

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 337**

Introduced by Fulton, 29; Avery, 28.

Read first time January 12, 2011

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to the Auditor of Public Accounts; to amend  
2 sections 23-362, 23-2301, 39-2204, 60-1409, 66-738,  
3 72-1255, 77-2608, and 84-1301, Reissue Revised Statutes  
4 of Nebraska; to change timeframes for certain audits; to  
5 repeal the original sections; and to declare an  
6 emergency.

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

1           Section 1. Section 23-362, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           23-362 In order to equitably distribute the added burden  
4 of law enforcement imposed upon certain counties of this state by  
5 reason of the passage of Public Law 280 of the Eighty-third Congress  
6 dealing with state jurisdiction and the resulting withdrawal of  
7 federal law enforcement in such counties, there shall each fiscal  
8 year be paid out of the state treasury, on the warrant of the  
9 Director of Administrative Services as directed by the chairperson of  
10 the Nebraska Commission on Law Enforcement and Criminal Justice, not  
11 to exceed one hundred one thousand dollars for the benefit of Indians  
12 in any county which has land held in trust by the United States  
13 Government for the benefit of Indians to be used for purposes of law  
14 enforcement and jail operations. Such funds shall be divided as  
15 equally as possible between the areas of law enforcement and jail  
16 operations. ~~An audit shall be conducted biennially by the Auditor of~~  
17 ~~Public Accounts or his or her designee of the funds distributed~~  
18 ~~pursuant to this section. The Auditor of Public Accounts or his or~~  
19 ~~her designee shall conduct, at such time as he or she determines~~  
20 necessary, an audit of the funds distributed pursuant to this  
21 section. A detailed report shall be submitted on December 31 of each  
22 year, including discussion of the operation and expenditures of the  
23 office of the county sheriff and, ~~every other year, when completed,~~ a  
24 copy of the audit, to the Executive Board of the Legislative Council  
25 and the Governor. Such payment shall be made to any county of this

1 state meeting the following conditions:

2 (1) Such county shall have on file in the office of the  
3 Nebraska Commission on Law Enforcement and Criminal Justice a  
4 certificate of the county assessor that there are within such county  
5 over twenty-five hundred acres of land held in trust by the United  
6 States or subject to restriction against alienation imposed by the  
7 United States; and

8 (2) The county board of each such county may participate  
9 in alcohol-related programs with nonprofit corporations.

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

12 23-2301 For purposes of the County Employees Retirement  
13 Act, unless the context otherwise requires:

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

23 (2) Annuity means equal monthly payments provided by the  
24 retirement system to a member or beneficiary under forms determined  
25 by the board beginning the first day of the month after an annuity

1 election is received in the office of the Nebraska Public Employees  
2 Retirement Systems or the first day of the month after the employee's  
3 termination of employment, whichever is later. The last payment shall  
4 be at the end of the calendar month in which the member dies or in  
5 accordance with the payment option chosen by the member;

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

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

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

1 the code which defers or excludes such amounts from income.

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

9 (6) Date of adoption of the retirement system by each  
10 county means the first day of the month next following the date of  
11 approval of the retirement system by the county board or January 1,  
12 1987, whichever is earlier;

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

15 (8) Defined contribution benefit means a member's  
16 retirement benefit from a money purchase plan in which member  
17 benefits equal annual contributions and earnings pursuant to section  
18 23-2309 and, if vested, employer contributions and earnings pursuant  
19 to section 23-2310;

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

24 (10) Employee means all persons or officers who are  
25 employed by a county of the State of Nebraska on a permanent basis,

1 persons or officers employed by or serving in a municipal county  
2 formed by at least one county participating in the retirement system,  
3 persons employed as provided in section 2-1608, all elected officers  
4 of a county, and such other persons or officers as are classified  
5 from time to time as permanent employees by the county board of the  
6 county by which they are employed, except that employee does not  
7 include judges, employees or officers of any county having a  
8 population in excess of one hundred fifty thousand inhabitants, or,  
9 except as provided in section 23-2306, persons making contributions  
10 to the School Retirement System of the State of Nebraska;

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

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

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

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

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

1                   (16) Future service means service following the date of  
2 adoption of the retirement system;

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

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

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

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

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

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

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

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

23 (24) Plan year means:

24 (a) Until July 1, 2011, the twelve-month period beginning  
25 on January 1 and ending on December 31, except that for the period

1 January 1, 2011, through June 30, 2011, the plan year shall be only  
2 six months; and

3 (b) Beginning July 1, 2011, the twelve-month period  
4 beginning July 1 and ending on June 30;

5 (25) Prior service means service prior to the date of  
6 adoption of the retirement system;

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

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

13 (28) Retirement means qualifying for and accepting the  
14 retirement benefit granted under the act after terminating  
15 employment;

16 (29) Retirement board or board means the Public Employees  
17 Retirement Board;

18 (30) Retirement system means the Retirement System for  
19 Nebraska Counties;

20 (31) Service means the actual total length of employment  
21 as an employee and is not deemed to be interrupted by (a) temporary  
22 or seasonal suspension of service that does not terminate the  
23 employee's employment, (b) leave of absence authorized by the  
24 employer for a period not exceeding twelve months, (c) leave of  
25 absence because of disability, or (d) military service, when properly

1 authorized by the retirement board. Service does not include any  
2 period of disability for which disability retirement benefits are  
3 received under section 23-2315;

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

16 (33) Termination of employment occurs on the date on  
17 which a county which is a member of the retirement system determines  
18 that its employer-employee relationship with an employee is  
19 dissolved. The county shall notify the board of the date on which  
20 such a termination has occurred. Termination of employment does not  
21 occur if an employee whose employer-employee relationship with a  
22 county is dissolved enters into an employer-employee relationship  
23 with the same or another county which participates in the Retirement  
24 System for Nebraska Counties and there are less than one hundred  
25 twenty days between the date when the employee's employer-employee

1 relationship ceased with the county and the date when the employer-  
2 employee relationship commenced with the same or another county which  
3 qualifies the employee for participation in the plan. It shall be the  
4 responsibility of the current employer to notify the board of such  
5 change in employment and provide the board with such information as  
6 the board deems necessary. If the board determines that termination  
7 of employment has not occurred and a termination benefit has been  
8 paid to a member of the retirement system pursuant to section  
9 23-2319, the board shall require the member who has received such  
10 benefit to repay the benefit to the retirement system; and

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

14 Sec. 3. Section 39-2204, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 39-2204 (1) The Attorney General shall serve as legal  
17 advisor to the commission and, to assist him or her in the  
18 performance of his or her duties as such, may authorize the  
19 commission to employ special bond counsel.

20 (2) The Auditor of Public Accounts shall audit the books  
21 of the commission ~~annually and at such other times as may be~~ at such  
22 time as he or she determines necessary.

23 Sec. 4. Section 60-1409, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 60-1409 The Nebraska Motor Vehicle Industry Licensing

1 Fund is created. All fees collected under the Motor Vehicle Industry  
2 Regulation Act shall be remitted by the board, as collected, to the  
3 State Treasurer for credit to the fund. Such fund shall be  
4 appropriated by the Legislature for the operations of the Nebraska  
5 Motor Vehicle Industry Licensing Board and shall be paid out from  
6 time to time by warrants of the Director of Administrative Services  
7 on the State Treasurer for authorized expenditures upon duly itemized  
8 vouchers executed as provided by law and approved by the chairperson  
9 of the board or the executive secretary, except that transfers from  
10 the fund to the General Fund may be made at the direction of the  
11 Legislature through June 30, 2011. The expenses of conducting the  
12 office must always be kept within the income collected and reported  
13 to the State Treasurer by such board. Such office and expense thereof  
14 shall not be supported or paid from the General Fund, and all money  
15 deposited in the Nebraska Motor Vehicle Industry Licensing Fund shall  
16 be expended only for such office and expense thereof and, unless  
17 determined by the board, it shall not be required to expend any funds  
18 to any person or any other governmental agency.

19 Any money in the Nebraska Motor Vehicle Industry  
20 Licensing Fund available for investment shall be invested by the  
21 state investment officer pursuant to the Nebraska Capital Expansion  
22 Act and the Nebraska State Funds Investment Act. The fund shall be  
23 audited ~~annually~~ by the Auditor of Public Accounts at such time as he  
24 or she determines necessary.

25 Sec. 5. Section 66-738, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           66-738 The Motor Fuel Tax Enforcement and Collection  
3 Division is hereby created within the Department of Revenue. The  
4 division shall be funded by a separate appropriation program within  
5 the department. All provisions of Chapter 66, articles 4, 5, 6, and  
6 12, and sections 66-712 to 66-737 and the provisions of Chapter 3,  
7 article 1, and Chapter 66, article 15, pertaining to the Department  
8 of Revenue, the Tax Commissioner, or the division shall be entirely  
9 and separately undertaken and enforced by the division, except that  
10 the division may utilize services provided by other programs of the  
11 Department of Revenue in functional areas known on July 1, 1991, as  
12 the budget subprograms designated revenue operations and  
13 administration. Appropriations for the division that are used to fund  
14 costs allocated for such functional operations shall be expended by  
15 the division in an appropriate pro rata share and shall be subject to  
16 ~~biennial~~ audit by the Auditor of Public Accounts, at such time as he  
17 or she determines necessary, which audit shall be provided to the  
18 budget division of the Department of Administrative Services and the  
19 Legislative Fiscal Analyst by October 1 of ~~each even-numbered year.~~  
20 the year under audit. Audit information useful to other divisions of  
21 the Department of Revenue may be shared by the Motor Fuel Tax  
22 Enforcement and Collection Division with the other divisions of the  
23 department and the Division of Motor Carrier Services of the  
24 Department of Motor Vehicles, but audits shall not be considered as a  
25 functional operation for purposes of this section. Except for staff

1 performing in functional areas, staff funded from the separate  
2 appropriation program shall only be utilized to carry out the  
3 provisions of such articles and sections. The auditors and field  
4 investigators in the Motor Fuel Tax Enforcement and Collection  
5 Division shall be adequately trained for the purposes of motor fuel  
6 tax enforcement and collection. The Tax Commissioner shall hire for  
7 or assign to the division sufficient staff to carry out the  
8 responsibility of the division for the enforcement of the motor fuel  
9 laws.

10 Funds appropriated to the division may also be used to  
11 contract with other public agencies or private entities to aid in the  
12 issuance of motor fuel delivery permit numbers as provided in  
13 subsection (2) of section 66-503, and such contracted funds shall  
14 only be used for such purpose. The amount of any contracts entered  
15 into pursuant to this section shall be appropriated and accounted for  
16 in a separate budget subprogram of the division.

17 Sec. 6. Section 72-1255, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 72-1255 The Auditor of Public Accounts shall conduct, at  
20 such time as he or she determines necessary, ~~from time to time~~  
21 postaudits of the investment transactions provided for in the  
22 Nebraska State Funds Investment Act and shall submit annually a  
23 report of his or her findings to the Governor and the state  
24 investment officer.

25 Sec. 7. Section 77-2608, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           77-2608 The Tax Commissioner shall prepare and have  
3 suitable stamps for use on each kind of piece or package of  
4 cigarettes, except when cigarette tax meter impressions are affixed.  
5 Requisition for the preparation of such stamps shall be made through  
6 the materiel division of the Department of Administrative Services as  
7 other state supplies are requisitioned, and the Tax Commissioner and  
8 his or her bondsperson shall be liable for the value of all such  
9 stamps delivered to him or her. The Auditor of Public Accounts shall  
10 audit ~~annually or~~ as often as the auditor deems advisable the records  
11 of the Tax Commissioner with respect to the money received from the  
12 sale of stamps and as revenue from tax meter impressions for the  
13 purpose of determining the accuracy and correctness of the same. The  
14 Tax Commissioner shall sell the stamps only to licensed wholesale  
15 dealers, as defined in section 77-2601, and he or she shall keep an  
16 accurate record of all stamps coming into and leaving his or her  
17 hands. Such stamps shall be sold and accounted for at the face value  
18 thereof, except that the Tax Commissioner may, by rule and regulation  
19 certified to the State Treasurer, authorize the sale thereof to  
20 wholesale dealers in this state or outside of this state at a  
21 discount of one and eighty-five hundredths percent of such face value  
22 of the tax as a commission for affixing and canceling such stamps,  
23 except that for stamps sold beginning October 1, 2002, through  
24 September 30, 2004, the authorized commission for affixing and  
25 canceling such stamps shall be one and seven-tenths percent of the

1 face value of the tax. Any wholesale dealer using a tax meter machine  
2 shall be entitled to the same discount as allowed a wholesale dealer  
3 for affixing and canceling the stamps. The money received by the Tax  
4 Commissioner from the sale of the stamps and as revenue from such tax  
5 meter impressions shall be deposited by him or her daily with the  
6 State Treasurer who shall credit such money as provided in section  
7 77-2602. Upon proof by the Tax Commissioner that he or she can affix  
8 such stamps or meter impressions, warehouse and distribute such  
9 cigarettes, and collect such revenue at a cost less than any discount  
10 allowed to wholesale dealers pursuant to this section, he or she may  
11 then proceed to affix the stamps himself or herself after giving the  
12 wholesale dealers sixty days' notice and purchasing all equipment  
13 used by them for the purpose of affixing such stamps or meter  
14 impressions at a fair market value.

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

17           84-1301 For purposes of the State Employees Retirement  
18 Act, unless the context otherwise requires:

19           (1) Actuarial equivalent means the equality in value of  
20 the aggregate amounts expected to be received under different forms  
21 of an annuity payment. The mortality assumption used for purposes of  
22 converting the member cash balance account shall be the 1994 Group  
23 Annuity Mortality Table using a unisex rate that is fifty percent  
24 male and fifty percent female. For purposes of converting the member  
25 cash balance account attributable to contributions made prior to

1 January 1, 1984, that were transferred pursuant to the act, the 1994  
2 Group Annuity Mortality Table for males shall be used;

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

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

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

20 (5)(a) Compensation means gross wages or salaries payable  
21 to the member for personal services performed during the plan year.  
22 Compensation does not include insurance premiums converted into cash  
23 payments, reimbursement for expenses incurred, fringe benefits, or  
24 bonuses for services not actually rendered, including, but not  
25 limited to, early retirement inducements, cash awards, and severance

1 pay, except for retroactive salary payments paid pursuant to court  
2 order, arbitration, or litigation and grievance settlements.  
3 Compensation includes overtime pay, member retirement contributions,  
4 and amounts contributed by the member to plans under sections 125,  
5 403(b), and 457 of the Internal Revenue Code or any other section of  
6 the code which defers or excludes such amounts from income.

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

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

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

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

25 (9) Employee means any employee of the State Board of

1 Agriculture who is a member of the state retirement system on July 1,  
2 1982, and any person or officer employed by the State of Nebraska  
3 whose compensation is paid out of state funds or funds controlled or  
4 administered by a state department through any of its executive or  
5 administrative officers when acting exclusively in their respective  
6 official, executive, or administrative capacities. Employee does not  
7 include (a) judges as defined in section 24-701, (b) members of the  
8 Nebraska State Patrol, except for those members of the Nebraska State  
9 Patrol who elected pursuant to section 60-1304 to remain members of  
10 the State Employees Retirement System of the State of Nebraska, (c)  
11 employees of the University of Nebraska, (d) employees of the state  
12 colleges, (e) employees of community colleges, (f) employees of the  
13 Department of Labor employed prior to July 1, 1984, and paid from  
14 funds provided pursuant to Title III of the federal Social Security  
15 Act or funds from other federal sources, (g) the Commissioner of  
16 Labor employed prior to July 1, 1984, (h) employees of the State  
17 Board of Agriculture who are not members of the state retirement  
18 system on July 1, 1982, (i) the Nebraska National Guard air and army  
19 technicians, (j) persons eligible for membership under the School  
20 Retirement System of the State of Nebraska who have not elected to  
21 become members of the retirement system pursuant to section 79-920 or  
22 been made members of the system pursuant to such section, except that  
23 those persons so eligible and who as of September 2, 1973, are  
24 contributing to the State Employees Retirement System of the State of  
25 Nebraska shall continue as members of such system, or (k) employees

1 of the Coordinating Commission for Postsecondary Education who are  
2 eligible for and have elected to become members of a qualified  
3 retirement program approved by the commission which is commensurate  
4 with retirement programs at the University of Nebraska. Any  
5 individual appointed by the Governor may elect not to become a member  
6 of the State Employees Retirement System of the State of Nebraska;

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

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

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

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

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

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

24 (16) Guaranteed investment contract means an investment  
25 contract or account offering a return of principal invested plus

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

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

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

1 surviving spouse or beneficiary are delayed after the member's death,  
2 interest credits shall continue to be credited to the employee cash  
3 balance account and the employer cash balance account until such  
4 surviving spouse or beneficiary commences receipt of a distribution  
5 from the plan;

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

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

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

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

19 (23) Plan year means:

20 (a) Until July 1, 2011, the twelve-month period beginning  
21 on January 1 and ending on December 31, except that for the period  
22 January 1, 2011, through June 30, 2011, the plan year shall be only  
23 six months; and

24 (b) Beginning July 1, 2011, the twelve-month period  
25 beginning July 1 and ending on June 30.

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

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

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

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

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

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

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

24                   (31) State department means any department, bureau,  
25 commission, or other division of state government not otherwise

1 specifically defined or exempted in the act, the employees and  
2 officers of which are not already covered by a retirement plan;

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

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

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

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

12           Sec. 9. Original sections 23-362, 23-2301, 39-2204,  
13 60-1409, 66-738, 72-1255, 77-2608, and 84-1301, Reissue Revised  
14 Statutes of Nebraska, are repealed.

15           Sec. 10. Since an emergency exists, this act takes effect  
16 when passed and approved according to law.