

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 509

Final Reading

Introduced by Nebraska Retirement Systems Committee: Nordquist, 7,
Chairperson; Heidemann, 1; Karpisek, 32; Louden, 49;
Mello, 5; Pankonin, 2.

Read first time January 18, 2011

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 23-2301,
2 23-2302, 23-2308, 23-2319.01, 24-710, 42-1102, 72-1243,
3 79-408, 79-901, 79-903, 79-904, 79-904.01, 79-916,
4 79-926, 79-933.03, 79-933.05, 79-933.06, 79-941, 79-942,
5 79-944, 79-947, 79-955, 79-978.01, 79-987, 81-2014.01,
6 81-2026, 81-2041, 84-1301, 84-1322, 84-1501, 84-1503, and
7 84-1511, Reissue Revised Statutes of Nebraska, and
8 sections 4-108, 23-2306, 23-2308.01, 23-2320, 24-701.01,
9 68-621, 79-902, 79-920, 79-9,113, 79-1003, 79-1028.01,
10 84-1307, 84-1309.02, 84-1313.02, and 84-1321.01, Revised
11 Statutes Cumulative Supplement, 2010; to change
12 provisions relating to public benefits, fees, termination
13 of employment, retirement annuities, presentation and
14 filing deadlines, compensation determinations,
15 participation requirements, beneficiaries, deferred

1 compensation, and the Public Employees Retirement Board;
2 to create a fund; to rename a retirement system; to
3 provide requirements relating to cost-of-living
4 adjustments, actuarial services, compliance audits, and
5 preretirement planning programs; to eliminate reporting
6 requirements, obsolete language, cost-of-living
7 adjustment provisions, and the Law Enforcement Officers
8 Retirement Survey Act; to harmonize provisions; to
9 provide an operative date; to repeal the original
10 sections; to outright repeal sections 24-710.09,
11 24-710.10, 24-710.11, 50-417.02, 50-417.03, 50-417.04,
12 50-417.05, 50-417.06, 79-940, 79-947.03, 79-947.04,
13 79-947.05, 81-2027.05, 81-2027.06, and 81-2027.07,
14 Reissue Revised Statutes of Nebraska, and sections
15 24-710.07, 79-947.01, and 81-2027.03, Revised Statutes
16 Cumulative Supplement, 2010; and to declare an emergency.
17 Be it enacted by the people of the State of Nebraska,

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

3 4-108 (1) Notwithstanding any other provisions of law,
4 unless exempted from verification under section 4-110 or pursuant to
5 federal law, no state agency or political subdivision of the State of
6 Nebraska shall provide public benefits to a person not lawfully
7 present in the United States.

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

15 (3) On and after October 1, 2009, no employee of a state
16 agency or political subdivision of the State of Nebraska shall be
17 authorized to participate in any retirement system, including, but
18 not limited to, the systems provided for in the Class V School
19 Employees Retirement Act, the County Employees Retirement Act, the
20 Judges Retirement Act, the Nebraska State Patrol Retirement Act, the
21 School Employees Retirement Act, and the State Employees Retirement
22 Act, unless the employee (a) is a United States citizen or (b) is a
23 qualified alien under the federal Immigration and Nationality Act, 8
24 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is
25 lawfully present in the United States.

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

3 23-2301 For purposes of the County Employees Retirement
4 Act, unless the context otherwise requires:

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

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

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

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

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

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

25 (6) Date of adoption of the retirement system by each

1 county means the first day of the month next following the date of
2 approval of the retirement system by the county board or January 1,
3 1987, whichever is earlier;

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

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

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

15 (10) Employee means all persons or officers who are
16 employed by a county of the State of Nebraska on a permanent basis,
17 persons or officers employed by or serving in a municipal county
18 formed by at least one county participating in the retirement system,
19 persons employed as provided in section 2-1608, all elected officers
20 of a county, and such other persons or officers as are classified
21 from time to time as permanent employees by the county board of the
22 county by which they are employed, except that employee does not
23 include judges, employees or officers of any county having a
24 population in excess of one hundred fifty thousand inhabitants, or,
25 except as provided in section 23-2306, persons making contributions

1 to the School Employees Retirement System of the State of Nebraska;

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

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

6 (13) 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 occur
9 as soon as administratively practicable after receipt of a valid
10 application for benefits, but no sooner than forty-five days after
11 the member's termination;

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

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

17 (16) Future service means service following the date of
18 adoption of the retirement system;

19 (17) 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 19,
22 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

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

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

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

1 employment;

2 (29) Retirement board or board means the Public Employees
3 Retirement Board;

4 (30) Retirement system means the Retirement System for
5 Nebraska Counties;

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

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

1 spouse for the balance of the benefits;

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

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

25 Sec. 3. Section 23-2302, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 23-2302 (1) A county employees retirement system shall be
3 established for the purpose of providing a retirement annuity or
4 other benefits for employees as provided by the County Employees
5 Retirement Act. It shall be known as the Retirement System for
6 Nebraska Counties, and by such name shall transact all business and
7 hold all cash and other property as provided in the County Employees
8 Retirement Act.

9 (2) The retirement system shall not accept as
10 contributions any money from members or participating counties except
11 the following:

12 (a) Mandatory contributions and fees established by
13 sections 23-2307 and 23-2308;

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

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

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

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

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

24 (g) Corrections ordered by the board pursuant to section
25 23-2305.01.

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

3 23-2306 (1) The membership of the retirement system shall
4 be composed of all persons who are or were employed by member
5 counties and who maintain an account balance with the retirement
6 system.

7 (2) The following employees of member counties are
8 authorized to participate in the retirement system: (a) All permanent
9 full-time employees shall begin participation in the retirement
10 system upon employment and full-time elected officials shall begin
11 participation in the retirement system upon taking office, (b) all
12 permanent part-time employees who have attained the age of ~~twenty~~
13 eighteen years may exercise the option to begin participation in the
14 retirement system, and (c) all part-time elected officials may
15 exercise the option to begin participation in the retirement system.
16 An employee who exercises the option to begin participation in the
17 retirement system shall remain in the system until termination or
18 retirement, regardless of any change of status as a permanent or
19 temporary employee.

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

1 in the United States.

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

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

20 (6) A full-time or part-time employee of a city, village,
21 or township who becomes a county employee pursuant to a merger of
22 services shall receive vesting credit for his or her years of
23 participation in a Nebraska governmental plan, as defined by section
24 414(d) of the Internal Revenue Code, of the city, village, or
25 township.

1 (7) A full-time or part-time employee of a city, village,
2 fire protection district, or township who becomes a municipal county
3 employee shall receive credit for his or her years of employment with
4 the city, village, fire protection district, or township for purposes
5 of the vesting provisions of this section.

6 (8) Counties shall ensure that employees authorized to
7 participate in the retirement system pursuant to this section shall
8 enroll and make required contributions to the retirement system
9 immediately upon becoming an employee. Information necessary to
10 determine membership in the retirement system shall be provided by
11 the employer.

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

14 23-2308 (1) The County Employees Retirement Fund is
15 created. The fund shall be administered by the board and shall
16 consist of contributions and other such sums as provided in section
17 23-2302. Any money in the fund available for investment shall be
18 invested by the state investment officer pursuant to the Nebraska
19 Capital Expansion Act and the Nebraska State Funds Investment Act.

20 (2) The county clerk shall pay to the board or an entity
21 designated by the board an amount equal to two hundred fifty percent
22 of the amounts deducted from the compensation of employees in
23 accordance with the provisions of section 23-2307, which two hundred
24 fifty percent equals the employees' contributions plus the county's
25 contributions of one hundred fifty percent of the employees'

1 contributions.

2 (3) The board may charge the county an administrative
3 processing fee of twenty-five dollars if the reports of necessary
4 information or payments made pursuant to this section are received
5 later than the date on which the board requires that such information
6 or money should be received. In addition, the board may charge the
7 county a late fee of thirty-eight thousandths of one percent of the
8 amount required to be submitted pursuant to this section for each day
9 such amount has not been received or in an amount equal to the amount
10 of any costs incurred by the member due to the late receipt of
11 contributions, whichever is greater. The late fee may be used to make
12 a member's account whole for any costs that may have been incurred by
13 the member due to the late receipt of contributions.

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

16 23-2308.01 (1) It is the intent of the Legislature that,
17 in order to improve the competitiveness of the retirement plan for
18 county employees, a cash balance benefit shall be added to the County
19 Employees Retirement Act on and after January 1, 2003. Each member
20 who is employed and participating in the retirement system prior to
21 January 1, 2003, may either elect to continue participation in the
22 defined contribution benefit as provided in the act prior to January
23 1, 2003, or elect to participate in the cash balance benefit as set
24 forth in this section. The member shall make the election prior to
25 January 1, 2003, or on or after November 1, 2007, but before January

1 1, 2008. If no election is made prior to January 1, 2003, or on or
2 after November 1, 2007, but before January 1, 2008, the member shall
3 be treated as though he or she elected to continue participating in
4 the defined contribution benefit as provided in the act prior to
5 January 1, 2003. Members who elect to participate in the cash balance
6 benefit on or after November 1, 2007, but before January 1, 2008,
7 shall commence participation in the cash balance benefit on January
8 1, 2008. Any member who made the election prior to January 1, 2003,
9 does not have to reelect the cash balance benefit on or after
10 November 1, 2007, but before January 1, 2008. A member employed and
11 participating in the retirement system prior to January 1, 2003, who
12 terminates employment on or after January 1, 2003, and returns to
13 employment prior to having a five-year break in service shall
14 participate in the cash balance benefit as set forth in this section.

15 (2) For a member employed and participating in the
16 retirement system beginning on and after January 1, 2003, or a member
17 employed and participating in the retirement system on January 1,
18 2003, who, prior to January 1, 2003, or on or after November 1, 2007,
19 but before January 1, 2008, elects to convert his or her employee and
20 employer accounts to the cash balance benefit:

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

24 (i) The initial employee account balance, if any,
25 transferred from the defined contribution plan account described in

1 section 23-2309; plus

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

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

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

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

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

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

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

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

19 (3) In order to carry out the provisions of this section,
20 the board may enter into administrative services agreements for
21 accounting or record-keeping services. No agreement shall be entered
22 into unless the board determines that it will result in
23 administrative economy and will be in the best interests of the
24 counties and their participating employees. The board may develop a
25 schedule for the allocation of the administrative services agreements

1 costs for accounting or record-keeping services and may assess the
2 costs so that each member pays a reasonable fee as determined by the
3 board.

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

6 23-2319.01 (1) For a member who has terminated employment
7 and is not vested, the balance of the member's employer account or
8 employer cash balance account shall be forfeited. The forfeited
9 account shall be credited to the County Employees Retirement Fund and
10 shall first be used to meet the expense charges incurred by the
11 retirement board in connection with administering the retirement
12 system, which charges shall be credited to the County Employees
13 Defined Contribution Retirement Expense Fund, if the member
14 participated in the defined contribution option, or to the County
15 Employees Cash Balance Retirement Expense Fund, if the member
16 participated in the cash balance option, and the remainder, if any,
17 shall then be used to reduce the county contribution which would
18 otherwise be required to fund future service retirement benefits or
19 to restore employer accounts or employer cash balance accounts. No
20 forfeited amounts shall be applied to increase the benefits any
21 member would otherwise receive under the County Employees Retirement
22 Act.

23 ~~(2)~~(2)(a) If a member ceases to be an employee due to
24 the termination of his or her employment by the county and a
25 grievance or other appeal of the termination is filed, transactions

1 involving forfeiture of his or her employer account or employer cash
2 balance account and, except as provided in subdivision (b) of this
3 subsection, transactions for payment of benefits under sections
4 23-2315 and 23-2319 shall be suspended pending the final outcome of
5 the grievance or other appeal.

6 (b) If a member elects to receive benefits payable under
7 sections 23-2315 and 23-2319 after a grievance or appeal is filed,
8 the member may receive an amount up to the balance of his or her
9 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 County Employer Retirement Expense Fund is
13 created. The fund shall be administered by the Public Employees
14 Retirement Board. The fund shall consist of any reduction in a county
15 contribution which would otherwise be required to fund future service
16 retirement benefits or to restore employer accounts or employer cash
17 balance accounts referred to in subsection (1) of this section. The
18 fund shall be established and maintained separate from any funds held
19 in trust for the benefit of members under the county employees
20 retirement system. Expenses incurred as a result of a county
21 depositing amounts into the fund shall be deducted prior to any
22 additional expenses being allocated. Any remaining amount shall be
23 allocated in accordance with section 23-2319.02. Any money in the
24 fund available for investment shall be invested by the state
25 investment officer pursuant to the Nebraska Capital Expansion Act and

1 the Nebraska State Funds Investment Act.

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

4 23-2320 (1) Except as otherwise provided in this section,
5 a member of the retirement system who has a five-year break in
6 service shall upon reemployment be considered a new employee with
7 respect to the County Employees Retirement Act and shall not receive
8 credit for service prior to his or her reemployment date.

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

23 (b) The reemployed member may repay the value of, or a
24 portion of the value of, the termination benefit withdrawn pursuant
25 to section 23-2319. A reemployed member who elects to repay all or a

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

12 (c) The value of the member's forfeited employer account
13 or employer cash balance account, as of the date of forfeiture, shall
14 be restored in a ratio equal to the amount of the benefit that the
15 member has repaid divided by the termination benefit received. The
16 employer account or employer cash balance account shall be restored
17 first out of the current forfeiture amounts and then by additional
18 employer contributions.

19 (3) For a member who retired pursuant to section 23-2315
20 and becomes a permanent full-time employee or permanent part-time
21 employee with a county under the County Employees Retirement Act more
22 than one hundred twenty days after his or her retirement date, the
23 member shall continue receiving retirement benefits. Such a retired
24 member or a retired member who received a lump-sum distribution of
25 his or her benefit shall be considered a new employee as of the date

1 of reemployment and shall not receive credit for any service prior to
2 the member's retirement for purposes of the act.

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

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

13 24-701.01 Sections 24-701 to 24-714 and section 10 of
14 this act shall be known and may be cited as the Judges Retirement
15 Act.

16 Sec. 10. (1) Beginning July 1, 2011, and each July 1
17 thereafter, the board shall determine the number of retired members
18 or beneficiaries described in subdivision (4)(b) of this section in
19 the retirement system and an annual benefit adjustment shall be made
20 by the board for each retired member or beneficiary under one of the
21 cost-of-living adjustment calculation methods found in subsection
22 (2), (3), or (4) of this section. Each retired member or beneficiary,
23 if eligible, shall receive an annual benefit adjustment under the
24 cost-of-living adjustment calculation method that provides the
25 retired member or beneficiary the greatest annual benefit adjustment

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

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

1 Urban Wage Earners and Clerical Workers for the period between June
2 30 of the prior year to June 30 of the present year or (b) two and
3 one-half percent.

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

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

1 rate is less than or equal to the minimum accrual rate as determined
2 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 member
13 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 change
18 in the Consumer Price Index for Urban Wage Earners and Clerical
19 Workers from the last adjustment of the minimum accrual rate.

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

1 the expiration of the annuity option selected by the member or until
2 the retired member or beneficiary again qualifies for the annual
3 benefit adjustment, whichever occurs first.

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

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

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

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

3 24-710 (1) The retirement annuity of a judge who is an
4 original member, who has not made the election provided for in
5 subsection (8) of section 24-703 or section 24-710.01, and who
6 retires under section 24-708 or 24-709 shall be computed as follows:
7 Each such judge shall be entitled to receive an annuity, each monthly
8 payment of which shall be in an amount equal to three and one-third
9 percent of his or her final average compensation as such judge,
10 multiplied by the number of his or her years of creditable service.
11 The amount stated in this section shall be supplemental to any
12 benefits received by such judge under the Nebraska and federal old
13 age and survivors' insurance acts at the date of retirement, but the
14 monthly combined benefits received thereunder and by the Judges
15 Retirement Act shall not exceed sixty-five percent of the final
16 average compensation such judge was receiving when he or she last
17 served as such judge. The amount of retirement annuity of a judge who
18 retires under section 24-708 or 24-709 shall not be less than twenty-
19 five dollars per month if he or she has four years or more of service
20 credit.

21 (2) The retirement annuity of a judge who is a future
22 member and who retires after July 1, 1986, under section 24-708 or
23 24-709 shall be computed as follows: Each such judge shall be
24 entitled to receive an annuity, each monthly payment of which shall
25 be in an amount equal to three and one-half percent of his or her

1 final average compensation as such judge, multiplied by the number of
2 his or her years of creditable service, except that prior to an
3 actuarial factor adjustment for purposes of calculating an optional
4 form of annuity benefits under subsection (3) of this section, the
5 monthly benefits received under this subsection shall not exceed
6 seventy percent of the final average compensation such judge was
7 receiving when he or she last served as such judge.

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

25 (4) A one-time cost-of-living adjustment shall be made

1 for each retired judge and each surviving beneficiary who is
2 receiving a retirement annuity as provided for in this section. The
3 annuity shall be adjusted by the increase in the cost of living or
4 wage levels between the effective date of retirement and June 30,
5 1992, except that such increases shall not exceed three percent per
6 year of retirement and the total increase shall not exceed two
7 hundred fifty dollars per month.

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

10 42-1102 For purposes of the Spousal Pension Rights Act:

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

16 (2) Benefit means an annuity, a pension, a retirement
17 allowance, a withdrawal of accumulated contributions, or an optional
18 benefit accrued or accruing to a member under a statewide public
19 retirement system;

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

1 (4) Earliest retirement date means the earlier of (a) the
2 date on which the member is entitled to a distribution under the
3 system or (b) the later of (i) the date that the member attains fifty
4 years of age or (ii) the earliest date that the member could receive
5 benefits under the system if the member separated from service;

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

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

18 (7) Statewide public retirement system means the
19 Retirement System for Nebraska Counties, the Nebraska Judges
20 Retirement System as provided in the Judges Retirement Act, the
21 School Employees Retirement System of the State of Nebraska, the
22 Nebraska State Patrol Retirement System, and the State Employees
23 Retirement System of the State of Nebraska.

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

1 68-621 (1) A referendum group, as referred to in sections
2 68-621 to 68-630, shall consist of the employees of the state, a
3 single political subdivision of this state, or any instrumentality
4 jointly created by this state and any other state or states, the
5 employees of which are or may be members of a retirement system
6 covering such employees, except that: (a) The employees of the
7 University of Nebraska shall constitute a referendum group; (b) the
8 employees of a Class V school district shall constitute a referendum
9 group; (c) all employees of the State of Nebraska who are or may be
10 members of the School Employees Retirement System of the State of
11 Nebraska, including employees of institutions operated by the Board
12 of Trustees of the Nebraska State Colleges, employees of institutions
13 operated by the Department of Correctional Services and the
14 Department of Health and Human Services, and employees subordinate to
15 the State Board of Education, shall constitute a referendum group;
16 and (d) all employees of school districts of the State of Nebraska,
17 county superintendents, and county school administrators, who are or
18 may be members of the School Employees Retirement System of the State
19 of Nebraska, shall constitute a single referendum group.

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

1 be applicable to county superintendents and county school
2 administrators, managing authority shall mean the board of county
3 commissioners or county supervisors of the county in which the county
4 superintendent was elected or with which the county school
5 administrator contracted.

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

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

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

23 72-1243 (1) Except as otherwise specifically provided by
24 law, the state investment officer shall direct the investment and
25 reinvestment of money in all state funds not currently needed and all

1 funds described in section 83-133 and order the purchase, sale, or
2 exchange of securities for such funds. He or she shall notify the
3 State Treasurer of any payment, receipt, or delivery that may be
4 required as a result of any investment decision, which notification
5 shall be the authorization and direction for the State Treasurer to
6 make such disbursement, receipt, or delivery from the appropriate
7 fund.

8 (2) The council shall have an analysis made of the
9 investment returns that have been achieved on the assets of each
10 retirement system administered by the Public Employees Retirement
11 Board as provided in section 84-1503. By March ~~15~~31 of each year,
12 the analysis shall be presented to the board and the Nebraska
13 Retirement Systems Committee of the Legislature. The analysis shall
14 be prepared by an independent organization which has demonstrated
15 expertise to perform this type of analysis and for which there exists
16 no conflict of interest in the analysis being provided. The analysis
17 may be waived by the council for any retirement system with assets of
18 less than one million dollars.

19 (3) By March ~~15~~31 of each year, the council shall
20 prepare a written plan of action and shall present such plan to the
21 Nebraska Retirement Systems Committee of the Legislature at a public
22 hearing. The plan shall include, but not be limited to, the council's
23 investment portfolios, investment strategies, the duties and
24 limitations of the state investment officer, and an organizational
25 structure of the council's office.

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

3 79-408 The territory now or hereafter embraced within
4 each incorporated city of the primary class in the State of Nebraska
5 that is not in part within the boundaries of a learning community,
6 such adjacent territory as now or hereafter may be included therewith
7 for school purposes, and such territory not adjacent thereto as may
8 have been added thereto by law shall constitute a Class IV school
9 district, except that nothing in this section shall be construed to
10 change the boundaries of any school district that is a member of a
11 learning community. A Class IV school district shall be a body
12 corporate and possess all the usual powers of a corporation for
13 public purposes, may sue and be sued, and may purchase, hold, and
14 sell such personal and real estate and contract such obligations as
15 are authorized by law. The powers of a Class IV district include, but
16 are not limited to, the power to adopt, administer, and amend from
17 time to time such retirement, annuity, insurance, and other benefit
18 plans for its present and future employees after their retirement, or
19 any reasonable classification thereof, as may be deemed proper by the
20 board of education. The board of education shall not establish a
21 retirement system for new employees supplemental to the School
22 Employees Retirement System of the State of Nebraska.

23 The title to all real or personal property owned by such
24 school district shall, upon the organization of the school district,
25 vest immediately in the school district so created. The board of

1 education shall have exclusive control of all property belonging to
2 the school district.

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

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

19 79-901 Sections 79-901 to 79-977.03 and section 32 of
20 this act shall be known and may be cited as the School Employees
21 Retirement Act.

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

24 79-902 For purposes of the School Employees Retirement
25 Act, unless the context otherwise requires:

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

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

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

10 (4) County school official means (a) until July 1, 2000,
11 the county superintendent or district superintendent and any person
12 serving in his or her office who is required by law to have a
13 teacher's certificate and (b) on or after July 1, 2000, the county
14 superintendent, county school administrator, or district
15 superintendent and any person serving in his or her office who is
16 required by law to have a teacher's certificate;

17 (5) Creditable service means prior service for which
18 credit is granted under sections 79-926 to 79-929, service credit
19 purchased under sections 79-933.03 to 79-933.06 and 79-933.08, and
20 all service rendered while a contributing member of the retirement
21 system. Creditable service includes working days, sick days, vacation
22 days, holidays, and any other leave days for which the employee is
23 paid regular wages as part of the employee's agreement with the
24 employer. Creditable service does not include lump-sum payments to
25 the employee upon termination or retirement in lieu of accrued

1 benefits for such days, eligibility and vesting credit, nor service
2 years for which member contributions are withdrawn and not repaid.
3 Creditable service also does not include service rendered by a member
4 for which the retirement board determines that the member was paid
5 less in compensation than the minimum wage as provided in the Wage
6 and Hour Act or service which the board determines was rendered with
7 the intent to defraud the retirement system;

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

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

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

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

20 (10) School employee means a contributing member who
21 earns service credit pursuant to section 79-927. For purposes of this
22 section, contributing member means the following persons who receive
23 compensation from a public school: (a) Regular employees; (b) regular
24 employees having retired pursuant to the School Employees Retirement
25 Act who subsequently provide compensated service on a regular basis

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

5 (11) Prior service means service rendered as a school
6 employee in the public schools of the State of Nebraska prior to July
7 1, 1945;

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

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

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

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

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

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

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

23 (19) School retirement allowance means the total of the
24 savings annuity and the service annuity or formula annuity paid a
25 person who has retired under sections 79-931 to 79-935. The monthly

1 payments shall be payable at the end of each calendar month during
2 the life of a retired member. The first payment shall include all
3 amounts accrued since the effective date of the award of annuity. The
4 last payment shall be at the end of the calendar month in which such
5 member dies or in accordance with the payment option chosen by the
6 member;

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

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

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

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

19 (24) Emeritus member means a person (a) who has entered
20 retirement under the provisions of the act, including those persons
21 who have retired since July 1, 1945, under any other regularly
22 established retirement or pension system as contemplated by section
23 79-916, (b) who has thereafter been reemployed in any capacity by a
24 public school, a Class V school district, or a school under the
25 control and management of the Board of Trustees of the Nebraska State

1 Colleges, the Board of Regents of the University of Nebraska, or a
2 community college board of governors or has become a state school
3 official or county school official subsequent to such retirement, and
4 (c) who has applied to the board for emeritus membership in the
5 retirement system. The school district or agency shall certify to the
6 retirement board on forms prescribed by the retirement board that the
7 annuitant was reemployed, rendered a service, and was paid by the
8 district or agency for such services;

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

20 (26) Retirement date means (a) if the member has
21 terminated employment, the first day of the month following the date
22 upon which a member's request for retirement is received on a
23 retirement application provided by the retirement system or (b) if
24 the member has filed an application but has not yet terminated
25 employment, the first day of the month following the date on which

1 the member terminates employment. An application may be filed no more
2 than ninety days prior to the effective date of the member's initial
3 benefit;

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

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

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

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

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

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

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

7 (32) Current benefit means (a) until July 1, 2000, the
8 initial benefit increased by all adjustments made pursuant to section
9 79-947.02 and (b) on or after July 1, 2000, the initial benefit
10 increased by all adjustments made pursuant to the School Employees
11 Retirement Act;

12 (33) Initial benefit means the retirement benefit
13 calculated at the time of retirement;

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

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

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

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

1 the retirement system as in effect on July 1, 1993.

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

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

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

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

19 ~~(e)(i) In (d)(i) For purposes of section 79-934, in the~~
20 ~~determination of compensation for members on or after July 1, 2005,~~
21 ~~that part of a member's compensation for the plan year which exceeds~~
22 ~~the member's compensation with the same employer for the preceding~~
23 ~~plan year by more than seven percent of the compensation base during~~
24 ~~the sixty months preceding the member's retirement shall be excluded~~
25 ~~unless (A) the member experienced a substantial change in employment~~

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

11 (ii) For purposes of ~~this~~ subdivision (35)(d) of this
12 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 administrators
16 or certificated teachers, or both;

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, 2005, or (II) for members newly hired or
20 hired by a separate employer on or after July 1, 2005, the member's
21 compensation for the first full plan year following the member's date
22 of hiring. Thereafter, the member's compensation base shall be
23 increased each plan year by the lesser of seven 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;

1 and

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

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

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

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

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

25 (f)(i) In the determination of compensation for members

1 on or after July 1, 2013, that part of a member's compensation for
2 the plan year which exceeds the member's compensation with the same
3 employer for the preceding plan year by more than eight percent of
4 the compensation base during the sixty months preceding the member's
5 retirement shall be excluded.

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

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

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

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

1 member subsequently provides service to any employer participating in
2 the retirement system provided for in the School Employees Retirement
3 Act within one hundred eighty calendar days after ceasing employment
4 unless such service:

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

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

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

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

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

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

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

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

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

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

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

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

1 79-904 The general administration of the ~~School~~
2 ~~Retirement System of the State of Nebraska,~~ retirement system, except
3 the investment of funds, is hereby vested in the retirement board.
4 The board shall, by a majority vote of its members, adopt bylaws and
5 adopt and promulgate rules and regulations, from time to time, to
6 carry out the School Employees Retirement Act. The board shall
7 perform such other duties as may be required to execute the
8 ~~provisions of the act.~~

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

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

22 (2) The board shall adopt and promulgate rules and
23 regulations implementing this section, which shall include, but not
24 be limited to, the following: (a) The procedures for refunding
25 contributions, adjusting future contributions or benefit payments,

1 and requiring additional contributions or repayment of benefits; (b)
2 the process for a member, member's beneficiary, employee, or employer
3 to dispute an adjustment of contributions or benefits; and (c) notice
4 provided to all affected persons. All notices shall be sent prior to
5 an adjustment and shall describe the process for disputing an
6 adjustment of contributions or benefits.

7 (3) The board shall not refund contributions made on
8 compensation in excess of the limitations imposed by subdivision (35)
9 of section 79-902.

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

12 ~~79-916 (1)(a) Beginning July 1, 2002, and until June 30,~~
13 ~~2004, the board shall transfer the actuarial value of the service~~
14 ~~annuity liability accrued within the prior fiscal year of the~~
15 ~~employees who serve a Class V school district and participate in the~~
16 ~~retirement system established pursuant to the Class V School~~
17 ~~Employees Retirement Act upon receipt of a certification from the~~
18 ~~school district as to the number of employees who have accrued a~~
19 ~~service annuity benefit for such fiscal year. Upon receipt of the~~
20 ~~certification, the board shall cause to be transferred to the funds~~
21 ~~of the retirement system of which such employees are members the~~
22 ~~actuarial value, as determined pursuant to section 79-966.01, of the~~
23 ~~service annuities to be paid by the state for the years of service~~
24 ~~thus certified in the same amount and basis as provided for members~~
25 ~~of the School Retirement System of the State of Nebraska under~~

1 ~~sections 79-933 and 79-952. Such transfer of actuarial value to the~~
2 ~~Class V School Employees Retirement System shall be in lieu of the~~
3 ~~payment of the service annuity to which such employees would be~~
4 ~~otherwise entitled. The Class V school district which such employees~~
5 ~~serve shall furnish to the retirement board all information required~~
6 ~~by the retirement board regarding service records of its employees.~~

7 ~~(b)-(1)(a)~~ On July 1, 2004, the board shall transfer from
8 the School Retirement Fund to the Service Annuity Fund an amount
9 equal to the funded ratio of the retirement system which is equal to
10 the market value of the retirement system assets divided by the
11 actuarial accrued liability of the retirement system, times the
12 actuarial accrued liability of the service annuity, as determined
13 pursuant to section 79-966.01, of the employees who are members of
14 the retirement system established pursuant to the Class V School
15 Employees Retirement Act. Such actuarial accrued liability shall be
16 determined for each employee on a level dollar basis. On or before
17 July 1 of each fiscal year thereafter, the state shall deposit into
18 the Service Annuity Fund such amounts as may be necessary to pay the
19 normal cost and amortize the unfunded actuarial accrued liability of
20 the service annuity, as determined pursuant to section 79-966.01, as
21 of the end of the previous fiscal year of the employees who are
22 members of the retirement system established pursuant to the Class V
23 School Employees Retirement Act. Based on the fiscal year of the
24 retirement system established pursuant to the Class V School
25 Employees Retirement Act, the administrator of such system shall

1 provide all membership information needed for the actuary engaged by
2 the retirement board to determine the normal cost and the
3 amortization payment of the unfunded actuarial accrued liability, as
4 determined pursuant to section 79-966.01, to be paid by the state to
5 the Service Annuity Fund each fiscal year as required by this
6 subdivision.

7 ~~(e)~~(b) At the time of retirement of any employee who is
8 a member of the retirement system established pursuant to the Class V
9 School Employees Retirement Act, the retirement board shall, upon
10 receipt of a certification of the administrator of such retirement
11 system of the name, identification number, date of birth, retirement
12 date, last date of employment, type of retirement, and number of
13 years of service credited to such eligible employee at the date of
14 retirement, transfer to such retirement system from the Service
15 Annuity Fund the actuarial accrued liability of the service annuity
16 to be paid by the state to the eligible employee for the years of
17 service thus certified as provided for members of the School
18 Employees Retirement System of the State of Nebraska under sections
19 79-933 and 79-952. Such transfer of the actuarial accrued liability
20 to the retirement system established pursuant to the Class V School
21 Employees Retirement Act shall be in lieu of the payment of the
22 service annuity to which the employee would be entitled.

23 ~~(d)~~(c) The Service Annuity Fund is created. The fund
24 shall consist of the amounts paid by the state and transferred from
25 the School Retirement Fund pursuant to this section to pay the

1 service annuity to be paid by the state to employees who are members
2 of the retirement system established pursuant to the Class V School
3 Employees Retirement Act. Any money in the ~~fund~~ Service Annuity Fund
4 available for investment shall be invested by the state investment
5 officer pursuant to the Nebraska Capital Expansion Act and the
6 Nebraska State Funds Investment Act.

7 (2) In addition to the transfer of the actuarial accrued
8 liability of the service annuity to be paid by the state, the state
9 shall also transfer to the funds of the Class V school district's
10 retirement system an amount determined by multiplying the
11 compensation of all members of such retirement system by the percent
12 specified in subsection (2) of section 79-966 for determining the
13 amount of the state's payment to the School Retirement Fund. The
14 transfer shall be made annually on or before July 1 of each fiscal
15 year.

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

18 79-920 (1) An individual who was, prior to July 19, 1980,
19 a state school official and did not become a member of the State
20 Employees Retirement System of the State of Nebraska pursuant to the
21 State Employees Retirement Act may, within sixty days after September
22 1, 1986, elect to become a member of such system. An individual so
23 electing shall pay the contributions required by such system when the
24 service and minimum age requirements have been met.

25 (2)(a) An individual (i) who is or was previously a

1 school employee or who was employed in an out-of-state or a Class V
2 school district, (ii) who becomes employed by the State Department of
3 Education after July 1, 1989, and (iii) who is a state school
4 official may file with the retirement board within thirty days after
5 employment an election to become or remain a member of the School
6 Employees Retirement System of the State of Nebraska. Employees
7 electing not to participate in the School Employees Retirement System
8 shall participate in the State Employees Retirement System of the
9 State of Nebraska.

10 (b) An individual shall be required to participate in the
11 State Employees Retirement System if (i) the individual terminated
12 employment from a public school participating in the School Employees
13 Retirement System and retired pursuant to the School Employees
14 Retirement Act and (ii) the employment by the State Department of
15 Education began or will begin within one hundred eighty days after
16 terminating employment from the school.

17 (3) An employee electing not to be covered by the School
18 Employees Retirement System of the State of Nebraska under this
19 section shall not be subject to section 79-957 but shall be allowed
20 to retain his or her accumulated contribution in the system and
21 continue to become vested in the state's accumulated contribution as
22 well as the State Employees Retirement System of the State of
23 Nebraska according to the following:

24 (a) The years of participation in the School Employees
25 Retirement System of the State of Nebraska before an election is made

1 plus the years of participation in the State Employees Retirement
2 System of the State of Nebraska after the election is made shall both
3 be credited toward compliance with the service requirements provided
4 under section 79-931; and

5 (b) The years of participation in the School Employees
6 Retirement System of the State of Nebraska before the election is
7 made plus the years of participation in the State Employees
8 Retirement System of the State of Nebraska after the election is made
9 shall both be credited toward compliance with section 84-1321.

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

12 79-926 (1) Under such rules and regulations as the
13 retirement board adopts and promulgates, each person who was a school
14 employee at any time prior to the establishment of the retirement
15 system and who becomes a member of the retirement system shall,
16 within two years after becoming a member, file a detailed statement
17 of all service as a school employee rendered by him or her prior to
18 the date of establishment of the retirement system. In order to
19 qualify for prior service credit toward a service annuity, a school
20 employee, unless temporarily out of service for further professional
21 education, for service in the armed forces, or for temporary
22 disability, must have completed four years of service on a part-time
23 or full-time basis during the five calendar years immediately
24 preceding July 1, 1945, or have completed eighteen years out of the
25 last twenty-five years prior to July 1, 1945, full time or part time,

1 and two years out of the five years immediately preceding July 1,
2 1945, full time or part time, or such school employee must complete,
3 unless temporarily out of service for further professional education,
4 for service in the armed forces, or for temporary disability, four
5 years of service within the five calendar years immediately following
6 July 1, 1945. In order to qualify for prior service credit toward a
7 service annuity, a school employee who becomes a member of the ~~School~~
8 ~~Retirement System of the State of Nebraska~~ retirement system on or
9 before September 30, 1951, or from July 1, 1945, to the date of
10 becoming a member shall have been continuously employed in a public
11 school in Nebraska operating under any other regularly established
12 retirement or pension system.

13 (2) Any person who, after having served or signing a
14 contract to serve as a school employee, entered into and served or
15 enters into and serves in the armed forces of the United States
16 during a declared emergency or was drafted under a federal mandatory
17 draft law into the armed forces of the United States during a time of
18 peace, as described and prescribed under such rules and regulations
19 as the retirement board adopts and promulgates, and who, within three
20 calendar years after honorable discharge or honorable separation from
21 active duty or within one year from the date of completion of
22 training provided in the federal Servicemen's Readjustment Act of
23 1944 or the federal ~~Veterans~~ Veterans' Readjustment Assistance Act of
24 1952, became or becomes a school employee shall be credited, in
25 determining benefits due such member from the retirement system, for

1 a maximum of five years of the time actually served in the armed
2 forces as if such person had been a school employee throughout such
3 time.

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

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

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

18 79-933.03 (1) Under such rules and regulations as the
19 board shall adopt and promulgate, a contributing member under
20 contract or employed on July 19, 1996, may receive credit for not to
21 exceed ten years of creditable teaching service rendered in public
22 schools in another state or schools in this state covered by a school
23 retirement system established pursuant to section 79-979, if such
24 member files an application for service credit within three years of
25 membership or reinstatement in the School Employees Retirement System

1 of the State of Nebraska and makes payment into the retirement system
2 of an amount equal to the required deposits he or she would have paid
3 had he or she been employed in this state by a school covered by the
4 ~~School Retirement System of the State of Nebraska, retirement system,~~
5 plus the interest which would have accrued on such amount. Payment
6 must be completed within five years of membership or reinstatement in
7 the retirement system, or prior to termination of employment,
8 whichever occurs first, and may be made through direct payment,
9 installment payments, or an irrevocable payroll deduction
10 authorization.

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

20 (3) A member who purchases service credit pursuant to
21 this section shall provide such documentation as the board may
22 require to prove that the member has forfeited the receipt of any
23 benefits from the retirement system of the public school in another
24 state or a school in this state covered by a retirement system
25 established pursuant to section 79-979 for the creditable service

1 rendered in such school.

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

4 79-933.05 (1) A contributing member may purchase service
5 credit for not to exceed ten years of creditable service rendered in
6 public schools in another state or schools in this state covered by
7 the school retirement system established pursuant to section 79-979.
8 The amount to be paid by the member for such service credit shall
9 equal the actuarial cost to the School Employees Retirement System of
10 the State of Nebraska for allowing such additional service credit to
11 the employee. Payment shall be completed within five years after
12 making the election to purchase service credit or prior to
13 termination of employment, whichever occurs first, and may be made
14 through direct payment, installment payments, or an irrevocable
15 payroll deduction authorization.

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

25 (3) Compensation for the period of service purchased

1 shall not be included in determining the member's final average
2 compensation.

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

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

12 79-933.06 (1) Any contributing member may purchase
13 service credit for time he or she was on a leave of absence
14 authorized by the school board or board of education of the school
15 district by which he or she was employed at the time of such leave of
16 absence or pursuant to any contractual agreement entered into by such
17 school district. Such credit shall increase the benefits provided by
18 the retirement system and shall be included in creditable service
19 when determining eligibility for death, disability, termination of
20 employment, and retirement benefits. The amount to be paid by the
21 member for such service credit shall equal the actuarial cost to the
22 ~~School Retirement System of the State of Nebraska~~ retirement system
23 for allowing such additional service credit to the employee. Payment
24 shall be completed within five years after such member's election to
25 purchase service credit or prior to termination of employment,

1 whichever occurs first, and may be made through direct payment,
2 installment payments, or an irrevocable payroll deduction
3 authorization.

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

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

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

18 79-941 For purposes of sections ~~79-940-79-941~~ to 79-946,
19 unless the context otherwise requires, total monthly benefit means
20 the benefit that would have been received under a monthly life
21 annuity with no refund or death benefit option even though a
22 different option, as provided in section 79-938, has been selected.
23 The total monthly benefit shall be computed as if the person had
24 retired at age sixty-five or at the actual age of retirement,
25 whichever is later.

1 Sec. 28. Section 79-942, Reissue Revised Statutes of
2 Nebraska, is amended to read:

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

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

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

1 member.

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

4 79-947 (1) Commencing October 1, 1988, the retirement
5 board shall determine an adjusted supplemental retirement benefit to
6 reflect changes in the cost of living and wage levels that have
7 occurred subsequent to the date of retirement for each person who is
8 retired from the School Employees Retirement System of the State of
9 Nebraska or from the retirement system for Class V school districts
10 as provided by the Class V School Employees Retirement Act with
11 twenty-five or more years of creditable service as of October 1,
12 1988.

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

1 during his or her life.

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

5 (4) The adjusted supplemental retirement benefit provided
6 under this section shall be funded from the Contingent Account but
7 only from such income that is attributable to employer and employee
8 contributions.

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

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

22 Sec. 32. (1) Beginning July 1, 2011, and each July 1
23 thereafter, the board shall determine the number of retired members
24 or beneficiaries described in subdivision (4)(b) of this section in
25 the retirement system and an annual benefit adjustment shall be made

1 by the board for each retired member or beneficiary under one of the
2 cost-of-living adjustment calculation methods found in subsection
3 (2), (3), or (4) of this section. Each retired member or beneficiary,
4 if eligible, shall receive an annual benefit adjustment under the
5 cost-of-living adjustment calculation method that provides the
6 retired member or beneficiary the greatest annual benefit adjustment
7 increase. No retired member or beneficiary shall receive an annual
8 benefit adjustment under more than one of the cost-of-living
9 adjustment calculation methods provided in this section.

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

1 subsection, the adjustment shall instead be equal to the percentage
2 change in the Consumer Price Index for Urban Wage Earners and
3 Clerical Workers factor from the prior year to the current year.

4 (3) The current benefit paid to a retired member or
5 beneficiary under this subsection shall be increased annually by the
6 lesser of (a) the percentage change in the Consumer Price Index for
7 Urban Wage Earners and Clerical Workers for the period between June
8 30 of the prior year to June 30 of the present year or (b) two and
9 one-half percent.

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

22 (b) In order for a retired member or beneficiary to
23 receive the cost-of-living adjustment calculation method provided in
24 this subsection, the retired member or beneficiary shall be (i) a
25 retired member or beneficiary who has been receiving a retirement

1 benefit for at least five years if the member had at least twenty-
2 five years of creditable service, (ii) a member who has been
3 receiving a disability retirement benefit for at least five years
4 pursuant to section 79-952, or (iii) a beneficiary who has been
5 receiving a death benefit pursuant to section 79-956 for at least
6 five years, if the member's or beneficiary's monthly accrual rate is
7 less than or equal to the minimum accrual rate as determined by this
8 subsection.

9 (c) The monthly accrual rate under this subsection is the
10 retired member's or beneficiary's total monthly benefit divided by
11 the number of years of creditable service earned by the retired or
12 deceased member.

13 (d) The total monthly benefit under this subsection is
14 the total benefit received by a retired member or beneficiary
15 pursuant to the School Employees Retirement Act and previous
16 adjustments made pursuant to this section or any other provision of
17 the act that grants a benefit or cost-of-living increase, but the
18 total monthly benefit shall not include sums received by an eligible
19 retired member or eligible beneficiary from federal sources.

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

1 rate.

2 (5) Beginning July 1, 2011, and each July 1 thereafter,
3 each retired member or beneficiary shall receive the sum of the
4 annual benefit adjustment and such retiree's total monthly benefit
5 less withholding, which sum shall be the retired member's or
6 beneficiary's adjusted total monthly benefit. Each retired member or
7 beneficiary shall receive the adjusted total monthly benefit until
8 the expiration of the annuity option selected by the member or until
9 the retired member or beneficiary again qualifies for the annual
10 benefit adjustment, whichever occurs first.

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

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

1 retired employees.

2 (8) The state shall contribute to the Annuity Reserve
3 Fund an annual level dollar payment certified by the board. For the
4 2011-12 fiscal year through the 2012-13 fiscal year, the annual level
5 dollar payment certified by the board shall equal 81.7873 percent of
6 six million eight hundred ninety-five thousand dollars.

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

9 79-978.01 Sections 79-978 to 79-9,116 and sections 36 and
10 37 of this act shall be known and may be cited as the Class V School
11 Employees Retirement Act.

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

14 79-987 (1) An annual audit of the affairs of the
15 retirement system shall be conducted. At the option of the board,
16 such audit may be conducted by a certified public accountant or the
17 Auditor of Public Accounts. The costs of such audit shall be paid
18 from funds of the retirement system. A copy of such audit shall be
19 filed with the Auditor of Public Accounts.

20 ~~(2) Beginning December 31, 1998, and each December 31~~
21 ~~thereafter, the administrator of the retirement system established~~
22 ~~pursuant to section 79-979 and section 401(a) of the Internal Revenue~~
23 ~~Code, as defined in section 49-801.01, shall file with the Public~~
24 ~~Employees Retirement Board an annual report on such system and shall~~
25 ~~submit copies of such report to the members of the Nebraska~~

1 ~~Retirement Systems Committee of the Legislature by March 15 of each~~
2 ~~year. The annual report shall be in a form prescribed by the Public~~
3 ~~Employees Retirement Board and shall contain the following~~
4 ~~information for each such retirement plan:~~

5 ~~(a) The number of persons participating in the retirement~~
6 ~~plan;~~

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

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

9 ~~(d) The names and positions of persons administering the~~
10 ~~plan;~~

11 ~~(e) The names and positions of persons investing plan~~
12 ~~assets;~~

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

14 ~~(g) For each defined contribution plan, a full~~
15 ~~description of investment policies and options available to plan~~
16 ~~participants; and~~

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

21 ~~If a plan contains no current active participants, the~~
22 ~~administrator may file in place of such report a statement with the~~
23 ~~Public Employees Retirement Board indicating the number of retirees~~
24 ~~still drawing benefits, and the sources and amount of funding for~~
25 ~~such benefits.~~

1 ~~(3)-(2)~~ Beginning ~~December 31, 1998, and every four years~~
2 March 31, 2012, and each March 31 thereafter, if such retirement plan
3 is a defined benefit plan, the trustees of a retirement system
4 established pursuant to section 79-979 shall cause to be prepared a
5 ~~quadrennial~~an annual report and the administrator shall file the
6 same with the Public Employees Retirement Board and submit to the
7 members of the Nebraska Retirement Systems Committee of the
8 Legislature a copy of such report. The report shall consist of a full
9 actuarial analysis of each such retirement plan established pursuant
10 to section 79-979. The analysis shall be prepared by an independent
11 private organization or public entity employing actuaries who are
12 members in good standing of the American Academy of Actuaries, and
13 which organization or entity has demonstrated expertise to perform
14 this type of analysis and is unrelated to any organization offering
15 investment advice or which provides investment management services to
16 the retirement plan.

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

19 79-9,113 (1)(a) If, at any future time, a majority of the
20 eligible members of the retirement system votes to be included under
21 an agreement providing old age and survivors insurance under the
22 Social Security Act of the United States, the contributions to be
23 made by the member and the school district for membership service,
24 from and after the effective date of the agreement with respect to
25 services performed subsequent to December 31, 1954, shall each be

1 reduced from five to three percent but not less than three percent of
2 the member's salary per annum, and the credits for membership service
3 under this system, as provided in section 79-999, shall thereafter be
4 reduced from one and one-half percent to nine-tenths of one percent
5 and not less than nine-tenths of one percent of salary or wage earned
6 by the member during each fiscal year, and from one and sixty-five
7 hundredths percent to one percent and not less than one percent of
8 salary or wage earned by the member during each fiscal year and from
9 two percent to one and two-tenths percent of salary or wage earned by
10 the member during each fiscal year, and from two and four-tenths
11 percent to one and forty-four hundredths percent of salary or wage
12 earned by the member during each fiscal year, except that after
13 September 1, 1963, and prior to September 1, 1969, all employees of
14 the school district shall contribute an amount equal to the
15 membership contribution which shall be two and three-fourths percent
16 of salary covered by old age and survivors insurance, and five
17 percent above that amount. Commencing September 1, 1969, all
18 employees of the school district shall contribute an amount equal to
19 the membership contribution which shall be two and three-fourths
20 percent of the first seven thousand eight hundred dollars of salary
21 or wages earned each fiscal year and five percent of salary or wages
22 earned above that amount in the same fiscal year. Commencing
23 September 1, 1976, all employees of the school district shall
24 contribute an amount equal to the membership contribution which shall
25 be two and nine-tenths percent of the first seven thousand eight

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

21 (b) The contributions by the school district in any
22 fiscal year beginning on or after September 1, 1999, shall be the
23 greater of (i) one hundred percent of the contributions by the
24 employees for such fiscal year or (ii) such amount as may be
25 necessary to maintain the solvency of the system, as determined

1 annually by the board upon recommendation of the actuary and the
2 trustees.

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

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

20 (e) After September 1, 1963, and prior to September 1,
21 1969, all employees shall be credited with a membership service
22 annuity which shall be nine-tenths of one percent of salary or wage
23 covered by old age and survivors insurance and one and one-half
24 percent of salary or wages above that amount, except that those
25 employees who retire on or after August 31, 1969, shall be credited

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

22 (f) Members of this system having the service
23 qualifications of members of the School Employees Retirement System
24 of the State of Nebraska, as provided by section 79-926, shall
25 receive the state service annuity provided by sections 79-933 to

1 79-935 and 79-951.

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

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

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

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

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

25 (4) The board shall work with any governmental agency,

1 including political subdivisions or bodies whose services or
2 expertise may enhance the development or implementation of the
3 preretirement planning program.

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

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

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

19 Sec. 37. On and after the operative date of this act, no
20 employee shall be authorized to participate in the retirement system
21 unless the employee (1) is a United States citizen or (2) is a
22 qualified alien under the federal Immigration and Nationality Act, 8
23 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is
24 lawfully present in the United States.

25 Sec. 38. Section 79-1003, Revised Statutes Cumulative

1 Supplement, 2010, is amended to read:

2 79-1003 For purposes of the Tax Equity and Educational
3 Opportunities Support Act:

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

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

24 (2) Adjusted valuation means the assessed valuation of
25 taxable property of each local system in the state, adjusted pursuant

1 to the adjustment factors described in section 79-1016. Adjusted
2 valuation means the adjusted valuation for the property tax year
3 ending during the school fiscal year immediately preceding the school
4 fiscal year in which the aid based upon that value is to be paid. For
5 purposes of determining the local effort rate yield pursuant to
6 section 79-1015.01, adjusted valuation does not include the value of
7 any property which a court, by a final judgment from which no appeal
8 is taken, has declared to be nontaxable or exempt 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 the
19 local system, as provided in each district's annual statistical
20 summary, and includes the proportionate share of students enrolled in
21 a public school instructional program on less than a full-time basis;

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

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

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

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

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

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

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

16 (13) Equalization aid means the amount of assistance
17 calculated to be paid to a local system pursuant to sections
18 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022, and
19 79-1022.02;

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

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

1 (16) Formula students means:

2 (a) For school fiscal years prior to school fiscal year
3 2008-09, (i) for state aid certified pursuant to section 79-1022, the
4 sum of fall membership from the school fiscal year immediately
5 preceding the school fiscal year in which the aid is to be paid,
6 multiplied by the average ratio of average daily membership to fall
7 membership for the second school fiscal year immediately preceding
8 the school fiscal year in which aid is to be paid and the prior two
9 school fiscal years, plus qualified early childhood education fall
10 membership plus tuitioned students from the school fiscal year
11 immediately preceding the school fiscal year in which the aid is to
12 be paid and (ii) for final calculation of state aid pursuant to
13 section 79-1065, the sum of average daily membership plus qualified
14 early childhood education average daily membership plus tuitioned
15 students from the school fiscal year immediately preceding the school
16 fiscal year in which the aid was paid; and

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

1 tuitioned students from the school fiscal year immediately preceding
2 the school fiscal year in which aid is to be paid minus the product
3 of the number of students enrolled in kindergarten that is not full-
4 day kindergarten from the fall membership multiplied by 0.5 and (ii)
5 for final calculation of state aid pursuant to section 79-1065, the
6 sum of average daily membership plus sixty percent of the qualified
7 early childhood education average daily membership plus tuitioned
8 students minus the product of the number of students enrolled in
9 kindergarten that is not full-day kindergarten from the average daily
10 membership multiplied by 0.5 from the school fiscal year immediately
11 preceding the school fiscal year in which aid was paid;

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

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

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

1 (20) General fund expenditures means all expenditures
2 from the general fund;

3 (21) General fund operating expenditures means:

4 (a) For state aid calculated for school fiscal years
5 prior to school fiscal year 2008-09, the total general fund
6 expenditures minus categorical funds, tuition paid, transportation
7 fees paid to other districts, adult education, summer school,
8 community services, redemption of the principal portion of general
9 fund debt service, retirement incentive plans, staff development
10 assistance, and transfers from other funds into the general fund for
11 the second school fiscal year immediately preceding the school fiscal
12 year in which aid is to be paid as reported on the annual financial
13 report prior to December 1 of the school fiscal year immediately
14 preceding the school fiscal year in which aid is to be paid;

15 (b) For state aid calculated for school fiscal year
16 2008-09, as reported for the second school fiscal year immediately
17 preceding the school fiscal year in which aid is to be paid on the
18 annual financial report submitted prior to December 1 of the school
19 fiscal year immediately preceding the school fiscal year in which aid
20 is to be paid, the total general fund expenditures minus (i) the
21 amount of all receipts to the general fund, to the extent that such
22 receipts are not included in local system formula resources, from
23 early childhood education tuition, summer school tuition, educational
24 entities as defined in section 79-1201.01 for providing distance
25 education courses through the Educational Service Unit Coordinating

1 Council to such educational entities, private foundations,
2 individuals, associations, charitable organizations, the textbook
3 loan program authorized by section 79-734, and federal impact aid,
4 (ii) the amount of expenditures for categorical funds, tuition paid,
5 transportation fees paid to other districts, adult education,
6 community services, redemption of the principal portion of general
7 fund debt service, retirement incentive plans authorized by section
8 79-855, and staff development assistance authorized by section
9 79-856, and (iii) the amount of any transfers from the general fund
10 to any bond fund and transfers from other funds into the general
11 fund;

12 (c) For state aid calculated for school fiscal year
13 2009-10, as reported on the annual financial report for the second
14 school fiscal year immediately preceding the school fiscal year in
15 which aid is to be paid, the total general fund expenditures minus
16 (i) the amount of all receipts to the general fund, to the extent
17 that such receipts are not included in local system formula
18 resources, from early childhood education tuition, summer school
19 tuition, educational entities as defined in section 79-1201.01 for
20 providing distance education courses through the Educational Service
21 Unit Coordinating Council to such educational entities, private
22 foundations, individuals, associations, charitable organizations, the
23 textbook loan program authorized by section 79-734, and federal
24 impact aid, (ii) the amount of expenditures for categorical funds,
25 tuition paid, transportation fees paid to other districts, adult

1 education, community services, redemption of the principal portion of
2 general fund debt service, retirement incentive plans authorized by
3 section 79-855, and staff development assistance authorized by
4 section 79-856, (iii) the amount of any transfers from the general
5 fund to any bond fund and transfers from other funds into the general
6 fund, and (iv) any legal expenses in excess of fifteen-hundredths of
7 one percent of the formula need for the school fiscal year in which
8 the expenses occurred; and

9 (d) For state aid calculated for school fiscal year
10 2010-11 and each school fiscal year thereafter, as reported on the
11 annual financial report for the second school fiscal year immediately
12 preceding the school fiscal year in which aid is to be paid, the
13 total general fund expenditures minus (i) the amount of all receipts
14 to the general fund, to the extent that such receipts are not
15 included in local system formula resources, from early childhood
16 education tuition, summer school tuition, educational entities as
17 defined in section 79-1201.01 for providing distance education
18 courses through the Educational Service Unit Coordinating Council to
19 such educational entities, private foundations, individuals,
20 associations, charitable organizations, the textbook loan program
21 authorized by section 79-734, federal impact aid, and levy override
22 elections pursuant to section 77-3444, (ii) the amount of
23 expenditures for categorical funds, tuition paid, transportation fees
24 paid to other districts, adult education, community services,
25 redemption of the principal portion of general fund debt service,

1 retirement incentive plans authorized by section 79-855, and staff
2 development assistance authorized by section 79-856, (iii) the amount
3 of any transfers from the general fund to any bond fund and transfers
4 from other funds into the general fund, (iv) any legal expenses in
5 excess of fifteen-hundredths of one percent of the formula need for
6 the school fiscal year in which the expenses occurred, (v)
7 expenditures to pay for sums agreed to be paid by a school district
8 to certificated employees in exchange for a voluntary termination
9 occurring prior to July 1, 2009, and (vi)(A) expenditures in school
10 fiscal years 2009-10 through 2013-14 to pay for employer
11 contributions pursuant to subsection (2) of section 79-958 to the
12 School Employees Retirement System of the State of Nebraska to the
13 extent that such expenditures exceed the employer contributions under
14 such subsection that would have been made at a contribution rate of
15 seven and thirty-five hundredths percent or (B) expenditures in
16 school fiscal years 2009-10 through 2013-14 to pay for school
17 district contributions pursuant to subdivision (1)(c)(i) of section
18 79-9,113 to the retirement system established pursuant to the Class V
19 School Employees Retirement System—Act to the extent that such
20 expenditures exceed the school district contributions under such
21 subdivision that would have been made at a contribution rate of seven
22 and thirty-seven hundredths percent.

23 For purposes of this subdivision (21) of this section,
24 receipts from levy override elections shall equal ninety-nine percent
25 of the difference of the total general fund levy minus a levy of one

1 dollar and five cents per one hundred dollars of taxable valuation
2 multiplied by the assessed valuation for school districts that have
3 voted pursuant to section 77-3444 to override the maximum levy
4 provided pursuant to section 77-3442;

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

7 (23) Income tax liability means the amount of the
8 reported income tax liability for resident individuals pursuant to
9 the Nebraska Revenue Act of 1967 less all nonrefundable credits
10 earned and refunds made;

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

14 (25) Limited English proficiency students means (a) for
15 school fiscal years prior to school fiscal year 2009-10, the number
16 of students with limited English proficiency in a district from the
17 most recent data available on November 1 of the school fiscal year
18 preceding the school fiscal year in which aid is to be paid and (b)
19 for school fiscal year 2009-10 and each school fiscal year
20 thereafter, the number of students with limited English proficiency
21 in a district from the most recent data available on November 1 of
22 the school fiscal year preceding the school fiscal year in which aid
23 is to be paid plus the difference of such students with limited
24 English proficiency minus the average number of limited English
25 proficiency students for such district, prior to such addition, for

1 the three immediately preceding school fiscal years if such
2 difference is greater than zero;

3 (26) Local system means a learning community for purposes
4 of calculation of state aid for the second full school fiscal year
5 after becoming a learning community and each school fiscal year
6 thereafter, a unified system, a Class VI district and the associated
7 Class I districts, or a Class II, III, IV, or V district and any
8 affiliated Class I districts or portions of Class I districts. The
9 membership, expenditures, and resources of Class I districts that are
10 affiliated with multiple high school districts will be attributed to
11 local systems based on the percent of the Class I valuation that is
12 affiliated with each high school district;

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

1 (28) Low-income students means the number of low-income
2 children within the district multiplied by the ratio of the formula
3 students in the district divided by the total children under nineteen
4 years of age residing in the district as derived from income tax
5 information;

6 (29) Most recently available complete data year means the
7 most recent single school fiscal year for which the annual financial
8 report, fall school district membership report, annual statistical
9 summary, Nebraska income tax liability by school district for the
10 calendar year in which the majority of the school fiscal year falls,
11 and adjusted valuation data are available;

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

24 (31) Qualified early childhood education average daily
25 membership means the product of the average daily membership for

1 school fiscal year 2006-07 and each school fiscal year thereafter of
2 students who will be eligible to attend kindergarten the following
3 school year and are enrolled in an early childhood education program
4 approved by the department pursuant to section 79-1103 for such
5 school district for such school year multiplied by the ratio of the
6 actual instructional hours of the program divided by one thousand
7 thirty-two if: (a) The program is receiving a grant pursuant to such
8 section for the third year; (b) the program has already received
9 grants pursuant to such section for three years; or (c) the program
10 has been approved pursuant to subsection (5) of section 79-1103 for
11 such school year and the two preceding school years, including any
12 such students in portions of any of such programs receiving an
13 expansion grant;

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

1 preceding school years, including any such students in portions of
2 any of such programs receiving an expansion grant;

3 (33) Regular route transportation means the
4 transportation of students on regularly scheduled daily routes to and
5 from the attendance center;

6 (34) Reorganized district means any district involved in
7 a consolidation and currently educating students following
8 consolidation;

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

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

13 (a)(i) Less than two students per square mile in the
14 county in which each high school is located, based on the school
15 district census, (ii) less than one formula student per square mile
16 in the local system, and (iii) more than ten miles between each high
17 school attendance center and the next closest high school attendance
18 center on paved roads;

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

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

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

6 (37) Special education means specially designed
7 kindergarten through grade twelve instruction pursuant to section
8 79-1125, and includes special education transportation;

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

17 (39) State aid means the amount of assistance paid to a
18 district pursuant to the Tax Equity and Educational Opportunities
19 Support Act;

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

21 (41) State support means all funds provided to districts
22 by the State of Nebraska for the general fund support of elementary
23 and secondary education;

24 (42) Statewide average basic funding per formula student
25 means the statewide total basic funding for all districts divided by

1 the statewide total formula students for all districts;

2 (43) Statewide average general fund operating
3 expenditures per formula student means the statewide total general
4 fund operating expenditures for all districts divided by the
5 statewide total formula students for all districts;

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

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

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

22 (47) Very sparse local system means a local system that
23 has:

24 (a)(i) Less than one-half student per square mile in each
25 county in which each high school attendance center is located based

1 on the school district census, (ii) less than one formula student per
2 square mile in the local system, and (iii) more than fifteen miles
3 between the high school attendance center and the next closest high
4 school attendance center on paved roads; or

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

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

12 79-1028.01 (1) For each school fiscal year, a school
13 district may exceed its maximum general fund budget of expenditures
14 minus the special education budget of expenditures by a specific
15 dollar amount for:

16 (a) Expenditures for repairs to infrastructure damaged by
17 a natural disaster which is declared a disaster emergency pursuant to
18 the Emergency Management Act;

19 (b) Expenditures for judgments, except judgments or
20 orders from the Commission of Industrial Relations, obtained against
21 a school district which require or obligate a school district to pay
22 such judgment, to the extent such judgment is not paid by liability
23 insurance coverage of a school district;

24 (c) Expenditures pursuant to the Retirement Incentive
25 Plan authorized in section 79-855 or the Staff Development Assistance

1 authorized in section 79-856;

2 (d) Expenditures of incentive payments or base fiscal
3 year incentive payments to be received in such school fiscal year
4 pursuant to section 79-1011;

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

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

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

24 (h) Expenditures in school fiscal years 2009-10 through
25 2013-14 to pay for employer contributions pursuant to subsection (2)

1 of section 79-958 to the School Employees Retirement System of the
2 State of Nebraska to the extent that such expenditures exceed the
3 employer contributions under such subsection that would have been
4 made at a contribution rate of seven and thirty-five hundredths
5 percent;

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

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

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

23 (l) Any expenditures in school fiscal years 2016-17 and
24 2017-18 of amounts specified in the notice provided by the
25 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 Patrol
10 Retirement Act.

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

24 (2) The current benefit paid to a retired member or
25 beneficiary under this subsection shall be adjusted so that the

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

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

24 (4)(a) The current benefit paid to a retired member or
25 beneficiary under this subsection shall be calculated by multiplying

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

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

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

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

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

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

24 (6) The annual benefit adjustment pursuant to this
25 section shall not cause a current benefit to be reduced, and a

1 retired member or beneficiary shall never receive less than the
2 adjusted total monthly benefit until the annuity option selected by
3 the member expires.

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

15 (8) The state shall contribute to the State Patrol
16 Retirement Fund an annual level dollar payment certified by the
17 board. For the 2011-12 fiscal year through the 2012-13 fiscal year,
18 the annual level dollar payment certified by the board shall equal
19 3.04888 percent of six million eight hundred ninety-five thousand
20 dollars.

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

23 81-2026 (1)(a) Any officer qualified for an annuity as
24 provided in section 81-2025 for reasons other than disability shall
25 be entitled to receive a monthly annuity for the remainder of the

1 officer's life. The annuity payments shall continue until the end of
2 the calendar month in which the officer dies. The amount of the
3 annuity shall be a percentage of the officer's final average monthly
4 compensation. For retirement on or after the fifty-fifth birthday of
5 the member or on or after the fiftieth birthday of a member who has
6 been in the employ of the state for twenty-five years, as calculated
7 in section 81-2033, the percentage shall be three percent multiplied
8 by the number of years of creditable service, as calculated in
9 section 81-2033, except that the percentage shall never be greater
10 than seventy-five percent.

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

24 (c) For purposes of this computation, final average
25 monthly compensation shall mean the sum of the officer's total

1 compensation during the three twelve-month periods of service as an
2 officer in which compensation was the greatest divided by thirty-six,
3 and for any officer employed on or before January 4, 1979, the
4 officer's total compensation shall include payments received for
5 unused vacation and sick leave accumulated during the final three
6 years of service.

7 (2) Any officer qualified for an annuity as provided in
8 section 81-2025 for reasons of disability shall be entitled to
9 receive a monthly annuity for the remainder of the period of
10 disablement as provided in sections 81-2028 to 81-2030. The amount of
11 the annuity shall be fifty percent of the officer's monthly
12 compensation at the date of disablement if the officer has completed
13 seventeen or fewer years of creditable service. If the officer has
14 completed more than seventeen years of creditable service, the amount
15 of the annuity shall be three percent of the final monthly
16 compensation at the date of disablement multiplied by the total years
17 of creditable service but not to exceed seventy-five percent of the
18 final average monthly compensation as defined in subsection (1) of
19 this section. The date of disablement shall be the date on which the
20 benefits as provided in section 81-2028 have been exhausted.

21 (3) Upon the death of an officer after retirement for
22 reasons other than disability, benefits shall be provided as a
23 percentage of the amount of the officer's annuity, calculated as
24 follows:

25 (a) If there is a surviving spouse but no dependent child

1 or children of the officer under nineteen years of age, the surviving
2 spouse shall receive a benefit equal to seventy-five percent of the
3 amount of the officer's annuity for the remainder of the surviving
4 spouse's life; ~~or until the surviving spouse remarries;~~

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

15 (c) If there is a surviving spouse and the surviving
16 spouse has in his or her care a dependent child or children of the
17 officer under nineteen years of age or there is another dependent
18 child or children of the officer under nineteen years of age not in
19 the care of the surviving spouse, the benefit shall be twenty-five
20 percent of the amount of the officer's annuity to the surviving
21 spouse and seventy-five percent of the amount of the officer's
22 annuity to the dependent children of the officer under nineteen years
23 of age to be divided equally among such dependent children but in no
24 case shall the benefit received by a surviving spouse and dependent
25 children residing with such spouse be less than fifty percent of the

1 amount of the officer's annuity. At such time as any dependent child
2 of the officer attains nineteen years of age, the benefit shall be
3 divided equally among the remaining dependent children of the officer
4 who have not yet attained nineteen years of age. When there is no
5 remaining dependent child of the officer under nineteen years of age,
6 the benefit shall be seventy-five percent of the amount of the
7 officer's annuity to the surviving spouse for the remainder of the
8 surviving spouse's life; ~~or until the surviving spouse remarries;~~

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

18 (e) If there is no surviving spouse or no dependent child
19 or children of the officer under nineteen years of age, the amount of
20 benefit such officer has received under the Nebraska State Patrol
21 Retirement Act shall be computed. If such amount is less than the
22 contributions to the State Patrol Retirement Fund made by such
23 officer, plus regular interest, the difference shall be paid to the
24 officer's designated beneficiary or estate.

25 (4) Upon the death of an officer after retirement for

1 reasons of disability, benefits shall be provided as if the officer
2 had retired for reasons other than disability.

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

7 (a) If there is a surviving spouse but no dependent child
8 or children of the officer under nineteen years of age, the surviving
9 spouse shall receive a benefit equal to seventy-five percent of the
10 amount of the officer's annuity for the remainder of the surviving
11 spouse's life; ~~or until the surviving spouse remarries;~~

12 (b) If there is a surviving spouse and the surviving
13 spouse has in his or her care a dependent child or children of the
14 officer under nineteen years of age and there is no other dependent
15 child or children of the officer not in the care of the surviving
16 spouse under nineteen years of age, the benefit shall be equal to one
17 hundred percent of the officer's annuity. When there is no remaining
18 dependent child of the officer under nineteen years of age, the
19 benefit shall be seventy-five percent of the amount of the officer's
20 annuity to the surviving spouse for the remainder of the surviving
21 spouse's life; ~~or until the surviving spouse remarries;~~

22 (c) If there is a surviving spouse and the surviving
23 spouse has in his or her care a dependent child or children of the
24 officer under nineteen years of age or there is another dependent
25 child or children of the officer under nineteen years of age not in

1 the care of the surviving spouse, the benefit shall be twenty-five
2 percent of the amount of the officer's annuity to the surviving
3 spouse and seventy-five percent of the amount of the officer's
4 annuity to the dependent children of the officer under nineteen years
5 of age to be divided equally among such dependent children but in no
6 case shall the benefit received by a surviving spouse and dependent
7 children residing with such spouse be less than fifty percent of the
8 amount of the officer's annuity. At such time as any dependent child
9 of the officer attains nineteen years of age, the benefit shall be
10 divided equally among the remaining dependent children of the officer
11 who have not yet attained nineteen years of age. When there is no
12 remaining dependent child of the officer under nineteen years of age,
13 the benefit shall be seventy-five percent of the amount of the
14 officer's annuity to the surviving spouse for the remainder of the
15 surviving spouse's life; ~~or until the surviving spouse remarries;~~

16 (d) If there is no surviving spouse and a dependent child
17 or children of the officer under nineteen years of age, the benefit
18 shall be equal to seventy-five percent of the officer's annuity to
19 the dependent children of the officer under nineteen years of age to
20 be divided equally among such dependent children. At such time as any
21 dependent child of the officer attains nineteen years of age, the
22 benefit shall be divided equally among the remaining dependent
23 children of the officer who have not yet attained nineteen years of
24 age; and

25 (e) If no benefits are paid to a surviving spouse or

1 dependent child or children of the officer, benefits will be paid as
2 described in subsection (1) of section 81-2031.

3 (6) Any changes made to this section by Laws 2004, LB
4 1097, shall apply only to retirements, disabilities, and deaths
5 occurring on or after July 16, 2004.

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

8 81-2041 (1) Any member who meets the participation
9 requirements of subsection (2) of this section may participate in
10 DROP. DROP provides that subsequent to attaining normal age and
11 service retirement eligibility, a member may voluntarily choose to
12 participate in DROP upon its adoption which, for purposes of this
13 section, shall be the earlier of September 1, 2008, or the first of
14 the month following a favorable letter determination by the Internal
15 Revenue Service. If the member chooses to participate in DROP, the
16 member shall be deemed to have retired, but the member may continue
17 in active employment for up to a five-year period. During the DROP
18 period, the member's retirement benefit payments shall be deposited
19 into the DROP account for the benefit of the member until the member
20 actually retires from active employment at or before the expiration
21 of the DROP period. Thereafter, future retirement benefit payments
22 shall be made directly to the member, and the member shall have
23 access to all funds in the DROP account designated for the benefit of
24 the member.

25 (2) To participate in the DROP program, a member shall

1 meet the following requirements:

2 (a) A member shall be eligible to enter DROP at any time
3 subsequent to the date when the member has (i) attained normal
4 retirement age and (ii) completed twenty-five years of service.
5 Members having attained normal retirement age and completed twenty-
6 five years of service on or before the date of adoption of DROP shall
7 be eligible to enter DROP at any future date;

8 (b) A member who elects to enter DROP shall be entitled
9 to receive regular age and service retirement benefits in accordance
10 with section 81-2026. A member is entitled to remain in DROP for a
11 maximum of five years subsequent to the date of the member's DROP
12 election. A member may separate from service and thereby exit DROP at
13 any time during the DROP period. On or before the completion of the
14 DROP period, the member must separate from active employment and exit
15 DROP. During the DROP period, a member's retirement benefit shall be
16 payable to the DROP account vendor designated in the member's name.
17 Amounts transferred or paid to a participating member's DROP account
18 shall not constitute annual additions under section 415 of the
19 Internal Revenue Code;

20 (c) A member electing to enter DROP shall choose an
21 annuity payment option. After the option is chosen, the member shall
22 not be entitled to any retirement benefit changes, for reasons
23 including, but not limited to, wage increases, promotions, and
24 demotions, except that the restriction on retirement benefit changes
25 shall not apply in the event of duty-related death or duty-related

1 disability. The benefit amount shall be fixed as of the date of
2 election and shall be payable as if the employee retired on that date
3 and separated from active employment. Upon the death of a member
4 during the DROP period, monthly benefits shall be provided as a
5 percentage of the amount of the member's annuity as set forth in
6 subsection (3) of section 81-2026 based upon the annuity benefit
7 calculation made at commencement of the DROP period. In addition, the
8 balance of the DROP account, if any, shall be provided to the
9 beneficiary or beneficiaries of the member or, if no beneficiary is
10 provided, to the estate of the member. Upon the disability of a
11 member during the DROP period, the member shall be deemed to have
12 completed the DROP period, shall begin receiving the annuity benefit
13 as calculated at the commencement of the DROP period, and shall be
14 paid the balance of the DROP account, if any;

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

17 (e) During the DROP period, the Nebraska State Patrol
18 shall not be assessed the amount required under subsection (2) of
19 section 81-2017 nor shall such amount be credited to the State Patrol
20 Retirement Fund;

21 (f) The member shall be paid the balance of the DROP
22 account upon the member's separation from active employment or at the
23 expiration of the DROP period thereby ending the member's
24 participation in DROP. If a member has not voluntarily separated from
25 active employment on or before the completion of the DROP period, the

1 member's retirement benefit shall be paid directly to the member
2 thereby ending the member's active employment. The member's DROP
3 account shall consist of accrued retirement benefits and interest on
4 such benefits;

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

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

25 (i) Cost-of-living adjustments as provided for in section

1 ~~81-2027.03-41~~ of this act shall not be applied to retirement benefits
2 during the DROP period.

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

5 84-1301 For purposes of the State Employees Retirement
6 Act, unless the context otherwise requires:

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

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

24 (3) Annuity start date means the date upon which a
25 member's annuity is first effective and shall be the first day of the

1 month following the member's termination or following the date the
2 application is received by the board, whichever is later;

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

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

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

1 system as in effect on July 1, 1993;

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

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

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

13 (9) Employee means any employee of the State Board of
14 Agriculture who is a member of the state retirement system on July 1,
15 1982, and any person or officer employed by the State of Nebraska
16 whose compensation is paid out of state funds or funds controlled or
17 administered by a state department through any of its executive or
18 administrative officers when acting exclusively in their respective
19 official, executive, or administrative capacities. Employee does not
20 include (a) judges as defined in section 24-701, (b) members of the
21 Nebraska State Patrol, except for those members of the Nebraska State
22 Patrol who elected pursuant to section 60-1304 to remain members of
23 the State Employees Retirement System of the State of Nebraska, (c)
24 employees of the University of Nebraska, (d) employees of the state
25 colleges, (e) employees of community colleges, (f) employees of the

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

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

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

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

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

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

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

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

1 collateralized mortgage obligations and other derivative securities.
2 This subdivision shall not be construed to require the liquidation of
3 investment contracts or accounts entered into prior 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 by
6 the Internal Revenue Service as of the first day of the calendar
7 quarter for which interest credits are credited, plus one and one-
8 half percent, such rate to be compounded annually;

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

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

1 to the sum of the employee cash balance account and, if vested, the
2 employer cash balance account and dividend amounts credited in
3 accordance with subdivision (4)(c) of section 84-1319;

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

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

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

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

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

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

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

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

25 (28) Retirement board or board means the Public Employees

1 Retirement Board;

2 (29) Retirement system means the State Employees
3 Retirement System of the State of Nebraska;

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

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

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

1 benefits entitled to the surviving spouse, the spouse married to the
2 member on the date of the member's death shall be the surviving
3 spouse for the balance of the benefits;

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

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

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

3 84-1307 (1) The membership of the retirement system shall
4 be composed of all persons who are or were employed by the State of
5 Nebraska and who maintain an account balance with the retirement
6 system.

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

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

24 (4) For purposes of this section, (a) permanent full-time
25 employees includes employees of the Legislature or Legislative

1 Council who work one-half or more of the regularly scheduled hours
2 during each pay period of the legislative session and (b) permanent
3 part-time employees includes employees of the Legislature or
4 Legislative Council who work less than one-half of the regularly
5 scheduled hours during each pay period of the legislative session.

6 ~~(5)~~ (5)(a) Within the first one hundred eighty days of
7 employment, a full-time employee may apply to the board for vesting
8 credit for years of participation in another Nebraska governmental
9 plan, as defined by section 414(d) of the Internal Revenue Code.
10 During the years of participation in the other Nebraska governmental
11 plan, the employee must have been a full-time employee, as defined in
12 the Nebraska governmental plan in which the credit was earned. The
13 board may adopt and promulgate rules and regulations governing the
14 assessment and granting of vesting credit.

15 (b) If the contributory retirement plan or contract let
16 pursuant to section 48-609 is terminated, employees of the Department
17 of Labor who are active participants in such contributory retirement
18 plan or contract on the date of termination of such plan or contract
19 shall be granted vesting credit for their years of participation in
20 such plan or contract.

21 (6) Any employee who qualifies for membership in the
22 retirement system pursuant to this section may not be disqualified
23 for membership in the retirement system solely because such employee
24 also maintains separate employment which qualifies the employee for
25 membership in another public retirement system, nor may membership in

1 this retirement system disqualify such an employee from membership in
2 another public employment system solely by reason of separate
3 employment which qualifies such employee for membership in this
4 retirement system.

5 (7) State agencies shall ensure that employees authorized
6 to participate in the retirement system pursuant to this section
7 shall enroll and make required contributions to the retirement system
8 immediately upon becoming an employee. Information necessary to
9 determine membership in the retirement system shall be provided by
10 the employer.

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

13 84-1309.02 (1) It is the intent of the Legislature that,
14 in order to improve the competitiveness of the retirement plan for
15 state employees, a cash balance benefit shall be added to the State
16 Employees Retirement Act on and after January 1, 2003. Each member
17 who is employed and participating in the retirement system prior to
18 January 1, 2003, may either elect to continue participation in the
19 defined contribution benefit as provided in the act prior to January
20 1, 2003, or elect to participate in the cash balance benefit as set
21 forth in this section. The member shall make the election prior to
22 January 1, 2003, or on or after November 1, 2007, but before January
23 1, 2008. If no election is made prior to January 1, 2003, or on or
24 after November 1, 2007, but before January 1, 2008, the member shall
25 be treated as though he or she elected to continue participating in

1 the defined contribution benefit as provided in the act prior to
2 January 1, 2003. Members who elect to participate in the cash balance
3 benefit on or after November 1, 2007, but before January 1, 2008,
4 shall commence participation in the cash balance benefit on January
5 1, 2008. Any member who made the election prior to January 1, 2003,
6 does not have to reelect the cash balance benefit on or after
7 November 1, 2007, but before January 1, 2008. A member employed and
8 participating in the retirement system prior to January 1, 2003, who
9 terminates employment on or after January 1, 2003, and returns to
10 employment prior to having a five-year break in service shall
11 participate in the cash balance benefit as set forth in this section.

12 (2) For a member employed and participating in the
13 retirement system beginning on and after January 1, 2003, or a member
14 employed and participating in the retirement system on January 1,
15 2003, who, prior to January 1, 2003, or on or after November 1, 2007,
16 but before January 1, 2008, elects to convert his or her employee and
17 employer accounts to the cash balance benefit:

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

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

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

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

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

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

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

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

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

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

16 (3) In order to carry out the provisions of this section,
17 the board may enter into administrative services agreements for
18 accounting or record-keeping services. No agreement shall be entered
19 into unless the board determines that it will result in
20 administrative economy and will be in the best interests of the state
21 and its participating employees. The board may develop a schedule for
22 the allocation of the administrative services agreements costs for
23 accounting or record-keeping services and may assess the costs so
24 that each member pays a reasonable fee as determined by the board.

25 Sec. 47. Section 84-1313.02, Revised Statutes Cumulative

1 Supplement, 2010, is amended to read:

2 84-1313.02 The retirement system may transfer ~~deferred~~
3 ~~compensation by a member as a plan to plan transfer any distribution~~
4 of benefits to a member which is an eligible rollover distribution as
5 defined in section 84-1312 in a direct rollover to the deferred
6 compensation plan authorized under section 84-1504 if the following
7 conditions are met:

8 (1) The member has an amount of compensation deferred
9 immediately after the ~~transfer~~ rollover at least equal to the amount
10 of compensation deferred immediately before the ~~transfer;~~ rollover;

11 (2) The account of the member is valued as of the date of
12 final account value;

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

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

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

20 84-1321.01 (1) For a member who has terminated employment
21 and is not vested, the balance of the member's employer account or
22 employer cash balance account shall be forfeited. The forfeited
23 account shall be credited to the State Employees Retirement Fund and
24 shall first be used to meet the expense charges incurred by the
25 retirement board in connection with administering the retirement

1 system, which charges shall be credited to the State Employees
2 Defined Contribution Retirement Expense Fund, if the member
3 participated in the defined contribution option, or to the State
4 Employees Cash Balance Retirement Expense Fund, if the member
5 participated in the cash balance option, and the remainder, if any,
6 shall then be used to reduce the state contribution which would
7 otherwise be required to fund future service retirement benefits or
8 to restore employer accounts or employer cash balance accounts. No
9 forfeited amounts shall be applied to increase the benefits any
10 member would otherwise receive under the State Employees Retirement
11 Act.

12 ~~(2)~~ (2)(a) If a member ceases to be an employee due to
13 the termination of his or her employment by the state and a grievance
14 or other appeal of the termination is filed, transactions involving
15 forfeiture of his or her employer account or employer cash balance
16 account and, except as provided in subdivision (b) of this
17 subsection, transactions for payment of benefits under sections
18 84-1317 and 84-1321 shall be suspended pending the final outcome of
19 the grievance or other appeal.

20 (b) If a member elects to receive benefits payable under
21 sections 84-1317 and 84-1321 after a grievance or appeal is filed,
22 the member may receive an amount up to the balance of his or her
23 employee account or member cash balance account or twenty-five
24 thousand dollars payable from the employee account or member cash
25 balance account, whichever is less.

1 (3) The State Employer Retirement Expense Fund is
2 created. The fund shall be administered by the Public Employees
3 Retirement Board. The fund shall be established and maintained
4 separate from any funds held in trust for the benefit of members
5 under the retirement system. The fund shall be used to meet expenses
6 of the State Employees Retirement System of the State of Nebraska
7 whether such expenses are incurred in administering the member's
8 employer account or in administering the member's employer cash
9 balance account when the funds available in the State Employees
10 Defined Contribution Retirement Expense Fund or State Employees Cash
11 Balance Retirement Expense Fund make such use reasonably necessary.

12 (4) The director of the Nebraska Public Employees
13 Retirement Systems shall certify to the Accounting Administrator of
14 the Department of Administrative Services when accumulated employer
15 account forfeiture funds are available to reduce the state
16 contribution which would otherwise be required to fund future service
17 retirement benefits or to restore employer accounts or employer cash
18 balance accounts referred to in subsection (1) of this section.
19 Following such certification, the Accounting Administrator shall
20 transfer the amount reduced from the state contribution from the
21 Imprest Payroll Distributive Fund to the State Employer Retirement
22 Expense Fund. Expenses incurred as a result of the state depositing
23 amounts into the State Employer Retirement Expense Fund shall be
24 deducted prior to any additional expenses being allocated. Any
25 remaining amount shall be allocated in accordance with subsection (3)

1 of this section. Any money in the fund available for investment shall
2 be invested by the state investment officer pursuant to the Nebraska
3 Capital Expansion Act and the Nebraska State Funds Investment Act.

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

6 84-1322 (1) Except as otherwise provided in this section,
7 a member of the retirement system who has a five-year break in
8 service shall upon reemployment be considered a new employee with
9 respect to the State Employees Retirement Act and shall not receive
10 credit for service prior to his or her reemployment date.

11 (2)(a) A member who ceases to be an employee before
12 becoming eligible for retirement under section 84-1317 and again
13 becomes a permanent full-time or permanent part-time state employee
14 prior to having a five-year break in service shall immediately be
15 reenrolled in the retirement system and resume making contributions.
16 For purposes of vesting employer contributions made prior to and
17 after reentry into the retirement system under subsection (3) of
18 section 84-1321, years of participation include years of
19 participation prior to such employee's original termination. For a
20 member who is not vested and has received a termination benefit
21 pursuant to section 84-1321, the years of participation prior to such
22 employee's original termination shall be limited in a ratio equal to
23 the amount that the member repays divided by the termination benefit
24 withdrawn pursuant to section 84-1321. This subsection shall apply
25 whether or not the person was a state employee on April 20, 1986, or

1 July 17, 1986.

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

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

23 (3) For a member who retired pursuant to section 84-1317
24 and becomes a permanent full-time employee or permanent part-time
25 employee with the state more than one hundred twenty days after his

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

7 (4) A member who is reinstated as an employee pursuant to
8 a grievance or appeal of his or her termination by the state shall be
9 a member upon reemployment and shall not be considered to have a
10 break in service for such period of time that the grievance or appeal
11 was pending. Following reinstatement, the member shall repay the
12 value of the amount received from his or her employee account or
13 member cash balance account under subdivision (2)(b) of section
14 84-1321.01.

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

17 84-1501 (1) The Public Employees Retirement Board is
18 hereby established.

19 ~~(2) Prior to January 1, 2005, the board shall consist of~~
20 ~~seven appointed members and the state investment officer as a~~
21 ~~nonvoting, ex officio member. Three of the appointed members shall be~~
22 ~~participants in the retirement systems administered by the board, one~~
23 ~~of the appointed members shall be a participant in such retirement~~
24 ~~systems who has retired, and three of the appointed members shall not~~
25 ~~be employees of the State of Nebraska or any of its political~~

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

17 ~~(3)(a) Beginning January 1, 2005, the~~ (2)(a) ~~The~~ board
18 shall consist of eight appointed members as described in this
19 subsection and the state investment officer as a nonvoting, ex
20 officio member. Six of the appointed members shall be active or
21 retired participants in the retirement systems administered by the
22 board, and two of the appointed members (i) shall not be ~~an employee~~
23 employees of the State of Nebraska or any of its political
24 subdivisions and (ii) shall have at least ten years of experience in
25 the management of a public or private organization or have at least

1 five years of experience in the field of actuarial analysis or the
2 administration of an employee benefit plan. ~~On and after January 1,~~
3 ~~2005, any person who is appointed to the board and who is not an~~
4 ~~employee of the State of Nebraska or any of its political~~
5 ~~subdivisions shall not own any funds which are administered by the~~
6 ~~board.~~

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

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

21 (ii) One of the appointed members shall be a participant
22 in the Nebraska Judges Retirement System as provided in the Judges
23 Retirement Act; ~~. On January 1, 2005, the member of the board who had~~
24 ~~been a member of the Nebraska Judges Retirement System prior to such~~
25 ~~date shall continue in such position as the member representing the~~

1 ~~Nebraska Judges Retirement System until such member's term expires;~~

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

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

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

17 (c) Appointments to the board ~~on and after January 1,~~
18 ~~2005,~~ shall be made by the Governor and shall be subject to the
19 approval of the Legislature. All appointed members shall be citizens
20 of the State of Nebraska.

21 (4) All members ~~appointed on and after January 1, 2002,~~
22 shall serve for terms of five years or until a successor has been
23 appointed and qualified. The terms shall begin on January 1 of the
24 appropriate year. The members of the board shall be reimbursed for
25 their actual and necessary expenses as provided in sections 81-1174

1 to 81-1177. The appointed members of the board may be removed by the
2 Governor for cause after notice and an opportunity to be heard.

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

5 84-1503 (1) It shall be the duty of the Public Employees
6 Retirement Board:

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

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

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

1 expenses are specified by law;

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

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

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

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

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

1 ~~Legislature of the failure of any governmental entity to file such~~
2 ~~reports.~~

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

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

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

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

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

18 (e) To obtain, by a competitive, formal, and sealed
19 bidding process through the materiel division of the Department of
20 Administrative Services, actuarial services on behalf of the State of
21 Nebraska as may be necessary in the administration and development of
22 the retirement systems. Any contract for actuarial services shall
23 contain a provision allowing the actuary, without prior approval of
24 the board, to perform actuarial studies of the systems as requested
25 by entities other than the board, if notice, which does not identify

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

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

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

1 distributions, and the acceptance of rollovers;

2 (h) To obtain, by a competitive, formal, and sealed
3 bidding process through the materiel division of the Department of
4 Administrative Services, auditing services for a separate compliance
5 audit of the retirement systems to be completed by December 31, ~~2007~~,
6 2012, and from time to time thereafter at the request of the Nebraska
7 Retirement Systems Committee of the Legislature, to be completed not
8 more than every four years but not less than every ten years. The
9 compliance audit shall be in addition to the annual audit conducted
10 by the Auditor of Public Accounts. The compliance audit shall
11 include, but not be limited to, an examination of records, files, and
12 other documents and an evaluation of all policies and procedures to
13 determine compliance with all state and federal laws. A copy of the
14 compliance audit shall be given to the Governor, the board, and the
15 Nebraska Retirement Systems Committee of the Legislature and shall be
16 presented to the committee at a public hearing;

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

1 to contributions or benefits; and

2 (j) To administer all retirement system plans in a manner
3 which will maintain each plan's status as a qualified plan pursuant
4 to the Internal Revenue Code. The board shall adopt and promulgate
5 rules and regulations necessary or appropriate to maintain such
6 status including, but not limited to, rules or regulations which
7 restrict discretionary or optional contributions to a plan or which
8 limit distributions from a plan.

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

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

21 84-1511 (1) The Public Employees Retirement Board shall
22 establish a comprehensive preretirement planning program for state
23 patrol officers, state employees, judges, county employees, and
24 school employees who are members of the retirement systems
25 established pursuant to ~~the Class V School Employees Retirement Act,~~

1 the County Employees Retirement Act, the Judges Retirement Act, the
2 School Employees Retirement Act, the Nebraska State Patrol Retirement
3 Act, and the State Employees Retirement Act. The program shall
4 provide information and advice regarding the many changes employees
5 face upon retirement, including, but not limited to, changes in
6 physical and mental health, housing, family life, leisure activity,
7 and retirement income.

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

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

20 (4) The board shall work with the Department of Health
21 and Human Services, the personnel division of the Department of
22 Administrative Services, employee groups, and any other governmental
23 agency, including political subdivisions or bodies whose services or
24 expertise may enhance the development or implementation of the
25 preretirement planning program.

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

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

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

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

18 Sec. 54. Original sections 23-2301, 23-2302, 23-2308,
19 23-2319.01, 24-710, 42-1102, 72-1243, 79-408, 79-901, 79-903, 79-904,
20 79-904.01, 79-916, 79-926, 79-933.03, 79-933.05, 79-933.06, 79-941,
21 79-942, 79-944, 79-947, 79-955, 79-978.01, 79-987, 81-2014.01,
22 81-2026, 81-2041, 84-1301, 84-1322, 84-1501, 84-1503, and 84-1511,
23 Reissue Revised Statutes of Nebraska, and sections 4-108, 23-2306,
24 23-2308.01, 23-2320, 24-701.01, 68-621, 79-902, 79-920, 79-9,113,
25 79-1003, 79-1028.01, 84-1307, 84-1309.02, 84-1313.02, and 84-1321.01,

1 Revised Statutes Cumulative Supplement, 2010, are repealed.

2 Sec. 55. The following sections are outright repealed:

3 Sections 24-710.09, 24-710.10, 24-710.11, 50-417.02, 50-417.03,

4 50-417.04, 50-417.05, 50-417.06, 79-940, 79-947.03, 79-947.04,

5 79-947.05, 81-2027.05, 81-2027.06, and 81-2027.07, Reissue Revised

6 Statutes of Nebraska, and sections 24-710.07, 79-947.01, and

7 81-2027.03, Revised Statutes Cumulative Supplement, 2010.

8 Sec. 56. Since an emergency exists, this act takes effect

9 when passed and approved according to law.