the Department of Labor
4 employed prior to July 1, 1984, and paid from funds provided
5 pursuant to Title III of the federal Social Security Act or
6 funds from other federal sources, except that if the contributory
7 retirement plan or contract let pursuant to section 48-609 is
8 terminated, such employees shall become employees for purposes
9 of the State Employees Retirement Act on the first day of the
10 first pay period following the termination of such contributory
11 retirement plan or contract, (g) ~~the Commissioner of Labor~~ employed
12 ~~prior to July 1, 1984,~~ (h) employees of the State Board of
13 Agriculture who are not members of the state retirement system
14 on July 1, 1982, (i) (h) the Nebraska National Guard air and
15 army technicians, (j) (i) persons eligible for membership under
16 the School Employees Retirement System of the State of Nebraska
17 who have not elected to become members of the retirement system
18 pursuant to section 79-920 or been made members of the system
19 pursuant to such section, except that those persons so eligible
20 and who as of September 2, 1973, are contributing to the State
21 Employees Retirement System of the State of Nebraska shall continue
22 as members of such system, or ~~(k)~~ (j) employees of the Coordinating
23 Commission for Postsecondary Education who are eligible for and
24 have elected to become members of a qualified retirement program
25 approved by the commission which is commensurate with retirement
26 programs at the University of Nebraska. Any individual appointed
27 by the Governor may elect not to become a member of the State

1 Employees Retirement System of the State of Nebraska;

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

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

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

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

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

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

19 (16) Guaranteed investment contract means an investment
20 contract or account offering a return of principal invested plus
21 interest at a specified rate. For investments made after July
22 19, 1996, guaranteed investment contract does not include direct
23 obligations of the United States or its instrumentalities, bonds,
24 participation certificates or other obligations of the Federal
25 National Mortgage Association, the Federal Home Loan Mortgage
26 Corporation, or the Government National Mortgage Association,
27 or collateralized mortgage obligations and other derivative

1 securities. This subdivision shall not be construed to require the
2 liquidation of investment contracts or accounts entered into prior
3 to July 19, 1996;

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

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

25 (19) Member cash balance account means an account equal
26 to the sum of the employee cash balance account and, if vested,
27 the employer cash balance account and dividend amounts credited in

1 accordance with subdivision (4) (c) of section 84-1319;

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

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

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

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

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

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

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

20 (27) Retirement means qualifying for and accepting the
21 retirement benefit granted under the State Employees Retirement Act
22 after terminating employment;

23 (28) Retirement board or board means the Public Employees
24 Retirement Board;

25 (29) Retirement system means the State Employees
26 Retirement System of the State of Nebraska;

27 (30) Service means the actual total length of employment

1 as an employee and shall not be deemed to be interrupted by (a)
2 temporary or seasonal suspension of service that does not terminate
3 the employee's employment, (b) leave of absence authorized by
4 the employer for a period not exceeding twelve months, (c) leave
5 of absence because of disability, or (d) military service, when
6 properly authorized by the retirement board. Service does not
7 include any period of disability for which disability retirement
8 benefits are received under section 84-1317;

9 (31) State department means any department, bureau,
10 commission, or other division of state government not otherwise
11 specifically defined or exempted in the act, the employees and
12 officers of which are not already covered by a retirement plan;

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

25 (33) Termination of employment occurs on the date on
26 which the agency which employs the member determines that the
27 member's employer-employee relationship with the State of Nebraska

1 is dissolved. The agency which employs the member shall notify
2 the board of the date on which such a termination has occurred.
3 Termination of employment does not occur if an employee whose
4 employer-employee relationship with the State of Nebraska is
5 dissolved enters into an employer-employee relationship with the
6 same or another agency of the State of Nebraska and there are
7 less than one hundred twenty days between the date when the
8 employee's employer-employee relationship ceased with the state and
9 the date when the employer-employee relationship commenced with
10 the same or another agency. It shall be the responsibility of the
11 current employer to notify the board of such change in employment
12 and provide the board with such information as the board deems
13 necessary. If the board determines that termination of employment
14 has not occurred and a termination benefit has been paid to a
15 member of the retirement system pursuant to section 84-1321, the
16 board shall require the member who has received such benefit to
17 repay the benefit to the retirement system; and

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

21 Sec. 45. Section 84-1307, Revised Statutes Cumulative
22 Supplement, 2010, is amended to read:

23 84-1307 (1) The membership of the retirement system shall
24 be composed of all persons who are or were employed by the State
25 of Nebraska and who maintain an account balance with the retirement
26 system.

27 (2) The following employees of the State of Nebraska

1 are authorized to participate in the retirement system: (a) All
2 permanent full-time employees shall begin participation in the
3 retirement system upon employment; and (b) all permanent part-time
4 employees who have attained the age of ~~twenty~~ eighteen years
5 may exercise the option to begin participation in the retirement
6 system. An employee who exercises the option to begin participation
7 in the retirement system pursuant to this section shall remain in
8 the retirement system until his or her termination of employment or
9 retirement, regardless of any change of status as a permanent or
10 temporary employee.

11 (3) On and after July 1, 2010, no employee shall be
12 authorized to participate in the retirement system provided for in
13 the State Employees Retirement Act unless the employee (a) is a
14 United States citizen or (b) is a qualified alien under the federal
15 Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act
16 existed on January 1, 2009, and is lawfully present in the United
17 States.

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

25 ~~(5)~~ (5)(a) Within the first one hundred eighty days
26 of employment, a full-time employee may apply to the board for
27 vesting credit for years of participation in another Nebraska

1 governmental plan, as defined by section 414(d) of the Internal
2 Revenue Code. During the years of participation in the other
3 Nebraska governmental plan, the employee must have been a full-time
4 employee, as defined in the Nebraska governmental plan in which
5 the credit was earned. The board may adopt and promulgate rules
6 and regulations governing the assessment and granting of vesting
7 credit.

8 (b) If the contributory retirement plan or contract
9 let pursuant to section 48-609 is terminated, employees of
10 the Department of Labor who are active participants in such
11 contributory retirement plan or contract on the date of termination
12 of such plan or contract shall be granted vesting credit for their
13 years of participation in such plan or contract.

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

23 (7) State agencies shall ensure that employees authorized
24 to participate in the retirement system pursuant to this section
25 shall enroll and make required contributions to the retirement
26 system immediately upon becoming an employee. Information necessary
27 to determine membership in the retirement system shall be provided

1 by the employer.

2 Sec. 46. Section 84-1309.02, Revised Statutes Cumulative
3 Supplement, 2010, is amended to read:

4 84-1309.02 (1) It is the intent of the Legislature that,
5 in order to improve the competitiveness of the retirement plan for
6 state employees, a cash balance benefit shall be added to the State
7 Employees Retirement Act on and after January 1, 2003. Each member
8 who is employed and participating in the retirement system prior
9 to January 1, 2003, may either elect to continue participation
10 in the defined contribution benefit as provided in the act prior
11 to January 1, 2003, or elect to participate in the cash balance
12 benefit as set forth in this section. The member shall make the
13 election prior to January 1, 2003, or on or after November 1, 2007,
14 but before January 1, 2008. If no election is made prior to January
15 1, 2003, or on or after November 1, 2007, but before January 1,
16 2008, the member shall be treated as though he or she elected
17 to continue participating in the defined contribution benefit as
18 provided in the act prior to January 1, 2003. Members who elect
19 to participate in the cash balance benefit on or after November
20 1, 2007, but before January 1, 2008, shall commence participation
21 in the cash balance benefit on January 1, 2008. Any member who
22 made the election prior to January 1, 2003, does not have to
23 reelect the cash balance benefit on or after November 1, 2007,
24 but before January 1, 2008. A member employed and participating
25 in the retirement system prior to January 1, 2003, who terminates
26 employment on or after January 1, 2003, and returns to employment
27 prior to having a five-year break in service shall participate in

1 the cash balance benefit as set forth in this section.

2 (2) For a member employed and participating in the
3 retirement system beginning on and after January 1, 2003, or a
4 member employed and participating in the retirement system on
5 January 1, 2003, who, prior to January 1, 2003, or on or after
6 November 1, 2007, but before January 1, 2008, elects to convert his
7 or her employee and employer accounts to the cash balance benefit:

8 (a) The Except as provided in subdivision (2)(b) of
9 section 84-1321.01, the employee cash balance account shall, at any
10 time, be equal to the following:

11 (i) The initial employee account balance, if any,
12 transferred from the defined contribution plan account described in
13 section 84-1310; plus

14 (ii) Employee contribution credits deposited in
15 accordance with section 84-1308; plus

16 (iii) Interest credits credited in accordance with
17 subdivision (18) of section 84-1301; plus

18 (iv) Dividend amounts credited in accordance with
19 subdivision (4)(c) of section 84-1319; and

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

22 (i) The initial employer account balance, if any,
23 transferred from the defined contribution plan account described in
24 section 84-1311; plus

25 (ii) Employer contribution credits deposited in
26 accordance with section 84-1309; plus

27 (iii) Interest credits credited in accordance with

1 subdivision (18) of section 84-1301; plus

2 (iv) Dividend amounts credited in accordance with
3 subdivision (4)(c) of section 84-1319.

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

14 Sec. 47. Section 84-1313.02, Revised Statutes Cumulative
15 Supplement, 2010, is amended to read:

16 84-1313.02 The retirement system may transfer ~~deferred~~
17 ~~compensation by a member as a plan-to-plan transfer~~ any
18 distribution of benefits to a member which is an eligible rollover
19 distribution as defined in section 84-1312 in a direct rollover to
20 the deferred compensation plan authorized under section 84-1504 if
21 the following conditions are met:

22 (1) The member has an amount of compensation deferred
23 immediately after the ~~transfer~~ rollover at least equal to the
24 amount of compensation deferred immediately before the ~~transfer~~;
25 rollover;

26 (2) The account of the member is valued as of the date of
27 final account value;

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

4 (4) The deferred compensation plan provides for such
5 ~~transfers~~ rollovers.

6 Sec. 48. Section 84-1321.01, Revised Statutes Cumulative
7 Supplement, 2010, is amended to read:

8 84-1321.01 (1) For a member who has terminated employment
9 and is not vested, the balance of the member's employer account
10 or employer cash balance account shall be forfeited. The forfeited
11 account shall be credited to the State Employees Retirement Fund
12 and shall first be used to meet the expense charges incurred
13 by the retirement board in connection with administering the
14 retirement system, which charges shall be credited to the State
15 Employees Defined Contribution Retirement Expense Fund, if the
16 member participated in the defined contribution option, or to the
17 State Employees Cash Balance Retirement Expense Fund, if the member
18 participated in the cash balance option, and the remainder, if any,
19 shall then be used to reduce the state contribution which would
20 otherwise be required to fund future service retirement benefits
21 or to restore employer accounts or employer cash balance accounts.
22 No forfeited amounts shall be applied to increase the benefits any
23 member would otherwise receive under the State Employees Retirement
24 Act.

25 ~~(2)~~ (2)(a) If a member ceases to be an employee due
26 to the termination of his or her employment by the state and a
27 grievance or other appeal of the termination is filed, transactions

1 involving forfeiture of his or her employer account or employer
2 cash balance account and, except as provided in subdivision (b)
3 of this subsection, transactions for payment of benefits under
4 sections 84-1317 and 84-1321 shall be suspended pending the final
5 outcome of the grievance or other appeal.

6 (b) If a member elects to receive benefits payable under
7 sections 84-1317 and 84-1321 after a grievance or appeal is filed,
8 the member may receive an amount up to the balance of his or
9 her employee account or member cash balance account or twenty-five
10 thousand dollars payable from the employee account or member cash
11 balance account, whichever is less.

12 (3) The State Employer Retirement Expense Fund is
13 created. The fund shall be administered by the Public Employees
14 Retirement Board. The fund shall be established and maintained
15 separate from any funds held in trust for the benefit of members
16 under the retirement system. The fund shall be used to meet
17 expenses of the State Employees Retirement System of the State
18 of Nebraska whether such expenses are incurred in administering
19 the member's employer account or in administering the member's
20 employer cash balance account when the funds available in the
21 State Employees Defined Contribution Retirement Expense Fund or
22 State Employees Cash Balance Retirement Expense Fund make such use
23 reasonably necessary.

24 (4) The director of the Nebraska Public Employees
25 Retirement Systems shall certify to the Accounting Administrator
26 of the Department of Administrative Services when accumulated
27 employer account forfeiture funds are available to reduce the

1 state contribution which would otherwise be required to fund
2 future service retirement benefits or to restore employer accounts
3 or employer cash balance accounts referred to in subsection (1)
4 of this section. Following such certification, the Accounting
5 Administrator shall transfer the amount reduced from the state
6 contribution from the Imprest Payroll Distributive Fund to the
7 State Employer Retirement Expense Fund. Expenses incurred as a
8 result of the state depositing amounts into the State Employer
9 Retirement Expense Fund shall be deducted prior to any additional
10 expenses being allocated. Any remaining amount shall be allocated
11 in accordance with subsection (3) of this section. Any money in
12 the fund available for investment shall be invested by the state
13 investment officer pursuant to the Nebraska Capital Expansion Act
14 and the Nebraska State Funds Investment Act.

15 Sec. 49. Section 84-1322, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 84-1322 (1) Except as otherwise provided in this section,
18 a member of the retirement system who has a five-year break in
19 service shall upon reemployment be considered a new employee with
20 respect to the State Employees Retirement Act and shall not receive
21 credit for service prior to his or her reemployment date.

22 (2) (a) A member who ceases to be an employee before
23 becoming eligible for retirement under section 84-1317 and again
24 becomes a permanent full-time or permanent part-time state employee
25 prior to having a five-year break in service shall immediately
26 be reenrolled in the retirement system and resume making
27 contributions. For purposes of vesting employer contributions

1 made prior to and after reentry into the retirement system
2 under subsection (3) of section 84-1321, years of participation
3 include years of participation prior to such employee's original
4 termination. For a member who is not vested and has received a
5 termination benefit pursuant to section 84-1321, the years of
6 participation prior to such employee's original termination shall
7 be limited in a ratio equal to the amount that the member repays
8 divided by the termination benefit withdrawn pursuant to section
9 84-1321. This subsection shall apply whether or not the person was
10 a state employee on April 20, 1986, or July 17, 1986.

11 (b) The reemployed member may repay the value of, or a
12 portion of the value of, the termination benefit withdrawn pursuant
13 to section 84-1321. A reemployed member who elects to repay all
14 or a portion of the value of the termination benefit withdrawn
15 pursuant to section 84-1321 shall repay the actual earnings on
16 such value. Repayment of the termination benefit shall commence
17 within three years after reemployment and shall be completed
18 within five years after reemployment or prior to termination of
19 employment, whichever occurs first, through (i) direct payments to
20 the retirement system, (ii) installment payments made pursuant to
21 a binding irrevocable payroll deduction authorization made by the
22 member, (iii) an eligible rollover distribution as provided under
23 the Internal Revenue Code, or (iv) a direct rollover distribution
24 made in accordance with section 401(a)(31) of the Internal Revenue
25 Code.

26 (c) The value of the member's forfeited employer account
27 or employer cash balance account, as of the date of forfeiture,

1 shall be restored in a ratio equal to the amount of the benefit
2 that the member has repaid divided by the termination benefit
3 received. The employer account or employer cash balance account
4 shall be restored first out of the current forfeiture amounts and
5 then by additional employer contributions.

6 (3) For a member who retired pursuant to section 84-1317
7 and becomes a permanent full-time employee or permanent part-time
8 employee with the state more than one hundred twenty days after
9 his or her retirement date, the member shall continue receiving
10 retirement benefits. Such a retired member or a retired member who
11 received a lump-sum distribution of his or her benefit shall be
12 considered a new employee as of the date of reemployment and shall
13 not receive credit for any service prior to the member's retirement
14 for purposes of the act.

15 (4) A member who is reinstated as an employee pursuant to
16 a grievance or appeal of his or her termination by the state shall
17 be a member upon reemployment and shall not be considered to have
18 a break in service for such period of time that the grievance or
19 appeal was pending. Following reinstatement, the member shall repay
20 the value of the amount received from his or her employee account
21 or member cash balance account under subdivision (2)(b) of section
22 84-1321.01.

23 Sec. 50. Section 84-1501, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 84-1501 (1) The Public Employees Retirement Board is
26 hereby established.

27 ~~(2) Prior to January 1, 2005, the board shall consist~~

1 of seven appointed members and the state investment officer as
2 a nonvoting, ex officio member. Three of the appointed members
3 shall be participants in the retirement systems administered by
4 the board, one of the appointed members shall be a participant in
5 such retirement systems who has retired, and three of the appointed
6 members shall not be employees of the State of Nebraska or any
7 of its political subdivisions. Appointments to such board shall be
8 made by the Governor subject to the approval of the Legislature.
9 All appointed members shall be citizens of the State of Nebraska.
10 The three appointed members who are not employees of the State of
11 Nebraska or any of its political subdivisions shall have at least
12 ten years of experience in the management of a public or private
13 organization or have at least five years of experience in the field
14 of actuarial analysis or the administration of an employee benefit
15 plan. The members serving on March 27, 1997, shall serve for the
16 remainder of their five-year terms which will be extended until the
17 date on which the successor's appointment is effective. For members
18 whose terms begin on January 1, 2000, one shall serve a three-year
19 term and one shall serve a four-year term or until a successor
20 has been appointed and qualified. For members whose terms begin on
21 January 1, 2001, one shall serve a four-year term and two shall
22 serve five-year terms, or until a successor has been appointed and
23 qualified.

24 (3)(a) Beginning January 1, 2005, the (2)(a) The board
25 shall consist of eight appointed members as described in this
26 subsection and the state investment officer as a nonvoting, ex
27 officio member. Six of the appointed members shall be active or

1 retired participants in the retirement systems administered by
2 the board, and two of the appointed members (i) shall not be an
3 ~~employee~~ employees of the State of Nebraska or any of its political
4 subdivisions and (ii) shall have at least ten years of experience
5 in the management of a public or private organization or have at
6 least five years of experience in the field of actuarial analysis
7 or the administration of an employee benefit plan. ~~On and after~~
8 ~~January 1, 2005,~~ any person who is appointed to the board and who
9 is not an employee of the State of Nebraska or any of its political
10 subdivisions shall not own any funds which are administered by the
11 board.

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

14 (i) Two of the appointed members shall be participants
15 in the School Employees Retirement System of the State of Nebraska
16 and shall include one administrator and one teacher; as provided in
17 ~~this subdivision.~~ ~~On January 1, 2005,~~ the member of the board who
18 had been a member of the School Retirement System of the State of
19 Nebraska prior to such date shall continue in such position as the
20 member representing the School Retirement System of the State of
21 Nebraska until such member's term expires. A school administrator
22 shall be appointed as a member of the board when the term of
23 the first member of the board expires who was appointed prior to
24 January 1, 2005, and who was not an employee of the State of
25 Nebraska or any of its political subdivisions;

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

1 ~~Retirement Act; On January 1, 2005, the member of the board~~
2 ~~who had been a member of the Nebraska Judges Retirement System~~
3 ~~prior to such date shall continue in such position as the member~~
4 ~~representing the Nebraska Judges Retirement System until such~~
5 ~~member's term expires;~~

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

9 (iv) One of the appointed members shall be a participant
10 in the Retirement System for Nebraska Counties; ~~On January 1,~~
11 ~~2005, the member of the board who had been a member of the~~
12 ~~Retirement System for Nebraska Counties prior to such date shall~~
13 ~~continue in such position as the member representing the Retirement~~
14 ~~System for Nebraska Counties until such member's term expires; and~~

15 (v) One of the appointed members shall be a participant
16 in the State Employees Retirement System of the State of Nebraska.
17 On January 1, 2005, the member of the board who had been a member
18 of the State Employees Retirement System prior to such date shall
19 continue in such position as the member representing the State
20 Employees Retirement System until such member's term expires.

21 (c) Appointments to the board on and after January 1,
22 2005, shall be made by the Governor and shall be subject to
23 the approval of the Legislature. All appointed members shall be
24 citizens of the State of Nebraska.

25 (4) All members appointed on and after January 1, 2002,
26 shall serve for terms of five years or until a successor has
27 been appointed and qualified. The members of the board shall be

1 reimbursed for their actual and necessary expenses as provided in
2 sections 81-1174 to 81-1177. The appointed members of the board
3 may be removed by the Governor for cause after notice and an
4 opportunity to be heard.

5 Sec. 51. Section 84-1503, Reissue Revised Statutes of
6 Nebraska, is amended to read:

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

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

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

25 (c) To provide for an equitable allocation of expenses
26 among the retirement systems administered by the board, and all
27 expenses shall be provided from the investment income earned by the

1 various retirement funds unless alternative sources of funds to pay
2 expenses are specified by law;

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

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

8 (f) To hire an internal auditor to perform the duties
9 described in section 84-1503.04 who meets the minimum standards as
10 described in section 84-304.03;

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

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

1 ~~such reports.~~

2 (2) In administering the retirement systems listed in
3 subdivision (1)(a) of this section, it shall be the duty of the
4 board:

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

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

13 (c) To adopt and promulgate rules and regulations for the
14 management of the board;

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

17 (e) To obtain, by a competitive, formal, and sealed
18 bidding process through the materiel division of the Department
19 of Administrative Services, actuarial services on behalf of the
20 State of Nebraska as may be necessary in the administration and
21 development of the retirement systems. Any contract for actuarial
22 services shall contain a provision allowing the actuary, without
23 prior approval of the board, to perform actuarial studies of the
24 systems as requested by entities other than the board, if notice,
25 which does not identify the entity or substance of the request, is
26 given to the board, all costs are paid by the requesting entity,
27 results are provided to the board, the Nebraska Retirement Systems

1 Committee of the Legislature, and the Legislative Fiscal Analyst
2 upon being made public, and such actuarial studies do not interfere
3 with the actuary's ongoing responsibility to the board. The term
4 of the contract shall be for up to three years. A competitive,
5 formal, and sealed bidding process shall be completed at least
6 once ~~in~~ every three years, unless the board determines that such
7 a process would not be cost effective under the circumstances and
8 that the actuarial services performed have been satisfactory, in
9 which case the contract may also contain an option for renewal
10 without a competitive, formal, and sealed bidding process for up to
11 three additional years. An actuary under contract for the State of
12 Nebraska shall be a member of the American Academy of Actuaries;

13 (f) To direct the State Treasurer to transfer funds, as
14 an expense of the retirement systems, to the Legislative Council
15 Retirement Study Fund. Such transfer shall occur beginning on or
16 after July 1, 2005, and at intervals of not less than five years
17 and not more than fifteen years and shall be in such amounts as the
18 Legislature shall direct;

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

24 (h) To obtain, by a competitive, formal, and sealed
25 bidding process through the materiel division of the Department
26 of Administrative Services, auditing services for a separate
27 compliance audit of the retirement systems to be completed by

1 December 31, ~~2007~~, 2012, and from time to time thereafter at
2 the request of the Nebraska Retirement Systems Committee of the
3 Legislature, to be completed not more than every four years but
4 not less than every ten years. The compliance audit shall be in
5 addition to the annual audit conducted by the Auditor of Public
6 Accounts. The compliance audit shall include, but not be limited
7 to, an examination of records, files, and other documents and an
8 evaluation of all policies and procedures to determine compliance
9 with all state and federal laws. A copy of the compliance audit
10 shall be given to the Governor, the board, and the Nebraska
11 Retirement Systems Committee of the Legislature and shall be
12 presented to the committee at a public hearing;

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

23 (j) To administer all retirement system plans in a manner
24 which will maintain each plan's status as a qualified plan pursuant
25 to the Internal Revenue Code. The board shall adopt and promulgate
26 rules and regulations necessary or appropriate to maintain such
27 status including, but not limited to, rules or regulations which

1 restrict discretionary or optional contributions to a plan or which
2 limit distributions from a plan.

3 (3) By March ~~15~~ 31 of each year, the board shall prepare
4 a written plan of action and shall present such plan to the
5 Nebraska Retirement Systems Committee of the Legislature at a
6 public hearing. The plan shall include, but not be limited to,
7 the board's funding policy, the administrative costs and other
8 fees associated with each fund and plan overseen by the board,
9 member education and informational programs, the director's duties
10 and limitations, an organizational structure of the office of the
11 Nebraska Public Employees Retirement Systems, and the internal
12 control structure of such office to ensure compliance with state
13 and federal laws.

14 Sec. 52. Section 84-1511, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 84-1511 (1) The Public Employees Retirement Board shall
17 establish a comprehensive preretirement planning program for state
18 patrol officers, state employees, judges, county employees, and
19 school employees who are members of the retirement systems
20 established pursuant to ~~the Class V School Employees Retirement~~
21 ~~Act,~~ the County Employees Retirement Act, the Judges Retirement
22 Act, the School Employees Retirement Act, the Nebraska State
23 Patrol Retirement Act, and the State Employees Retirement Act. The
24 program shall provide information and advice regarding the many
25 changes employees face upon retirement, including, but not limited
26 to, changes in physical and mental health, housing, family life,
27 leisure activity, and retirement income.

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

5 (3) The preretirement planning program shall include
6 information on the federal and state income tax consequences of
7 the various annuity or retirement benefit options available to the
8 employee, information on social security benefits, information on
9 various local, state, and federal government programs and programs
10 in the private sector designed to assist elderly persons, and
11 information and advice the board deems valuable in assisting public
12 employees in the transition from public employment to retirement.

13 (4) The board shall work with the Department of Health
14 and Human Services, the personnel division of the Department
15 of Administrative Services, employee groups, and any other
16 governmental agency, including political subdivisions or bodies
17 whose services or expertise may enhance the development or
18 implementation of the preretirement planning program.

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

22 (6) The employer shall provide each eligible employee
23 leave with pay to attend up to two preretirement planning programs.
24 For purposes of this subsection, leave with pay shall mean a
25 day off paid by the employer and shall not mean vacation, sick,
26 personal, or compensatory time. An employee may choose to attend
27 a program more than twice, but such leave shall be at the expense

1 of the employee and shall be at the discretion of the employer.
2 An eligible employee shall not be entitled to attend more than
3 one preretirement planning program per fiscal year prior to actual
4 election of retirement.

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

9 Sec. 53. This act becomes operative on July 1, 2011.

10 Sec. 54. Original sections 23-2301, 23-2302, 23-2308,
11 23-2319.01, 24-710, 42-1102, 72-1243, 79-408, 79-901, 79-903,
12 79-904, 79-904.01, 79-916, 79-926, 79-933.03, 79-933.05, 79-933.06,
13 79-941, 79-942, 79-944, 79-947, 79-955, 79-978.01, 79-987,
14 81-2014.01, 81-2026, 81-2041, 84-1301, 84-1322, 84-1501, 84-1503,
15 and 84-1511, Reissue Revised Statutes of Nebraska, and sections
16 4-108, 23-2306, 23-2308.01, 23-2320, 24-701.01, 68-621, 79-902,
17 79-920, 79-9,113, 79-1003, 79-1028.01, 84-1307, 84-1309.02,
18 84-1313.02, and 84-1321.01, Revised Statutes Cumulative Supplement,
19 2010, are repealed.

20 Sec. 55. The following sections are outright repealed:
21 Sections 24-710.09, 24-710.10, 24-710.11, 50-417.02, 50-417.03,
22 50-417.04, 50-417.05, 50-417.06, 79-940, 79-947.03, 79-947.04,
23 79-947.05, 81-2027.05, 81-2027.06, and 81-2027.07, Reissue Revised
24 Statutes of Nebraska, and sections 24-710.07, 79-947.01, and
25 81-2027.03, Revised Statutes Cumulative Supplement, 2010.

26 Sec. 56. Since an emergency exists, this act takes effect
27 when passed and approved according to law.

1 2. On page 1, strike lines 6 through 15 and insert
2 "81-2026, 81-2041, 84-1301, 84-1322, 84-1501, 84-1503, and
3 84-1511, Reissue Revised Statutes of Nebraska, and sections 4-108,
4 23-2306, 23-2308.01, 23-2320, 24-701.01, 68-621, 79-902, 79-920,
5 79-9,113, 79-1003, 79-1028.01, 84-1307, 84-1309.02, 84-1313.02,
6 and 84-1321.01, Revised Statutes Cumulative Supplement, 2010; to
7 change provisions relating to public benefits, fees, termination
8 of employment, retirement annuities, presentation and filing
9 deadlines, compensation determinations, participation requirements,
10 beneficiaries, deferred compensation, and the Public Employees
11 Retirement Board; to create a fund; to rename a retirement system;
12 to provide requirements relating to cost-of-living adjustments,
13 actuarial services,".

14 3. On page 2, line 1, strike "a notification requirement"
15 and insert "reporting requirements".