

LEGISLATURE OF NEBRASKA

ONE HUNDRED THIRD LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 263

Introduced by Nebraska Retirement Systems Committee: Nordquist, 7,
Chairperson; Conrad, 46; Davis, 43; Karpisek, 32;
Kolowski, 31; Mello, 5.

Read first time January 16, 2013

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 23-2301,
2 23-2306, 23-2307, 23-2310.04, 23-2315, 23-2317, 23-2319,
3 23-2319.01, 79-917, 79-921, 79-962, 79-984, 79-991,
4 79-992, 79-996, 79-9,102, 84-1308, and 84-1511.01,
5 Reissue Revised Statutes of Nebraska, and sections
6 24-701, 24-703, 24-710.13, 79-902, 79-904.01, 79-947.06,
7 79-956, 79-958, 79-987, 79-990, 79-9,117, 81-2014,
8 81-2016, 81-2017, 81-2027.08, 81-2041, 84-1301, 84-1307,
9 84-1314, 84-1317, 84-1319, 84-1321, 84-1321.01, 84-1503,
10 and 84-1511, Revised Statutes Cumulative Supplement,
11 2012; to define and redefine terms; to change membership
12 provisions; to change provisions relating to interest and
13 compliance with federal law; to change provisions
14 relating to annual benefit adjustments, repayment of
15 benefits, application deadlines, termination of
16 employment, and contract requirements; to change

1 requirements for actuarial and auditing services; to
2 change provisions relating to administering retirement
3 system plans and fees for planning programs; to harmonize
4 provisions; and to repeal the original sections.

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

1 Section 1. 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, per
10 diems, or bonuses for services not actually rendered, including, but
11 not limited to, early retirement inducements, cash awards, and
12 severance pay, except for retroactive salary payments paid pursuant
13 to court 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 application means the form approved and
3 provided by the retirement system for acceptance of a member's
4 request for either regular or disability retirement;

5 ~~(29)~~(30) Retirement board or board means the Public
6 Employees Retirement Board;

7 (31) Retirement date means (a) the first day of the month
8 following the date upon which a member's request for retirement is
9 received on a retirement application if the member is eligible for
10 retirement and has terminated employment or (b) the first day of the
11 month following termination of employment if the member is eligible
12 for retirement and has filed an application but has not yet
13 terminated employment;

14 ~~(30)~~(32) Retirement system means the Retirement System
15 for Nebraska Counties;

16 ~~(31)~~(33) Service means the actual total length of
17 employment as an employee and is not deemed to be interrupted by (a)
18 temporary or seasonal suspension of service that does not terminate
19 the employee's employment, (b) leave of absence authorized by the
20 employer for a period not exceeding twelve months, (c) leave of
21 absence because of disability, or (d) military service, when properly
22 authorized by the retirement board. Service does not include any
23 period of disability for which disability retirement benefits are
24 received under section 23-2315;

25 ~~(32)~~(34) Surviving spouse means (a) the spouse married

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

12 ~~(33)~~ (35) Termination of employment occurs on the date on
13 which a county which is a member of the retirement system determines
14 that its employer-employee relationship with an employee is
15 dissolved. The county shall notify the board of the date on which
16 such a termination has occurred. Termination of employment does not
17 occur if an employee whose employer-employee relationship with a
18 county is dissolved enters into an employer-employee relationship
19 with the same or another county which participates in the Retirement
20 System for Nebraska Counties and there are less than one hundred
21 twenty days between the date when the employee's employer-employee
22 relationship ceased with the county and the date when the employer-
23 employee relationship commenced with the same or another county which
24 qualifies the employee for participation in the plan. It is the
25 responsibility of the employer that is involved in the termination of

1 employment to notify the board of such change in employment and
2 provide the board with such information as the board deems necessary.
3 If the board determines that termination of employment has not
4 occurred and a retirement benefit has been paid to a member of the
5 retirement system pursuant to section 23-2319, the board shall
6 require the member who has received such benefit to repay the benefit
7 to the retirement system; and

8 ~~(34)~~(36) Vesting credit means credit for years, or a
9 fraction of a year, of participation in another Nebraska governmental
10 plan for purposes of determining vesting of the employer account.

11 Sec. 2. Section 23-2306, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 23-2306 (1) The membership of the retirement system shall
14 be composed of all persons who are or were employed by member
15 counties and who maintain an account balance with the retirement
16 system.

17 (2) The following employees of member counties are
18 authorized to participate in the retirement system: (a) All permanent
19 full-time employees shall begin participation in the retirement
20 system upon employment and full-time elected officials shall begin
21 participation in the retirement system upon taking office, (b) all
22 permanent part-time employees who have attained the age of eighteen
23 years may exercise the option to begin participation in the
24 retirement system within the first thirty days of employment, and (c)
25 all part-time elected officials may exercise the option to begin

1 participation in the retirement system. An employee who exercises the
2 option to begin participation in the retirement system shall remain
3 in the system until termination or retirement, regardless of any
4 change of status as a permanent or temporary employee.

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

12 (4) On and after July 1, 2013, if the board determines
13 that a member does not meet the definition of a county employee, the
14 board shall provide notice to the member and, thirty days following
15 issuance of notice, the member shall become inactive and considered
16 fully vested in the plan.

17 ~~(4)~~ (5) Within the first one hundred eighty days of
18 employment, a full-time employee may apply to the board for vesting
19 credit for years of participation in another Nebraska governmental
20 plan, as defined by section 414(d) of the Internal Revenue Code.
21 During the years of participation in the other Nebraska governmental
22 plan, the employee must have been a full-time employee, as defined in
23 the Nebraska governmental plan in which the credit was earned. The
24 board may adopt and promulgate rules and regulations governing the
25 assessment and granting of vesting credit.

1 ~~(5)~~(6) Any employee who qualifies for membership in the
2 retirement system pursuant to this section may not be disqualified
3 from membership in the retirement system solely because such employee
4 also maintains separate employment which qualifies the employee for
5 membership in another public retirement system, nor may membership in
6 this retirement system disqualify such an employee from membership in
7 another public retirement system solely by reason of separate
8 employment which qualifies such employee for membership in this
9 retirement system.

10 ~~(6)~~(7) A full-time or part-time employee of a city,
11 village, or township who becomes a county employee pursuant to a
12 merger of services shall receive vesting credit for his or her years
13 of participation in a Nebraska governmental plan, as defined by
14 section 414(d) of the Internal Revenue Code, of the city, village, or
15 township.

16 ~~(7)~~(8) A full-time or part-time employee of a city,
17 village, fire protection district, or township who becomes a
18 municipal county employee shall receive credit for his or her years
19 of employment with the city, village, fire protection district, or
20 township for purposes of the vesting provisions of this section.

21 (9) A full-time or part-time employee of the state who
22 becomes a county employee pursuant to transfer of assessment function
23 to a county under section 77-1340 or 77-1340.04 shall receive vesting
24 credit for his or her years of participation in the State Employees
25 Retirement System of the State of Nebraska.

1 ~~(8)-(10)~~ Counties shall ensure that employees authorized
2 to participate in the retirement system pursuant to this section
3 shall enroll and make required contributions to the retirement system
4 immediately upon becoming an employee. Information necessary to
5 determine membership in the retirement system shall be provided by
6 the employer.

7 Sec. 3. Section 23-2307, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 23-2307 Each employee who is a member of the retirement
10 system shall pay to the county or have picked up by the county a sum
11 equal to four and one-half percent of his or her compensation for
12 each pay period. The contributions, although designated as employee
13 contributions, shall be paid by the employing unit in lieu of
14 employee contributions. The county shall pick up the employee
15 contributions required by this section for all compensation paid on
16 or after January 1, 1985, and the contributions so picked up shall be
17 treated as employer contributions pursuant to section 414(h)(2) of
18 the Internal Revenue Code in determining federal tax treatment under
19 the ~~Internal Revenue Code as defined in section 49-801.01, except~~
20 ~~that the county shall continue to withhold federal income taxes based~~
21 ~~upon these contributions until the Internal Revenue Service or the~~
22 ~~federal courts rule that, pursuant to section 414(h) of the code,~~
23 ~~these contributions~~ code and shall not be included as gross income of
24 the employee until such time as they are distributed or made
25 available. The county shall pay these employee contributions from the

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

8 Sec. 4. Section 23-2310.04, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 23-2310.04 (1) The County Employees Defined Contribution
11 Retirement Expense Fund is created. The fund shall be credited with
12 money from the retirement system assets and income sufficient to pay
13 the pro rata share of administrative expenses incurred as directed by
14 the board for the proper administration of the County Employees
15 Retirement Act and necessary in connection with the administration
16 and operation of the retirement system, except as provided in
17 sections 23-2308.01, 23-2309.01, and 23-2310.05. Any money in the
18 fund available for investment shall be invested by the state
19 investment officer pursuant to the Nebraska Capital Expansion Act and
20 the Nebraska State Funds Investment Act.

21 (2) The County Employees Cash Balance Retirement Expense
22 Fund is created. The fund shall be credited with money forfeited
23 pursuant to section 23-2319.01 and with money from the retirement
24 system assets and income sufficient to pay the pro rata share of
25 administrative expenses incurred as directed by the board for the

1 proper administration of the County Employees Retirement Act and
2 necessary in connection with the administration and operation of the
3 retirement system, except as provided in sections 23-2308.01,
4 23-2309.01, and 23-2310.05. Any money in the fund available for
5 investment shall be invested by the state investment officer pursuant
6 to the Nebraska Capital Expansion Act and the Nebraska State Funds
7 Investment Act.

8 (3) Forfeiture funds collected from members participating
9 in the defined contribution benefit shall be used to either pay
10 expenses or reduce employer contributions related to the defined
11 contribution benefit. Any unused funds shall be allocated as earnings
12 to the accounts of such members and the forfeiture account holding
13 such funds shall be reduced to a zero balance within twelve months
14 after receipt of the funds by the board.

15 Sec. 5. Section 23-2315, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 23-2315 (1) Upon filing an application for benefits with
18 the board, an employee may elect to retire at any time after
19 attaining the age of fifty-five or an employee may retire as a result
20 of disability at any age.

21 (2) The member shall specify in the application for
22 benefits the manner in which he or she wishes to receive the
23 retirement benefit under the options provided by the County Employees
24 Retirement Act. Payment under the application for benefits shall be
25 made (a) for annuities, no sooner than the annuity start date, and

1 (b) for other distributions, no sooner than the date of final account
2 value.

3 (3) Payment of any benefit provided under the retirement
4 system may not be deferred later than April 1 of the year following
5 the year in which the employee has both attained at least age seventy
6 and one-half years and terminated his or her employment with the
7 county., ~~except that for members participating in the defined~~
8 ~~contribution benefit, no distribution is required to be made for the~~
9 ~~plan year commencing January 1, 2009, through December 31, 2009.~~

10 (4) The board shall make reasonable efforts to locate the
11 member or the member's beneficiary and distribute benefits by the
12 required beginning date as specified by section 401(a)(9) of the
13 Internal Revenue Code and the regulations issued thereunder. If the
14 board is unable to make such a distribution, the benefit shall be
15 distributed pursuant to the Uniform Disposition of Unclaimed Property
16 Act and no amounts may be applied to increase the benefits any member
17 would otherwise receive under the County Employees Retirement Act.

18 (5) A participant or beneficiary who would have been
19 required to receive required minimum distributions for 2009 but for
20 the enactment of section 401(a)(9)(H) of the Internal Revenue Code,
21 and who would have satisfied that requirement by receiving
22 distributions that are either equal to the 2009 required minimum
23 distributions or one or more payments in a series of substantially
24 equal distributions, including the 2009 required minimum
25 distribution, made at least annually and expected to last for the

1 life or life expectancy of the participant, the joint lives or joint
2 life expectancy of the participant and the participant's designated
3 beneficiary, or for a period of at least ten years, shall receive
4 those distributions for 2009 unless the participant or beneficiary
5 chooses not to receive such distributions. Participants and
6 beneficiaries shall be given the opportunity to elect to stop
7 receiving the distributions described in this subsection.

8 Sec. 6. Section 23-2317, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 23-2317 (1) The future service retirement benefit shall
11 be an annuity, payable monthly with the first payment made no earlier
12 than the annuity start date, which shall be the actuarial equivalent
13 of the retirement value as specified in section 23-2316 based on
14 factors determined by the board, except that gender shall not be a
15 factor when determining the amount of such payments pursuant to
16 subsection (2) of this section.

17 Except as provided in section 42-1107, at any time before
18 the annuity start date, the retiring employee may choose to receive
19 his or her annuity either in the form of an annuity as provided under
20 subsection (4) of this section or any optional form that is
21 determined by the board.

22 Except as provided in section 42-1107, in lieu of the
23 future service retirement annuity, a retiring employee may receive a
24 benefit not to exceed the amount in his or her employer and employee
25 accounts as of the date of final account value payable in a lump sum

1 and, if the employee chooses not to receive the entire amount in such
2 accounts, an annuity equal to the actuarial equivalent of the
3 remainder of the retirement value, and the employee may choose any
4 form of such annuity as provided for by the board.

5 In any case, the amount of the monthly payment shall be
6 such that the annuity chosen shall be the actuarial equivalent of the
7 retirement value as specified in section 23-2316 except as provided
8 in this section.

9 The board shall provide to any county employee who is
10 eligible for retirement, prior to his or her selecting any of the
11 retirement options provided by this section, information on the
12 federal and state income tax consequences of the various annuity or
13 retirement benefit options.

14 (2) Except as provided in subsection (4) of this section,
15 the monthly income payable to a member retiring on or after January
16 1, 1984, shall be as follows:

17 He or she shall receive at retirement the amount which
18 may be purchased by the accumulated contributions based on annuity
19 rates in effect on the annuity start date which do not utilize gender
20 as a factor, except that such amounts shall not be less than the
21 retirement income which can be provided by the sum of the amounts
22 derived pursuant to subdivisions (a) and (b) of this subsection as
23 follows:

24 (a) The income provided by the accumulated contributions
25 made prior to January 1, 1984, based on male annuity purchase rates

1 in effect on the date of purchase; and

2 (b) The income provided by the accumulated contributions
3 made on and after January 1, 1984, based on the annuity purchase
4 rates in effect on the date of purchase which do not use gender as a
5 factor.

6 (3) Any amount, in excess of contributions, which may be
7 required in order to purchase the retirement income specified in
8 subsection (2) of this section shall be withdrawn from the County
9 Equal Retirement Benefit Fund.

10 (4)(a) The normal form of payment shall be a single life
11 annuity with five-year certain, which is an annuity payable monthly
12 during the remainder of the member's life with the provision that, in
13 the event of his or her death before sixty monthly payments have been
14 made, the monthly payments will be continued to his or her estate or
15 to the beneficiary he or she has designated until sixty monthly
16 payments have been made in total. Such annuity shall be equal to the
17 actuarial equivalent of the member cash balance account or the sum of
18 the employee and employer accounts, whichever is applicable, as of
19 the date of final account value. As a part of the annuity, the normal
20 form of payment may include a two and one-half percent cost-of-living
21 adjustment purchased by the member, if the member elects such a
22 payment option.

23 Except as provided in section 42-1107, a member may elect
24 a lump-sum distribution of his or her member cash balance account as
25 of the date of final account value upon termination of service or

1 retirement.

2 For a member employed and participating in the retirement
3 system prior to January 1, 2003, who has elected to participate in
4 the cash balance benefit pursuant to section 23-2308.01, or for a
5 member employed and participating in the retirement system beginning
6 on and after January 1, 2003, the balance of his or her member cash
7 balance account as of the date of final account value shall be
8 converted to an annuity using an interest rate used in the actuarial
9 valuation as recommended by the actuary and approved by the board.

10 For an employee who is a member prior to January 1, 2003,
11 who has elected not to participate in the cash balance benefit
12 pursuant to section 23-2308.01, and who, at the time of retirement,
13 chooses the annuity option rather than the lump-sum option, his or
14 her employee and employer accounts as of the date of final account
15 value shall be converted to an annuity using an interest rate that is
16 equal to the lesser of (i) the Pension Benefit Guaranty Corporation
17 initial interest rate for valuing annuities for terminating plans as
18 of the beginning of the year during which payment begins plus three-
19 fourths of one percent or (ii) the interest rate used in the
20 actuarial valuation as recommended by the actuary and approved by the
21 board.

22 (b) For the calendar year beginning January 1, 2003, and
23 each calendar year thereafter, the actuary for the board shall
24 perform an actuarial valuation of the system using the entry age
25 actuarial cost method. Under this method, the actuarially required

1 funding rate is equal to the normal cost rate plus the contribution
2 rate necessary to amortize the unfunded actuarial accrued liability
3 on a level-payment basis. The normal cost under this method shall be
4 determined for each individual member on a level percentage of salary
5 basis. The normal cost amount is then summed for all members. The
6 initial unfunded actual accrued liability as of January 1, 2003, if
7 any, shall be amortized over a twenty-five-year period. During each
8 subsequent actuarial valuation, changes in the unfunded actuarial
9 accrued liability due to changes in benefits, actuarial assumptions,
10 the asset valuation method, or actuarial gains or losses shall be
11 measured and amortized over a twenty-five-year period beginning on
12 the valuation date of such change. If the unfunded actuarial accrued
13 liability under the entry age actuarial cost method is zero or less
14 than zero on an actuarial valuation date, then all prior unfunded
15 actuarial accrued liabilities shall be considered fully funded and
16 the unfunded actuarial accrued liability shall be reinitialized and
17 amortized over a twenty-five-year period as of the actuarial
18 valuation date. If the actuarially required contribution rate exceeds
19 the rate of all contributions required pursuant to the County
20 Employees Retirement Act, there shall be a supplemental appropriation
21 sufficient to pay for the difference between the actuarially required
22 contribution rate and the rate of all contributions required pursuant
23 to the act.

24 (c) If the unfunded accrued actuarial liability under the
25 entry age actuarial cost method is less than zero on an actuarial

1 valuation date, and on the basis of all data in the possession of the
2 retirement board, including such mortality and other tables as are
3 recommended by the actuary engaged by the retirement board and
4 adopted by the retirement board, the retirement board may elect to
5 pay a dividend to all members participating in the cash balance
6 option in an amount that would not increase the actuarial
7 contribution rate above ninety percent of the actual contribution
8 rate. Dividends shall be credited to the employee cash balance
9 account and the employer cash balance account based on the account
10 balances on the actuarial valuation date. In the event a dividend is
11 granted and paid after the actuarial valuation date, interest for the
12 period from the actuarial valuation date until the dividend is
13 actually paid shall be paid on the dividend amount. The interest rate
14 shall be the interest credit rate earned on regular contributions.

15 (5) At the option of the retiring member, any lump sum or
16 annuity provided under this section or section 23-2334 may be
17 deferred to commence at any time, except that no benefit shall be
18 deferred later than April 1 of the year following the year in which
19 the employee has both attained at least seventy and one-half years of
20 age and has terminated his or her employment with the county. 7
21 ~~except that for members participating in the defined contribution~~
22 ~~benefit, no distribution is required to be made for the plan year~~
23 ~~commencing January 1, 2009, through December 31, 2009.~~ Such election
24 by the retiring member may be made at any time prior to the
25 commencement of the lump-sum or annuity payments.

1 (6) A participant or beneficiary who would have been
2 required to receive required minimum distributions for 2009 but for
3 the enactment of section 401(a)(9)(H) of the Internal Revenue Code,
4 and who would have satisfied that requirement by receiving
5 distributions that are either equal to the 2009 required minimum
6 distributions or one or more payments in a series of substantially
7 equal distributions, including the 2009 required minimum
8 distribution, made at least annually and expected to last for the
9 life or life expectancy of the participant, the joint lives or joint
10 life expectancy of the participant and the participant's designated
11 beneficiary, or for a period of at least ten years, shall receive
12 those distributions for 2009 unless the participant or beneficiary
13 chooses not to receive such distributions. Participants and
14 beneficiaries shall be given the opportunity to elect to stop
15 receiving the distributions described in this subsection.

16 Sec. 7. Section 23-2319, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 23-2319 (1) Except as provided in section 42-1107, upon
19 termination of employment, except for retirement or disability, and
20 after filing an application with the board, a member may receive:

21 (a) If not vested, a termination benefit equal to the
22 amount of his or her employee account or member cash balance account
23 as of the date of final account value payable in a lump sum or an
24 annuity with the lump-sum or first annuity payment made at any time
25 after termination but no later than April 1 of the year following the

1 year in which the member attains the age of seventy and one-half
2 years; ~~or , except that for members participating in the defined~~
3 ~~contribution benefit, no distribution is required to be made for the~~
4 ~~plan year commencing January 1, 2009, through December 31, 2009; or~~

5 (b) If vested, a termination benefit equal to (i) the
6 amount of his or her member cash balance account as of the date of
7 final account value payable in a lump sum or an annuity with the
8 lump-sum or first annuity payment made at any time after termination
9 but no later than April 1 of the year following the year in which the
10 member attains the age of seventy and one-half years or (ii)(A) the
11 amount of his or her employee account as of the date of final account
12 value payable in a lump sum or an annuity with the lump-sum or first
13 annuity payment made at any time after termination but no later than
14 April 1 of the year following the year in which the member attains
15 the age of seventy and one-half years plus (B) the amount of his or
16 her employer account as of the date of final account value payable in
17 a lump sum or an annuity with the lump-sum or first annuity payment
18 made at any time after termination but no later than April 1 of the
19 year following the year in which the member attains the age of
20 seventy and one-half years. ~~For purposes of subdivision (1)(b) of~~
21 ~~this section, for members participating in the defined contribution~~
22 ~~benefit, no distribution is required to be made for the plan year~~
23 ~~commencing January 1, 2009, through December 31, 2009.~~

24 The member cash balance account or employer and employee
25 accounts of a terminating member shall be retained by the board, and

1 the termination benefit shall be deferred until a valid application
2 for benefits has been received.

3 (2) At the option of the terminating member, any lump sum
4 of the employer account or member cash balance account or any annuity
5 payment provided under subsection (1) of this section shall commence
6 as of the first of the month at any time after such member has
7 terminated his or her employment with the county and no later than
8 April 1 of the year following the year in which the member attains
9 the age of seventy and one-half years. ~~_, except that for members~~
10 ~~participating in the defined contribution benefit, no distribution is~~
11 ~~required to be made for the plan year commencing January 1, 2009,~~
12 ~~through December 31, 2009.~~ Such election by the terminating member
13 shall be made at any time prior to the commencement of the lump-sum
14 or annuity payments.

15 (3) Members of the retirement system shall be vested
16 after a total of three years of participation in the system as a
17 member pursuant to section 23-2306, including vesting credit. If an
18 employee retires pursuant to section 23-2315, such employee shall be
19 fully vested in the retirement system.

20 (4) A participant or beneficiary who would have been
21 required to receive required minimum distributions for 2009 but for
22 the enactment of section 401(a)(9)(H) of the Internal Revenue Code,
23 and who would have satisfied that requirement by receiving
24 distributions that are either equal to the 2009 required minimum
25 distributions or one or more payments in a series of substantially

1 equal distributions, including the 2009 required minimum
2 distribution, made at least annually and expected to last for the
3 life or life expectancy of the participant, the joint lives or joint
4 life expectancy of the participant and the participant's designated
5 beneficiary, or for a period of at least ten years, shall receive
6 those distributions for 2009 unless the participant or beneficiary
7 chooses not to receive such distributions. Participants and
8 beneficiaries shall be given the opportunity to elect to stop
9 receiving the distributions described in this subsection.

10 Sec. 8. Section 23-2319.01, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 23-2319.01 (1) For a member who has terminated employment
13 and is not vested, the balance of the member's employer account or
14 employer cash balance account shall be forfeited. The forfeited
15 account shall be credited to the County Employees Retirement Fund and
16 shall first be used to meet the expense charges incurred by the
17 retirement board in connection with administering the retirement
18 system, which charges shall be credited to the County Employees
19 Defined Contribution Retirement Expense Fund, if the member
20 participated in the defined contribution option, or to the County
21 Employees Cash Balance Retirement Expense Fund, if the member
22 participated in the cash balance option, and the remainder, if any,
23 shall then be used to restore employer accounts or employer cash
24 balance accounts. Except as provided in subsection (3) of section
25 23-2310.04 and subdivision (4)(c) of section 23-2317, no forfeited

1 amounts shall be applied to increase the benefits any member would
2 otherwise receive under the County Employees Retirement Act.

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

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

17 (3) The County Employer Retirement Expense Fund is
18 created. The fund shall be administered by the Public Employees
19 Retirement Board. Prior to July 1, 2012, the County Employer
20 Retirement Expense Fund shall be used to meet expenses of the
21 retirement system whether such expenses are incurred in administering
22 the member's employer account or in administering the member's
23 employer cash balance account when the funds available in the County
24 Employees Defined Contribution Retirement Expense Fund or County
25 Employees Cash Balance Retirement Expense Fund make such use

1 reasonably necessary. The County Employer Retirement Expense Fund
2 shall consist of any reduction in a county contribution which would
3 otherwise be required to fund future service retirement benefits or
4 to restore employer accounts or employer cash balance accounts
5 referred to in subsection (1) of this section. On July 1, 2012, or as
6 soon as practicable thereafter, any money in the County Employer
7 Retirement Expense Fund shall be transferred by the State Treasurer
8 to the County Employees Retirement Fund and credited to the cash
9 balance benefit established in section 23-2308.01.

10 (4) Prior to July 1, 2012, expenses incurred as a result
11 of a county depositing amounts into the County Employer Retirement
12 Expense Fund shall be deducted prior to any additional expenses being
13 allocated. Any remaining amount shall be allocated in accordance with
14 subsection (3) of this section. Any money in the County Employer
15 Retirement Expense Fund available for investment shall be invested by
16 the state investment officer pursuant to the Nebraska Capital
17 Expansion Act and the Nebraska State Funds Investment Act.

18 Sec. 9. Section 24-701, Revised Statutes Cumulative
19 Supplement, 2012, is amended to read:

20 24-701 For purposes of the Judges Retirement Act, unless
21 the context otherwise requires:

22 (1) Fund means the Nebraska Retirement Fund for Judges;

23 (2) Judge means and includes (a) all duly elected or
24 appointed Chief Justices or judges of the Supreme Court and judges of
25 the district courts of Nebraska who serve in such capacity on and

1 after January 3, 1957, (b)(i) all duly appointed judges of the
2 Nebraska Workmen's Compensation Court who served in such capacity on
3 and after September 20, 1957, and prior to July 17, 1986, and (ii)
4 judges of the Nebraska Workers' Compensation Court who serve in such
5 capacity on and after July 17, 1986, (c) judges of separate juvenile
6 courts, (d) judges of the county courts of the respective counties
7 who serve in such capacity on and after January 5, 1961, (e) judges
8 of the county court and clerk magistrates who were associate county
9 judges and members of the fund at the time of their appointment as
10 clerk magistrates, (f) judges of municipal courts established by
11 Chapter 26, article 1, who served in such capacity on and after
12 October 23, 1967, and prior to July 1, 1985, and (g) judges of the
13 Court of Appeals;

14 (3) Prior service means all the periods of time any
15 person has served as a (a) judge of the Supreme Court or judge of the
16 district court prior to January 3, 1957, (b) judge of the county
17 court prior to January 5, 1961, (c) judge of the Nebraska Workmen's
18 Compensation Court prior to September 20, 1957, (d) judge of the
19 separate juvenile court, or (e) judge of the municipal court prior to
20 October 23, 1967;

21 (4)(a) Current service means the period of service (i)
22 any judge of the Supreme Court or judge of the district court serves
23 in such capacity from and after January 3, 1957, (ii)(A) any judge of
24 the Nebraska Workmen's Compensation Court served in such capacity
25 from and after September 20, 1957, and prior to July 17, 1986, and

1 (B) any judge of the Nebraska Workers' Compensation Court serves in
2 such capacity on and after July 17, 1986, (iii) any county judge
3 serves in such capacity from and after January 5, 1961, (iv) any
4 judge of a separate juvenile court serves in such capacity, (v) any
5 judge of the municipal court served in such capacity subsequent to
6 October 23, 1967, and prior to July 1, 1985, (vi) any judge of the
7 county court or associate county judge serves in such capacity
8 subsequent to January 4, 1973, (vii) any clerk magistrate, who was an
9 associate county judge and a member of the fund at the time of
10 appointment as a clerk magistrate, serves in such capacity from and
11 after July 1, 1986, and (viii) any judge of the Court of Appeals
12 serves in such capacity on or after September 6, 1991.

13 (b) Current service shall not be deemed to be interrupted
14 by (i) temporary or seasonal suspension of service that does not
15 terminate the employee's employment, (ii) leave of absence authorized
16 by the employer for a period not exceeding twelve months, (iii) leave
17 of absence because of disability, or (iv) military service, when
18 properly authorized by the board. Current service does not include
19 any period of disability for which disability retirement benefits are
20 received under section 24-709;

21 (5) Military service means active service of (a) any
22 judge of the Supreme Court or judge of the district court in any of
23 the armed forces of the United States during a war or national
24 emergency prior or subsequent to September 18, 1955, if such service
25 commenced while such judge was holding the office of judge, (b) any

1 judge of the Nebraska Workmen's Compensation Court or the Nebraska
2 Workers' Compensation Court in any of the armed forces of the United
3 States during a war or national emergency prior or subsequent to
4 September 20, 1957, if such service commenced while such judge was
5 holding the office of judge, (c) any judge of the municipal court in
6 any of the armed forces of the United States during a war or national
7 emergency prior or subsequent to October 23, 1967, and prior to July
8 1, 1985, if such service commenced while such judge was holding the
9 office of judge, (d) any judge of the county court or associate
10 county judge in any of the armed forces of the United States during a
11 war or national emergency prior or subsequent to January 4, 1973, if
12 such service commenced while such judge was holding the office of
13 judge, (e) any clerk magistrate, who was an associate county judge
14 and a member of the fund at the time of appointment as a clerk
15 magistrate, in any of the armed forces of the United States during a
16 war or national emergency on or after July 1, 1986, if such service
17 commenced while such clerk magistrate was holding the office of clerk
18 magistrate, and (f) any judge of the Court of Appeals in any of the
19 armed forces of the United States during a war or national emergency
20 on or after September 6, 1991, if such service commenced while such
21 judge was holding the office of judge. The board shall have the power
22 to determine when a national emergency exists or has existed for the
23 purpose of applying this definition and provision;

24 (6) Creditable service means the total number of years
25 served as a judge, including prior service, military service, and

1 current service, computed to the nearest one-twelfth year. For
2 current service prior to the time that the member has contributed the
3 required percentage of salary until the maximum benefit as limited by
4 section 24-710 has been earned, creditable service does not include
5 current service for which member contributions are not made or are
6 withdrawn and not repaid;

7 (7)(a) Compensation means the statutory salary of a judge
8 or the salary being received by such judge pursuant to law.
9 Compensation does not include compensation for unused sick leave or
10 unused vacation leave converted to cash payments, insurance premiums
11 converted into cash payments, reimbursement for expenses incurred,
12 fringe benefits, per diems, or bonuses for services not actually
13 rendered, including, but not limited to, early retirement
14 inducements, cash awards, and severance pay, except for retroactive
15 salary payments paid pursuant to court order, arbitration, or
16 litigation and grievance settlements. Compensation includes overtime
17 pay, member retirement contributions, and amounts contributed by the
18 member to plans under sections 125 and 457 of the Internal Revenue
19 Code as defined in section 49-801.01 or any other section of the code
20 which defers or excludes such amounts from income.

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

1 less than the amount which was allowed to be taken into account under
2 the retirement system as in effect on July 1, 1993;

3 (8) Beneficiary means a person so designated by a judge
4 in the last designation of beneficiary on file with the board or, if
5 no designated person survives or if no designation is on file, the
6 estate of such judge;

7 (9) Normal form annuity means a series of equal monthly
8 payments payable at the end of each calendar month during the life of
9 a retired judge as provided in sections 24-707 and 24-710, except as
10 provided in section 42-1107. The first payment shall include all
11 amounts accrued since the effective date of the award of the annuity.
12 The last payment shall be at the end of the calendar month in which
13 such judge dies. If at the time of death the amount of annuity
14 payments such judge has received is less than contributions to the
15 fund made by such judge, plus regular interest, the difference shall
16 be paid to the beneficiary or estate;

17 (10) Board means the Public Employees Retirement Board;

18 (11) Member means a judge eligible to participate in the
19 retirement system established under the Judges Retirement Act;

20 (12) Original member means a judge who first served as a
21 judge prior to December 25, 1969, who does not elect to become a
22 future member pursuant to subsection (8) of section 24-703 or section
23 24-710.01, and who was retired on or before December 31, 1992;

24 (13) Future member means a judge who first served as a
25 judge on or after December 25, 1969, or means a judge who first

1 served as a judge prior to December 25, 1969, who elects to become a
2 future member on or before June 30, 1970, as provided in subsection
3 (8) of section 24-703 or section 24-710.01;

4 (14) Final average compensation means the average monthly
5 compensation for the three twelve-month periods of service as a judge
6 in which compensation was the greatest or, in the event of a judge
7 serving less than three twelve-month periods, the average monthly
8 compensation for such judge's period of service;

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

15 (16) Normal retirement date means the first day of the
16 month following attainment of age sixty-five;

17 (17) Actuarial equivalence means the equality in value of
18 the aggregate amounts expected to be received under different forms
19 of payment. The determinations are to be based on the 1994 Group
20 Annuity Mortality Table reflecting sex-distinct factors blended using
21 seventy-five percent of the male table and twenty-five percent of the
22 female table. An interest rate of eight percent per annum shall be
23 reflected in making these determinations;

24 (18) Current benefit means the initial benefit increased
25 by all adjustments made pursuant to the Judges Retirement Act;

1 (19) Initial benefit means the retirement benefit
2 calculated at the time of retirement;

3 (20) Plan year means the twelve-month period beginning on
4 July 1 and ending on June 30 of the following year;

5 (21) Retirement application means the form approved and
6 provided by the retirement system for acceptance of a member's
7 request for either regular or disability retirement;

8 (22) Retirement date means (a) the first day of the month
9 following the date upon which a member's request for retirement is
10 received on a retirement application if the member is eligible for
11 retirement and has terminated employment or (b) the first day of the
12 month following termination of employment if the member is eligible
13 for retirement and has filed an application but has not yet
14 terminated employment;

15 ~~(21)~~(23) Retirement system or system means the Nebraska
16 Judges Retirement System as provided in the Judges Retirement Act;

17 ~~(22)~~(24) Surviving spouse means (a) the spouse married
18 to the member on the date of the member's death or (b) the spouse or
19 former spouse of the member if survivorship rights are provided under
20 a 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
25 the 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; and

4 ~~(23)~~(25) Termination of employment occurs on the date on
5 which the State Court Administrator's office determines that the
6 judge's employer-employee relationship with the State of Nebraska is
7 dissolved. The State Court Administrator's office shall notify the
8 board of the date on which such a termination has occurred.
9 Termination of employment does not include ceasing employment as a
10 judge if the judge returns to regular employment as a judge or is
11 employed on a regular basis by another agency of the State of
12 Nebraska and there are less than one hundred twenty days between the
13 date when the judge's employer-employee relationship ceased and the
14 date when the employer-employee relationship recommences. It is the
15 responsibility of the employer that is involved in the termination of
16 employment to notify the board of such change in employment and
17 provide the board with such information as the board deems necessary.
18 If the board determines that termination of employment has not
19 occurred and a retirement benefit has been paid to a member of the
20 retirement system pursuant to section 24-710, the board shall require
21 the member who has received such benefit to repay the benefit to the
22 retirement system.

23 Sec. 10. Section 24-703, Revised Statutes Cumulative
24 Supplement, 2012, is amended to read:

25 24-703 (1) Each original member shall contribute monthly

1 four percent of his or her monthly compensation to the fund until the
2 maximum benefit as limited in subsection (1) of section 24-710 has
3 been earned. It shall be the duty of the Director of Administrative
4 Services in accordance with subsection (10) of this section to make a
5 deduction of four percent on the monthly payroll of each original
6 member who is a judge of the Supreme Court, a judge of the Court of
7 Appeals, a judge of the district court, a judge of a separate
8 juvenile court, a judge of the county court, a clerk magistrate of
9 the county court who was an associate county judge and a member of
10 the fund at the time of his or her appointment as a clerk magistrate,
11 or a judge of the Nebraska Workers' Compensation Court showing the
12 amount to be deducted and its credit to the fund. The Director of
13 Administrative Services and the State Treasurer shall credit the four
14 percent as shown on the payroll and the amounts received from the
15 various counties to the fund and remit the same to the director in
16 charge of the judges retirement system who shall keep an accurate
17 record of the contributions of each judge.

18 (2)(a) In addition to the contribution required under
19 subdivision (c) of this subsection, beginning on July 1, 2004, each
20 future member who has not elected to make contributions and receive
21 benefits as provided in section 24-703.03 shall contribute monthly
22 six percent of his or her monthly compensation to the fund until the
23 maximum benefit as limited in subsection (2) of section 24-710 has
24 been earned. After the maximum benefit as limited in subsection (2)
25 of section 24-710 has been earned, such future member shall make no

1 further contributions to the fund, except that (i) any time the
2 maximum benefit is changed, a future member who has previously earned
3 the maximum benefit as it existed prior to the change shall
4 contribute monthly six percent of his or her monthly compensation to
5 the fund until the maximum benefit as changed and as limited in
6 subsection (2) of section 24-710 has been earned and (ii) such future
7 member shall continue to make the contribution required under
8 subdivision (c) of this subsection.

9 (b) In addition to the contribution required under
10 subdivision (c) of this subsection, beginning on July 1, 2004, a
11 judge who first serves as a judge on or after such date or a future
12 member who elects to make contributions and receive benefits as
13 provided in section 24-703.03 shall contribute monthly eight percent
14 of his or her monthly compensation to the fund until the maximum
15 benefit as limited by subsection (2) of section 24-710 has been
16 earned. In addition to the contribution required under subdivision
17 (c) of this subsection, after the maximum benefit as limited in
18 subsection (2) of section 24-710 has been earned, such judge or
19 future member shall contribute monthly four percent of his or her
20 monthly compensation to the fund for the remainder of his or her
21 active service.

22 (c) Beginning on July 1, 2009, and until July 1, 2014, a
23 member or judge described in subdivisions (a) and (b) of this
24 subsection shall contribute monthly an additional one percent of his
25 or her monthly compensation to the fund.

1 (d) It shall be the duty of the Director of
2 Administrative Services to make a deduction on the monthly payroll of
3 each such future member who is a judge of the Supreme Court, a judge
4 of the Court of Appeals, a judge of the district court, a judge of a
5 separate juvenile court, a judge of the county court, a clerk
6 magistrate of the county court who was an associate county judge and
7 a member of the fund at the time of his or her appointment as a clerk
8 magistrate, or a judge of the Nebraska Workers' Compensation Court
9 showing the amount to be deducted and its credit to the fund. This
10 shall be done each month. The Director of Administrative Services and
11 the State Treasurer shall credit the amount as shown on the payroll
12 and the amounts received from the various counties to the fund and
13 remit the same to the director in charge of the judges retirement
14 system who shall keep an accurate record of the contributions of each
15 judge.

16 (3) Except as otherwise provided in this subsection, a
17 Nebraska Retirement Fund for Judges fee of five dollars shall be
18 taxed as costs in each (a) civil cause of action, criminal cause of
19 action, traffic misdemeanor or infraction, and city or village
20 ordinance violation filed in the district courts, the county courts,
21 and the separate juvenile courts, (b) filing in the district court of
22 an order, award, or judgment of the Nebraska Workers' Compensation
23 Court or any judge thereof pursuant to section 48-188, (c) appeal or
24 other proceeding filed in the Court of Appeals, and (d) original
25 action, appeal, or other proceeding filed in the Supreme Court.

1 Beginning on July 1, 2009, and until July 1, 2014, such fee shall be
2 six dollars. In county courts a sum shall be charged which is equal
3 to ten percent of each fee provided by sections 33-125, 33-126.02,
4 33-126.03, and 33-126.06, rounded to the nearest even dollar. No
5 judges retirement fee shall be charged for filing a report pursuant
6 to sections 33-126.02 and 33-126.06. When collected by the clerk of
7 the district or county court, such fees shall be paid and information
8 submitted to the director in charge of the judges retirement system
9 on forms prescribed by the board by the clerk within ten days after
10 the close of each calendar quarter. The board may charge a late
11 administrative processing fee not to exceed twenty-five dollars if
12 the information is not timely received or the money is delinquent. In
13 addition, the board may charge a late fee of thirty-eight thousandths
14 of one percent of the amount required to be submitted pursuant to
15 this section for each day such amount has not been received. Such
16 director shall promptly thereafter remit the same to the State
17 Treasurer for credit to the fund. No Nebraska Retirement Fund for
18 Judges fee which is uncollectible for any reason shall be waived by a
19 county judge as provided in section 29-2709.

20 (4) All expenditures from the fund shall be authorized by
21 voucher in the manner prescribed in section 24-713. The fund shall be
22 used for the payment of all annuities and other benefits and for the
23 expenses of administration.

24 (5) The fund shall consist of the total fund as of
25 December 25, 1969, the contributions of members as provided in this

1 section, all supplementary court fees as provided in subsection (3)
2 of this section, and any required contributions of the state.

3 (6) Not later than January 1 of each year, the State
4 Treasurer shall transfer to the fund the amount certified by the
5 board as being necessary to pay the cost of any benefits accrued
6 during the fiscal year ending the previous June 30 in excess of
7 member contributions for that fiscal year and court fees as provided
8 in subsection (3) of this section and fees pursuant to sections
9 25-2804, 33-103, 33-103.01, 33-106, 33-106.02, 33-123, 33-125,
10 33-126.02, 33-126.03, and 33-126.06 and directed to be remitted to
11 the fund, if any, for that fiscal year plus any required
12 contributions of the state as provided in subsection (9) of this
13 section.

14 (7) Benefits under the retirement system to members or to
15 their beneficiaries shall be paid from the fund.

16 (8) Any member who is making contributions to the fund on
17 December 25, 1969, may, on or before June 30, 1970, elect to become a
18 future member by delivering written notice of such election to the
19 board.

20 (9) Not later than January 1 of each year, the State
21 Treasurer shall transfer to the fund an amount, determined on the
22 basis of an actuarial valuation as of the previous June 30 and
23 certified by the board, to fully fund the unfunded accrued
24 liabilities of the retirement system as of June 30, 1988, by level
25 payments up to January 1, 2000. Such valuation shall be on the basis

1 of actuarial assumptions recommended by the actuary, approved by the
2 board, and kept on file with the board. For the fiscal year beginning
3 July 1, 2002, and each fiscal year thereafter, the actuary for the
4 board shall perform an actuarial valuation of the system using the
5 entry age actuarial cost method. Under this method, the actuarially
6 required funding rate is equal to the normal cost rate, plus the
7 contribution rate necessary to amortize the unfunded actuarial
8 accrued liability on a level payment basis. The normal cost under
9 this method shall be determined for each individual member on a level
10 percentage of salary basis. The normal cost amount is then summed for
11 all members. The initial unfunded actual accrued liability as of July
12 1, 2002, if any, shall be amortized over a twenty-five-year period.
13 Prior to July 1, 2006, changes in the funded actuarial accrued
14 liability due to changes in benefits, actuarial assumptions, the
15 asset valuation method, or actuarial gains or losses shall be
16 measured and amortized over a twenty-five-year period beginning on
17 the valuation date of such change. Beginning July 1, 2006, any
18 existing unfunded liabilities shall be reinitialized and amortized
19 over a thirty-year period, and during each subsequent actuarial
20 valuation, changes in the funded actuarial accrued liability due to
21 changes in benefits, actuarial assumptions, the asset valuation
22 method, or actuarial gains or losses shall be measured and amortized
23 over a thirty-year period beginning on the valuation date of such
24 change. If the unfunded actuarial accrued liability under the entry
25 age actuarial cost method is zero or less than zero on an actuarial

1 valuation date, then all prior unfunded actuarial accrued liabilities
2 shall be considered fully funded and the unfunded actuarial accrued
3 liability shall be reinitialized and amortized over a thirty-year
4 period as of the actuarial valuation date. If the actuarially
5 required contribution rate exceeds the rate of all contributions
6 required pursuant to the Judges Retirement Act, there shall be a
7 supplemental appropriation sufficient to pay for the differences
8 between the actuarially required contribution rate and the rate of
9 all contributions required pursuant to the Judges Retirement Act.

10 (10) The state or county shall pick up the member
11 contributions required by this section for all compensation paid on
12 or after January 1, 1985, and the contributions so picked up shall be
13 treated as employer contributions pursuant to section 414(h)(2) of
14 the Internal Revenue Code in determining federal tax treatment under
15 the ~~Internal Revenue Code as defined in section 49-801.01, except~~
16 ~~that the state or county shall continue to withhold federal income~~
17 ~~taxes based upon these contributions until the Internal Revenue~~
18 ~~Service or the federal courts rule that, pursuant to section 414(h)~~
19 ~~of the code, these contributions~~ code and shall not be included as
20 gross income of the member until such time as they are distributed or
21 made available. The contributions, although designated as member
22 contributions, shall be paid by the employing unit in lieu of member
23 contributions. The state or county shall pay these member
24 contributions from the same source of funds which is used in paying
25 earnings to the member. The state or county shall pick up these

1 contributions by a compensation deduction through a reduction in the
2 compensation of the member. Member contributions picked up shall be
3 treated for all purposes of the Judges Retirement Act in the same
4 manner and to the extent as member contributions made prior to the
5 date picked up.

6 Sec. 11. Section 24-710.13, Revised Statutes Cumulative
7 Supplement, 2012, is amended to read:

8 24-710.13 (1) Beginning July 1, 2011, and each July 1
9 thereafter, the board shall determine the number of retired members
10 or beneficiaries described in subdivision (4)(b) of this section in
11 the retirement system and an annual benefit adjustment shall be made
12 by the board for each retired member or beneficiary under one of the
13 cost-of-living adjustment calculation methods found in subsection
14 (2), (3), or (4) of this section. Each retired member or beneficiary,
15 if eligible, shall receive an annual benefit adjustment under the
16 cost-of-living adjustment calculation method that provides the
17 retired member or beneficiary the greatest annual benefit adjustment
18 increase. No retired member or beneficiary shall receive an annual
19 benefit adjustment under more than one of the cost-of-living
20 adjustment calculation methods provided in this section.

21 (2) The current benefit paid to a retired member or
22 beneficiary under this subsection shall be adjusted so that the
23 purchasing power of the benefit being paid is not less than seventy-
24 five percent of the purchasing power of the initial benefit. The
25 purchasing power of the initial benefit in any year following the

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

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

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

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

8 (b) In order for a retired member or beneficiary to
9 receive the cost-of-living adjustment calculation method provided in
10 this subsection, the retired member or beneficiary shall be (i) a
11 retired member or beneficiary who has been receiving a retirement
12 benefit for at least five years if the member had at least twenty-
13 five years of creditable service, (ii) a member who has been
14 receiving a disability retirement benefit for at least five years
15 pursuant to section 24-709, or (iii) a beneficiary who has been
16 receiving a death benefit pursuant to section 24-707 or 24-707.01 for
17 at least five years, if the member's or beneficiary's monthly accrual
18 rate is less than or equal to the minimum accrual rate as determined
19 by this subsection.

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

24 (d) The total monthly benefit under this subsection is
25 the total benefit received by a retired member or beneficiary

1 pursuant to the Judges Retirement Act and previous adjustments made
2 pursuant to this section or any other provision of the act that
3 grants a benefit or cost-of-living increase, but the total monthly
4 benefit shall not include sums received by an eligible retired member
5 or eligible beneficiary from federal sources.

6 (e) The minimum accrual rate under this subsection is
7 ~~forty five dollars and thirty cents~~ forty-six dollars and eighty-
8 seven cents until adjusted pursuant to this subsection. Beginning
9 July 1, ~~2011,~~ 2013, the board shall annually adjust the minimum
10 accrual rate to reflect the cumulative percentage change in the
11 Consumer Price Index for Urban Wage Earners and Clerical Workers from
12 the last adjustment of the minimum accrual rate.

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

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

1 the member expires.

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

13 (8) The state shall contribute to the Nebraska Retirement
14 Fund for Judges an annual level dollar payment certified by the
15 board. For the 2011-12 fiscal year through the 2012-13 fiscal year,
16 the annual level dollar payment certified by the board shall equal
17 1.04778 percent of six million eight hundred ninety-five thousand
18 dollars.

19 Sec. 12. Section 79-902, Revised Statutes Cumulative
20 Supplement, 2012, is amended to read:

21 79-902 For purposes of the School Employees Retirement
22 Act, unless the context otherwise requires:

23 (1) Accumulated contributions means the sum of all
24 amounts deducted from the compensation of a member and credited to
25 his or her individual account in the School Retirement Fund together

1 with regular interest thereon, compounded monthly, quarterly,
2 semiannually, or annually;

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

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

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

14 (5) Creditable service means prior service for which
15 credit is granted under sections 79-926 to 79-929, service credit
16 purchased under sections 79-933.03 to 79-933.06 and 79-933.08, and
17 all service rendered while a contributing member of the retirement
18 system. Creditable service includes working days, sick days, vacation
19 days, holidays, and any other leave days for which the employee is
20 paid regular wages as part of the employee's agreement with the
21 employer. Creditable service does not include lump-sum payments to
22 the employee upon termination or retirement in lieu of accrued
23 benefits for such days, eligibility and vesting credit, nor service
24 years for which member contributions are withdrawn and not repaid.
25 Creditable service also does not include service rendered by a member

1 for which the retirement board determines that the member was paid
2 less in compensation than the minimum wage as provided in the Wage
3 and Hour Act or service which the board determines was rendered with
4 the intent to defraud the retirement system;

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

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

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

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

17 (10) School employee means a contributing member who
18 earns service credit pursuant to section 79-927. For purposes of this
19 section, contributing member means the following persons who receive
20 compensation from a public school: (a) Regular employees; (b) regular
21 employees having retired pursuant to the School Employees Retirement
22 Act who subsequently provide compensated service on a regular basis
23 in any capacity; and (c) regular employees hired by a public school
24 on an ongoing basis to assume the duties of other regular employees
25 who are temporarily absent. Substitute employees, temporary

1 employees, and employees who have not attained the age of eighteen
2 years shall not be considered school employees;

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

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

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

22 (14) Retirement board or board means the Public Employees
23 Retirement Board;

24 (15) Retirement system means the School Employees
25 Retirement System of the State of Nebraska;

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

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

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

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

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

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

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

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

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

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

1 official or county school official subsequent to such retirement, and
2 (c) who has applied to the board for emeritus membership in the
3 retirement system. The school district or agency shall certify to the
4 retirement board on forms prescribed by the retirement board that the
5 annuitant was reemployed, rendered a service, and was paid by the
6 district or agency for such services;

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

18 (26) Retirement date means (a) if the member has
19 terminated employment, the first day of the month following the date
20 upon which a member's request for retirement is received on a
21 retirement application provided by the retirement system or (b) if
22 the member has filed ~~an~~ a retirement application but has not yet
23 terminated employment, the first day of the month following the date
24 on which the member terminates employment. An application may be
25 filed no more than ~~ninety-one hundred twenty~~ ninety-one hundred twenty days prior to the

1 effective date of the member's initial benefit;

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

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

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

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

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

24 (c) Payments under the Retirement Incentive Plan pursuant
25 to section 79-855 and Staff Development Assistance pursuant to

1 section 79-856 shall not be included in the determination of final
2 average compensation;

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

5 (32) Current benefit means the initial benefit increased
6 by all adjustments made pursuant to the School Employees Retirement
7 Act;

8 (33) Initial benefit means the retirement benefit
9 calculated at the time of retirement;

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

22 (35)(a) Compensation means gross wages or salaries
23 payable to the member for personal services performed during the plan
24 year and includes (i) overtime pay, (ii) member retirement
25 contributions, (iii) retroactive salary payments paid pursuant to

1 court order, arbitration, or litigation and grievance settlements,
2 and (iv) amounts contributed by the member to plans under sections
3 125, 403(b), and 457 of the Internal Revenue Code as defined in
4 section 49-801.01 or any other section of the code which defers or
5 excludes such amounts from income.

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

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

24 (d)(i) For purposes of section 79-934, in the
25 determination of compensation for members on or after July 1, 2005,

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

16 (ii) For purposes of subdivision (35)(d) of this section:

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

21 (B) Compensation base means (I) for current members,
22 employed with the same employer, the member's compensation for the
23 plan year ending June 30, 2005, or (II) for members newly hired or
24 hired by a separate employer on or after July 1, 2005, the member's
25 compensation for the first full plan year following the member's date

1 of hiring. Thereafter, the member's compensation base shall be
2 increased each plan year by the lesser of seven percent of the
3 member's preceding plan year's compensation base or the member's
4 actual annual compensation increase during the preceding plan year;
5 and

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

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

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

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

20 (B) Compensation base means (I) for current members,
21 ~~employed with the same employer,~~ the member's compensation for the
22 plan year ending June 30, ~~2012, 2007,~~ or (II) for members newly hired
23 ~~or hired by a separate employer on or after July 1, 2012, 2007,~~ the
24 member's compensation for the first full plan year following the
25 member's date of hiring. Thereafter, the member's compensation base

1 shall be increased each plan year by the lesser of nine percent of
2 the member's preceding plan year's compensation base or the member's
3 actual annual compensation increase during the preceding plan year.

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

10 (ii) For purposes of subdivision (35)(f) of this section,
11 compensation ~~÷ (A) Category of school employee means either all~~
12 ~~employees of the employer who are administrators or certificated~~
13 ~~teachers, or all employees of the employer who are not administrators~~
14 ~~or certificated teachers, or both; and (B) Compensation base means~~
15 ~~(I) (A) for current members, employed with the same employer, the~~
16 ~~member's compensation for the plan year ending June 30, 2013, or (II)~~
17 2008, or (B) for members newly hired or hired by a separate employer
18 on or after July 1, 2013, 2008, the member's compensation for the
19 first full plan year following the member's date of hiring.
20 Thereafter, the member's compensation base shall be increased each
21 plan year by the lesser of eight percent of the member's preceding
22 plan year's compensation base or the member's actual annual
23 compensation increase during the preceding plan year;

24 (36) Termination of employment occurs on the date on
25 which the member experiences a bona fide separation from service of

1 employment with the member's employer, the date of which separation
2 is determined by the end of the member's contractual agreement or, if
3 there is no contract or only partial fulfillment of a contract, by
4 the employer. ~~The employer shall notify the board of the date on~~
5 ~~which such a termination has occurred. It is the responsibility of~~
6 ~~the employer that is involved in the termination of employment to~~
7 ~~notify the board of such change in employment and provide the board~~
8 ~~with such information as the board deems necessary. If the board~~
9 ~~determines that termination of employment has not occurred and a~~
10 ~~retirement benefit has been paid to a member of the retirement system~~
11 ~~pursuant to section 79-933, the board shall require the member who~~
12 ~~has received such benefit to repay the benefit to the retirement~~
13 ~~system.~~ A member shall not be deemed to have terminated employment if
14 the member subsequently provides service to any employer
15 participating in the retirement system provided for in the School
16 Employees Retirement Act within one hundred eighty calendar days
17 after ceasing employment unless such service:

18 (a) ~~Is bona~~ Bona fide unpaid voluntary service or
19 ~~substitute service, provided on an intermittent basis; or that is~~
20 provided at least sixty days following termination;

21 (b) Intermittent substitute service used to cover any
22 temporary absence of a regular employee that is provided at least
23 sixty days following termination and such substitute service does not
24 exceed one hundred twenty cumulative hours under any plan employer.
25 The employee is responsible for maintaining a record of the

1 employee's reported cumulative hours of substitute service for every
2 employer pursuant to this subdivision; or

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

5 A member shall not be deemed to have terminated
6 employment if the board determines that a ~~purported~~ claimed
7 termination ~~was is false and was not~~ a bona fide separation from
8 service with the employer or that a member was compensated for a full
9 contractual period when the member terminated prior to the end date
10 of the contract;

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~~ a temporary absence of ~~the~~ any regular
18 employees. Substitute employee does not mean a person hired as a
19 regular employee on an ongoing basis to assume the duties of other
20 regular 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 more than five hundred hours within a~~
8 ~~plan year shall, beginning with the next full payroll period,~~
9 ~~commence contributions and shall be deemed a regular employee for all~~
10 ~~future employment with the same employer; and~~

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

17 Sec. 13. Section 79-904.01, Revised Statutes Cumulative
18 Supplement, 2012, is amended to read:

19 79-904.01 (1) If the board determines that the retirement
20 system has previously received contributions or distributed benefits
21 which for any reason are not in accordance with the statutory
22 provisions of the School Employees Retirement Act, the board ~~shall~~
23 may refund contributions, require additional contributions, adjust
24 benefits, or require repayment of benefits paid. In the event of an
25 overpayment of a benefit, the board may, in addition to other

1 remedies, offset future benefit payments by the amount of the prior
2 overpayment, together with regular interest thereon. In the event of
3 ~~an a material~~ underpayment of a benefit, the board shall immediately
4 make payment equal to the deficit amount plus regular interest.

5 (2) If the board determines that termination of
6 employment has not occurred and a retirement benefit has been paid to
7 a member of the retirement system pursuant to section 79-933, such
8 member shall repay the benefit to the retirement system.

9 ~~(2)-(3)~~ The board shall adopt and promulgate rules and
10 regulations implementing this section, which shall include, but not
11 be limited to, the following: (a) The procedures for refunding
12 contributions, adjusting future contributions or benefit payments,
13 and requiring additional contributions or repayment of benefits; (b)
14 the process for a member, member's beneficiary, employee, or employer
15 to dispute an adjustment of contributions or benefits; and (c) notice
16 provided to all affected persons. All notices shall be sent at the
17 time of or prior to an adjustment and shall describe the process for
18 disputing an adjustment of contributions or benefits.

19 ~~(3)-(4)~~ The board shall not refund contributions made on
20 compensation in excess of the limitations imposed by subdivision (35)
21 of section 79-902.

22 Sec. 14. Section 79-917, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 79-917 Within the first ~~thirty one hundred eighty~~ days of
25 employment, a school employee may apply to the board for eligibility

1 and vesting credit for years of participation in another Nebraska
2 governmental plan, as defined by section 414(d) of the Internal
3 Revenue Code. During the years of participation in the other Nebraska
4 governmental plan, the employee must have been a full-time or a part-
5 time employee as defined in the Nebraska governmental plan in which
6 the credit was earned. Such credit shall not be included as years of
7 service in the benefit calculation. The board may adopt and
8 promulgate rules and regulations governing the assessment and
9 granting of eligibility and vesting credit.

10 Sec. 15. Section 79-921, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 79-921 (1) The membership of any person in the retirement
13 system shall cease only if he or she (a) withdraws his or her
14 accumulated contributions under section 79-955, (b) retires on a
15 school or formula or disability retirement allowance, or (c) dies.

16 (2) The employer shall notify the board of the date upon
17 which a termination has occurred. It is the responsibility of the
18 employer that is involved in the termination of employment to notify
19 the board of such change in employment and provide the board with
20 such information as the board deems necessary.

21 ~~(2)~~—(3) The retirement board shall reinstate to
22 membership, with the same status as when such membership ceased, a
23 school employee who has withdrawn his or her accumulated
24 contributions under the following conditions:

25 (a) If he or she again becomes an employee and if such

1 employee chooses within three years after rejoining the system to
2 repay, within five years after the date on which he or she rejoins
3 the retirement system or prior to termination of employment,
4 whichever is first, to the retirement board part or all of the amount
5 he or she has withdrawn plus interest which would have accrued on
6 that amount under the retirement system; or

7 (b) If, more than three years after again becoming an
8 employee and rejoining the system but prior to termination of
9 employment, he or she chooses to repay part or all of the amount he
10 or she has withdrawn, plus an amount equal to the actuarial assumed
11 rate of return for the period repaid. Payment must be completed
12 within five years after electing to repay or prior to termination,
13 whichever is earlier.

14 ~~(3)~~(4) Prior creditable service shall be restored in
15 proportion to the amounts repaid. A member's prior creditable service
16 shall be fully restored only if the member has repaid all accumulated
17 withdrawals in accordance with either subdivision ~~(2)(a) or (2)(b)~~
18 (3)(a) or (3)(b) of this section, as applicable. Repayment may be
19 made through direct payment, installment payments, or an irrevocable
20 payroll deduction authorization. If the school employee chooses not
21 to repay such withdrawals with interest, the school employee shall
22 enter the system as a new member with no prior rights.

23 Sec. 16. Section 79-947.06, Revised Statutes Cumulative
24 Supplement, 2012, is amended to read:

25 79-947.06 (1) Beginning July 1, 2011, and each July 1

1 thereafter, the board shall determine the number of retired members
2 or beneficiaries described in subdivision (4)(b) of this section in
3 the retirement system and an annual benefit adjustment shall be made
4 by the board for each retired member or beneficiary under one of the
5 cost-of-living adjustment calculation methods found in subsection
6 (2), (3), or (4) of this section. Each retired member or beneficiary,
7 if eligible, shall receive an annual benefit adjustment under the
8 cost-of-living adjustment calculation method that provides the
9 retired member or beneficiary the greatest annual benefit adjustment
10 increase. No retired member or beneficiary shall receive an annual
11 benefit adjustment under more than one of the cost-of-living
12 adjustment calculation methods provided in this section.

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

1 applying the adjustment provided in subsection (3) of this section
2 results in a benefit which would be less than seventy-five percent of
3 the purchasing power of the initial benefit as calculated in this
4 subsection, the adjustment shall instead be equal to the percentage
5 change in the Consumer Price Index for Urban Wage Earners and
6 Clerical Workers factor from the prior year to the current year.

7 (3) The current benefit paid to a retired member or
8 beneficiary under this subsection shall be increased annually by the
9 lesser of (a) the percentage change in the Consumer Price Index for
10 Urban Wage Earners and Clerical Workers for the period between June
11 30 of the prior year to June 30 of the present year or (b) two and
12 one-half percent.

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

25 (b) In order for a retired member or beneficiary to

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

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

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

23 (e) The minimum accrual rate under this subsection is
24 ~~twenty three dollars and thirty two cents~~ twenty-four dollars and
25 eleven cents until adjusted pursuant to this subsection. Beginning

1 July 1, ~~2011,~~2013, the board shall annually adjust the minimum
2 accrual rate to reflect the cumulative percentage change in the
3 Consumer Price Index for Urban Wage Earners and Clerical Workers from
4 the last adjustment of the minimum accrual rate.

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

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

19 (7) The board shall adjust the annual benefit adjustment
20 provided in this section so that the cost-of-living adjustment
21 provided to the retired member or beneficiary at the time of the
22 annual benefit adjustment does not exceed the change in the Consumer
23 Price Index for Urban Wage Earners and Clerical Workers for the
24 period between June 30 of the prior year to June 30 of the present
25 year. If the consumer price index used in this section is

1 discontinued or replaced, a substitute index published by the United
2 States Department of Labor shall be selected by the board which shall
3 be a reasonable representative measurement of the cost-of-living for
4 retired employees.

5 (8) The state shall contribute to the Annuity Reserve
6 Fund an annual level dollar payment certified by the board. For the
7 2011-12 fiscal year through the 2012-13 fiscal year, the annual level
8 dollar payment certified by the board shall equal 81.7873 percent of
9 six million eight hundred ninety-five thousand dollars.

10 Sec. 17. Section 79-956, Revised Statutes Cumulative
11 Supplement, 2012, is amended to read:

12 79-956 (1) If a member dies before his or her retirement
13 date, his or her accumulated contributions shall be paid to his or
14 her estate, to an alternate payee pursuant to a qualified domestic
15 relations order as provided in section 42-1107, or to the person he
16 or she has nominated by designation duly executed and filed with the
17 retirement board. Except for payment to an alternative payee pursuant
18 to a qualified domestic relations order, if no legal representative
19 or beneficiary applies for such accumulated contributions within five
20 years following the date of the deceased member's death, the
21 contributions shall be distributed in accordance with the Uniform
22 Disposition of Unclaimed Property Act.

23 (2) When the deceased member has twenty years or more of
24 creditable service regardless of age or dies on or after his or her
25 sixty-fifth birthday and leaves a surviving spouse who has been

1 designated as beneficiary and who, as of the date of the member's
2 death, is the sole surviving primary beneficiary, such beneficiary
3 may elect, within twelve months after the death of the member, to
4 receive (a) a refund of the member's contribution account balance,
5 including interest, plus an additional one hundred one percent of the
6 member's contribution account balance, including interest, or (b) an
7 annuity which shall be equal to the amount that would have accrued to
8 the member had he or she elected to have the retirement annuity paid
9 as a one-hundred-percent joint and survivor annuity payable as long
10 as either the member or the member's spouse should survive and had
11 the member retired (i) on the date of death if his or her age at
12 death is sixty-five years or more or (ii) at age sixty-five years if
13 his or her age at death is less than sixty-five years.

14 (3) When the deceased member who was a school employee on
15 or after May 1, 2001, has not less than five years of creditable
16 service and less than twenty years of creditable service and dies
17 before his or her sixty-fifth birthday and leaves a surviving spouse
18 who has been designated in writing as beneficiary and who, as of the
19 date of the member's death, is the sole surviving primary
20 beneficiary, such beneficiary may elect, within twelve months after
21 the death of the member, to receive (a) a refund of the member's
22 contribution account balance with interest plus an additional one
23 hundred one percent of the member's contribution account balance with
24 interest or (b) an annuity payable monthly for the surviving spouse's
25 lifetime which shall be equal to the benefit amount that had accrued

1 to the member at the date of the member's death, commencing when the
2 member would have reached age sixty, or the member's age at death if
3 greater, reduced by three percent for each year payments commence
4 before the member would have reached age sixty-five, and adjusted for
5 payment in the form of a one-hundred-percent joint and survivor
6 annuity.

7 (4) If the requirements of subsection (2) or (3) of this
8 section are not met, then the beneficiary or the estate, if the
9 member has not filed a statement with the board naming a beneficiary,
10 shall be paid a lump sum equal to all contributions to the fund made
11 by such member plus regular interest, except that commencing on
12 January 1, 2006, an application for benefits under subsection (2) or
13 (3) of this section shall be deemed to have been timely filed if the
14 application is received by the retirement system within twelve months
15 after the date of the death of the member.

16 (5) Benefits to which a surviving spouse, beneficiary, or
17 estate of a member shall be entitled pursuant to this section shall
18 commence immediately upon the death of such member.

19 (6) A lump-sum death benefit paid to the member's
20 beneficiary, other than the member's estate, that is an eligible
21 distribution may be distributed in the form of a direct transfer to a
22 retirement plan eligible to receive such transfer under the
23 provisions of the Internal Revenue Code.

24 (7) For any member whose death occurs on or after January
25 1, 2007, while performing qualified military service as defined in

1 section 414(u) of the Internal Revenue Code, the member's beneficiary
2 shall be entitled to any additional death benefit that would have
3 been provided, other than the accrual of any benefit relating to the
4 period of qualified military service. The additional death benefit
5 shall be determined as if the member had returned to employment with
6 the employer and such employment had terminated on the date of the
7 member's death.

8 Sec. 18. Section 79-958, Revised Statutes Cumulative
9 Supplement, 2012, is amended to read:

10 79-958 (1) Beginning on September 1, 2009, and ending
11 August 31, 2011, for the purpose of providing the funds to pay for
12 formula annuities, every employee shall be required to deposit in the
13 School Retirement Fund eight and twenty-eight hundredths percent of
14 compensation. Beginning on September 1, 2011, and ending August 31,
15 2012, for the purpose of providing the funds to pay for formula
16 annuities, every employee shall be required to deposit in the School
17 Retirement Fund eight and eighty-eight hundredths percent of
18 compensation. Beginning on September 1, 2012, and ending August 31,
19 2017, for the purpose of providing the funds to pay for formula
20 annuities, every employee shall be required to deposit in the School
21 Retirement Fund nine and seventy-eight hundredths percent of
22 compensation. Beginning on September 1, 2017, for the purpose of
23 providing the funds to pay for formula annuities, every employee
24 shall be required to deposit in the School Retirement Fund seven and
25 twenty-eight hundredths percent of compensation. Such deposits shall

1 be transmitted at the same time and in the same manner as required
2 employer contributions.

3 (2) For the purpose of providing the funds to pay for
4 formula annuities, every employer shall be required to deposit in the
5 School Retirement Fund one hundred one percent of the required
6 contributions of the school employees of each employer. Such deposits
7 shall be transmitted to the retirement board at the same time and in
8 the same manner as such required employee contributions.

9 (3) The employer shall pick up the member contributions
10 required by this section for all compensation paid on or after
11 January 1, 1986, and the contributions so picked up shall be treated
12 as employer contributions pursuant to section 414(h)(2) of the
13 Internal Revenue Code in determining federal tax treatment under the
14 ~~Internal Revenue Code as defined in section 49-801.01, except that~~
15 ~~the employer shall continue to withhold federal income taxes based~~
16 ~~upon these contributions until the Internal Revenue Service or the~~
17 ~~federal courts rule that, pursuant to section 414(h) of the code,~~
18 ~~these contributions code and~~ shall not be included as gross income of
19 the member until such time as they are distributed or made available.
20 The contributions, although designated as member contributions, shall
21 be paid by the employing unit in lieu of member contributions. The
22 employer shall pay these member contributions from the same source of
23 funds which is used in paying earnings to the member. The employer
24 shall pick up these contributions by a compensation deduction through
25 a reduction in the cash compensation of the member. Member

1 contributions picked up shall be treated for all purposes of the
2 School Employees Retirement Act in the same manner and to the same
3 extent as member contributions made prior to the date picked up.

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

10 Sec. 19. Section 79-962, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 79-962 Every contract of employment with a school
13 employee shall specify (1) the contractual period of employment,
14 including the starting and ending dates of the contract, and (2) that
15 it is subject to the provisions of the School Employees Retirement
16 Act.

17 Sec. 20. Section 79-984, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 79-984 The board of education or Class V Retirement
20 System Board shall contract for the services of an actuary who shall
21 be the technical advisor of the board and the trustees on matters
22 regarding the operation of the retirement system. The actuary shall
23 (1) make a general investigation of the operation of the retirement
24 system ~~at least once in every three years,~~ annually, which
25 investigation shall cover mortality, retirement, disability,

1 employment, turnover, interest, and earnable compensation, and (2)
2 recommend tables to be used for all required actuarial calculations.
3 The actuary shall perform such other duties as may be assigned by the
4 board.

5 Sec. 21. Section 79-987, Revised Statutes Cumulative
6 Supplement, 2012, is amended to read:

7 79-987 (1) An annual audit of the affairs of the
8 retirement system shall be conducted. At the option of the board,
9 such audit may be conducted by a certified public accountant or the
10 Auditor of Public Accounts. The costs of such audit shall be paid
11 from funds of the retirement system. A copy of such audit shall be
12 filed with the Auditor of Public Accounts.

13 (2) Beginning March 31, 2012, and each March 31
14 thereafter, if such retirement plan is a defined benefit plan, the
15 trustees of a retirement system established pursuant to section
16 79-979 shall cause to be prepared an annual report and the
17 administrator shall file the same with the Public Employees
18 Retirement Board and submit to the members of the Nebraska Retirement
19 Systems Committee of the Legislature a copy of such report. The
20 report submitted to the committee shall be submitted electronically.
21 The report shall consist of a full actuarial analysis of each such
22 retirement plan established pursuant to section 79-979. The analysis
23 shall be prepared by an independent private organization or public
24 entity employing actuaries who are members ~~in good standing~~ of the
25 American Academy of Actuaries and meet the academy's qualification

1 standards to render a statement of actuarial opinion, and which
2 organization or entity has demonstrated expertise to perform this
3 type of analysis and is unrelated to any organization offering
4 investment advice or which provides investment management services to
5 the retirement plan.

6 Sec. 22. Section 79-990, Revised Statutes Cumulative
7 Supplement, 2012, is amended to read:

8 79-990 (1) Any member who is eligible for reemployment on
9 or after December 12, 1994, pursuant to 38 U.S.C. 4301 et seq., as
10 adopted under section 55-161, or who is eligible for reemployment
11 under section 55-160 may pay to the retirement system after the date
12 of his or her return from active military service, and within the
13 period required by law, not to exceed five years, an amount equal to
14 the sum of all deductions which would have been made from the salary
15 which he or she would have received during the period of military
16 service for which creditable service is desired. If such payment is
17 made, the member shall be entitled to credit for membership service
18 in determining his or her annuity for the period for which
19 contributions have been made and the board shall be responsible for
20 any funding necessary to provide for the benefit which is
21 attributable to this increase in the member's creditable service. The
22 member's payments shall be paid as the trustees may direct, through
23 direct payments to the retirement system or on an installment basis
24 pursuant to a binding irrevocable payroll deduction authorization
25 between the member and the school district. Creditable service may be

1 purchased only in one-tenth-year increments, starting with the most
2 recent years' salary.

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

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

21 (3) Until one year after May 2, 2001, any member
22 currently employed by the school district who resigned from full-time
23 employment with the school district for maternity purposes prior to
24 September 1, 1979, and was reemployed as a full-time employee by the
25 school district before the end of the school year following the

1 school year of such member's resignation may have such absence
2 treated as though the absence was a leave of absence described in
3 subsection (2) of this section. The period of such absence for
4 maternity purposes shall be included in creditable service when
5 determining the member's eligibility for death, disability,
6 termination, and retirement benefits if the member submits
7 satisfactory proof to the board that the prior resignation was for
8 maternity purposes and the member complies with the payment
9 provisions of subsection (2) of this section before the one-year
10 anniversary of May 2, 2001.

11 Sec. 23. Section 79-991, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 79-991 (1) An employee who becomes a member without prior
14 service credit may purchase prior service credit, not to exceed the
15 lesser of ten years or the member's years of membership service, for
16 the period of service the member was employed by a school district or
17 by an educational service unit and which is not used in the
18 calculation of any retirement or disability benefit having been paid,
19 being paid, or payable in the future to such member under any defined
20 benefit retirement system or program maintained by such other school
21 district or educational service unit. The purchase of prior service
22 credit shall be made in accordance with and subject to the following
23 requirements:

24 (a) A member who desires to purchase prior service credit
25 shall make written application to the administrator of the retirement

1 system that includes all information and documentation determined by
2 the administrator as necessary to verify the member's prior service
3 and qualification to purchase the prior service credit. Such
4 application shall include the member's written authorization for the
5 administrator to request and receive from any of the member's former
6 employers verification of the member's prior service, salary, and
7 other information for determining the member's eligibility to
8 purchase prior service credit. Before prior service credit may be
9 purchased, the administrator shall have received verification of the
10 member's salary in each year with the other school district or
11 educational service unit and confirmation that the prior service to
12 be purchased by the member is not also credited in the calculation of
13 a retirement or disability benefit for such member under another
14 defined benefit retirement system or program. The member's
15 application to purchase prior service credit may be made at any time
16 before the fifth anniversary of the member's membership in the
17 retirement system or, if earlier, the member's termination of
18 employment with the school district;

19 (b) The member shall pay to the retirement system the
20 total amount he or she would have contributed to the retirement
21 system had he or she been a member of the retirement system during
22 the period for which prior service is being purchased, together with
23 ~~regular~~ interest thereon as determined using the rate of interest
24 established by the board for interest on such purchases of prior
25 service credit. Such payment shall be based on the most recent years'

1 salary the member earned in another school district or educational
2 service unit if the salary is verified by the other school district
3 or educational service unit or, if not, the payment shall be based on
4 the member's annual salary at the time he or she became a member;

5 (c) Payments by the member for the purchase of the prior
6 service credit shall be paid as the trustees may direct through
7 direct payments to the retirement system or on an installment basis
8 pursuant to a binding irrevocable payroll deduction authorization
9 between the member and the school district over a period not to
10 exceed five years from the date of membership. Interest on delayed
11 payments shall be at the rate of ~~regular~~ interest established by the
12 board for determining interest on delayed payments by members to the
13 retirement system. In the event the member terminates employment with
14 the school district for any reason before full payment for the prior
15 service has been made, the remaining installments shall be
16 immediately due and payable to the retirement system. Prior service
17 credit may be purchased only in one-tenth-year increments, and if
18 payments are made on an installment basis, the prior service will be
19 credited only as payment has been made to the retirement system. If
20 the prior service to be purchased by the member exceeds the member's
21 membership service at the time of application or any subsequent date,
22 such excess prior service shall be credited to the member only as the
23 member completes and is credited additional membership service, in
24 one-tenth-year increments, notwithstanding the member's payment for
25 such prior service credit. If the member retires or terminates

1 employment before completing sufficient membership service to permit
2 all of the excess prior service that has been purchased by the member
3 to be credited to such member, the retirement system shall refund to
4 the member, or to the member's beneficiary if the member's
5 termination is due to his or her death, the payments that have been
6 made to the retirement system for such uncredited prior service,
7 together with regular interest on such refund; and

8 (d) The school district shall contribute to the
9 retirement system an amount equal to the amount paid by each member
10 for the purchase of prior service credit at the time such payments
11 are made by such member.

12 (2) Any member having five or more years of creditable
13 service, excluding years of prior service acquired pursuant to
14 section 79-990, 79-994, 79-995, or 79-997, or subsection (1) of this
15 section, may elect to purchase up to a total of five years of
16 additional creditable service under the retirement system, and upon
17 such purchase the member shall be given the same status as though he
18 or she had been a member of the retirement system for such additional
19 number of years, except as otherwise specifically provided in the
20 Class V School Employees Retirement Act. Creditable service may be
21 purchased only in one-tenth-year increments. The amount to be paid to
22 the retirement system for such creditable service shall be equal to
23 the actuarial cost to the retirement system of the increased benefits
24 attributable to such additional creditable service as determined by
25 the retirement system's actuary at the time of the purchase pursuant

1 to actuarial assumptions and methods adopted by the trustees for this
2 purpose. The election to purchase additional creditable service may
3 be made at any time before the member's termination of employment,
4 and all payments for the purchase of such creditable service must be
5 completed within five years after the election or before the member's
6 termination or retirement, whichever event occurs first. Payment
7 shall be made as the trustees may direct through a single payment to
8 the retirement system, on an installment basis, including payments
9 pursuant to a binding irrevocable payroll deduction authorization
10 between the member and the school district, or by such other method
11 approved by the trustees and permitted by law. If payments are made
12 on an installment basis, creditable service will be credited only as
13 payment has been made to the retirement system to purchase each
14 additional one-tenth-year increment. Interest shall be charged on
15 installment payments at the rate of ~~regular~~-interest established by
16 the board for determining interest on delayed payments by members to
17 the retirement system.

18 Sec. 24. Section 79-992, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 79-992 (1) A member who has five years or more of
21 creditable service, excluding years of prior service acquired
22 pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, and
23 who severs his or her employment may elect to leave his or her
24 contributions in the retirement system, in which event he or she
25 shall receive a retirement allowance at normal retirement age based

1 on the annuity earned to the date of such severance. Such member may
2 elect to receive a retirement allowance at early retirement age if
3 such member retires at an early retirement date. Such annuity shall
4 be adjusted in accordance with section 79-9,100. Upon the severance
5 of employment, except on account of retirement, a member shall be
6 entitled to receive refunds as follows: (a) An amount equal to the
7 accumulated contributions to the retirement system by the member; and
8 (b) any contributions made to a previously existing system which were
9 refundable under the terms of that system. Any member receiving a
10 refund of contributions shall thereby forfeit and relinquish all
11 accrued rights in the retirement system including all accumulated
12 creditable service, except that if any member who has withdrawn his
13 or her contributions as provided in this section reenters the service
14 of the district and again becomes a member of the retirement system,
15 he or she may restore any or all money previously received by him or
16 her as a refund, including the ~~regular~~ interest on the amount of the
17 restored refund for the period of his or her absence from the
18 district's service as determined using the interest rate established
19 by the board for interest on such restored refunds, and he or she
20 shall then again receive credit for that portion of service which the
21 restored money represents. Such restoration may be made as the
22 trustees may direct through direct payments to the system or on an
23 installment basis pursuant to a binding irrevocable payroll deduction
24 authorized between the member and the school district over a period
25 of not to exceed five years from the date of reemployment. Interest

1 on delayed payments shall be at the rate of ~~regular~~ interest
2 established by the board for determining interest on delayed payments
3 by members to the retirement system. Creditable service may be
4 purchased only in one-tenth-year increments, starting with the most
5 recent years' salary.

6 (2) A retired member who returns to employment as an
7 employee of the school district shall again participate in the
8 retirement system as a new member and shall make contributions to the
9 retirement system commencing upon reemployment. The retirement
10 annuity of a retired member who returns to employment with the school
11 district shall continue to be paid by the retirement system. A
12 retired member who returns to employment as an employee of the school
13 district shall receive creditable service only for service performed
14 after his or her return to employment and in no event shall
15 creditable service which accrues or the compensation paid to the
16 member after such return to employment after retirement increase the
17 amount of the member's original retirement annuity.

18 (3) Upon termination of the reemployed member, the member
19 shall receive in addition to the retirement annuity which commenced
20 at the time of the previous retirement (a) if the member has accrued
21 five years or more of creditable service after his or her return to
22 employment, excluding years of prior service acquired pursuant to
23 section 79-990, 79-991, 79-994, 79-995, or 79-997, a retirement
24 annuity as provided in section 79-999 or 79-9,100, as applicable,
25 calculated solely on the basis of creditable service and final

1 average compensation accrued and earned after the member's return to
2 employment after his or her original retirement, and as adjusted to
3 reflect any payment in other than the normal form or (b) if the
4 member has not accrued five years or more of creditable service after
5 his or her return to employment, a refund equal to the member's
6 accumulated contributions which were credited to the member after the
7 member's return to employment. In no event shall the member's
8 creditable service which accrued prior to a previous retirement be
9 considered as part of the member's creditable service after his or
10 her return to employment for any purpose of the Class V School
11 Employees Retirement Act.

12 (4) In the event a member is entitled to receive a refund
13 of contributions pursuant to subsection (1) or subdivision (3)(b) of
14 this section in an amount greater than one thousand dollars, if the
15 member does not elect to have the refund paid directly to himself or
16 herself or transferred to an eligible retirement plan designated by
17 the member as a direct rollover pursuant to section 79-998, then the
18 refund of contributions shall be paid in a direct rollover to an
19 individual retirement plan designated by the trustees.

20 Sec. 25. Section 79-996, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 79-996 (1) The payments provided for by sections 79-993,
23 79-994, and 79-997 may be made in equal installments over a period of
24 not to exceed two years from the date of the election to make such
25 payments. The payments provided for by section 79-995 may be made in

1 equal installments over a period of not to exceed three years from
2 the date of election to make such payments. Any person who elects to
3 make payments on an installment basis shall be credited with prior
4 service only in six-month increments and only after payment has been
5 made to the retirement system to purchase each additional six-month
6 increment.

7 ~~(2) Interest on delayed payments shall be at the rate of~~
8 ~~regular interest.~~

9 (2) The rate of interest for the purchase of additional
10 service credit pursuant to sections 79-990 and 79-991 and for
11 determining the interest on a restored refund pursuant to section
12 79-992 or on delayed payments by members to the retirement system
13 shall be determined by the board from time to time and such rate of
14 interest shall be used to determine applicable interest for a
15 member's purchase of additional service credit, restored refund, or
16 delayed payments that are made while such interest rate of interest
17 is in effect.

18 Sec. 26. Section 79-9,102, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 79-9,102 (1) Notwithstanding any other provision of the
21 Class V School Employees Retirement Act, no member or beneficiary of
22 the retirement system shall receive in any calendar year an annuity
23 or other benefit which would exceed the maximum benefit permitted
24 under section 415 of the Internal Revenue Code, or any successor
25 provision and the regulations issued thereunder, as they may be

1 amended from time to time, and as adjusted as of January 1 of each
2 calendar year to the dollar limitation as determined for such year by
3 the Commissioner of Internal Revenue pursuant to section 415(d) of
4 the Internal Revenue Code to reflect cost-of-living adjustments, and
5 the amount of benefit to be paid to any member or beneficiary by the
6 retirement system shall be adjusted each calendar year, if necessary,
7 to conform with the maximum benefit permitted under section 415 of
8 the Internal Revenue Code. The cost-of-living adjustment to the
9 maximum benefit permitted under section 415 of the Internal Revenue
10 Code shall apply to determining the maximum benefit of a member who
11 severed employment or commenced receiving benefits prior to the
12 effective date of the adjustment. ~~benefit derived from contributions~~
13 ~~of the board which if received in the form of a straight life annuity~~
14 ~~with no ancillary benefits would exceed a dollar limitation of ninety~~
15 ~~thousand dollars, adjusted as of January 1 of each calendar year to~~
16 ~~the dollar limitation as determined for such year by the Commissioner~~
17 ~~of Internal Revenue pursuant to section 415(d) of the Internal~~
18 ~~Revenue Code.~~

19 ~~(2) The limitation provided in this section shall be~~
20 ~~adjusted as follows:~~

21 ~~(a) If the annuity begins prior to the sixty second~~
22 ~~birthday of the member, the dollar limitation shall be equal to an~~
23 ~~annual annuity benefit which is equal to the actuarial equivalent of~~
24 ~~an annuity benefit commencing on the sixty second birthday of the~~
25 ~~member, but not less than seventy five thousand dollars if the~~

1 ~~member's annuity benefit begins at or after age fifty five and not~~
2 ~~less than the actuarial equivalent of seventy five thousand dollars~~
3 ~~if the annuity benefit begins before age fifty five;~~

4 ~~(b) If the annuity begins after the sixty fifth birthday~~
5 ~~of the member, the dollar limitation shall be equal to an annual~~
6 ~~annuity benefit which is equal to the actuarial equivalent of an~~
7 ~~annuity benefit commencing on the sixty fifth birthday of the member;~~

8 ~~(c) If the annuity begins prior to the member having ten~~
9 ~~years of creditable service, the dollar limitation shall be reduced~~
10 ~~by a fraction, the numerator of which is the total full fractional~~
11 ~~parts of years of creditable service and the denominator of which is~~
12 ~~ten; and~~

13 ~~(d) The adjustments provided in subdivisions (a) and (c)~~
14 ~~of this subsection shall not apply to the disability retirement~~
15 ~~annuity under section 79-9,105 or to any annuity paid to a~~
16 ~~beneficiary as the result of the death of a member.~~

17 ~~(3) For purposes of the limitations provided in this~~
18 ~~section, the actuarial equivalent shall be determined from the~~
19 ~~actuarial tables used for the retirement allowance for early~~
20 ~~retirement, except that in the case of the adjustment for an annuity~~
21 ~~which begins (a) before the sixty second birthday of a member, the~~
22 ~~rate to be used in determining actuarial equivalency shall not be~~
23 ~~less than five percent, and (b) after the sixty fifth birthday of a~~
24 ~~member, the interest rate to be used in determining the actuarial~~
25 ~~equivalency shall not be greater than five percent. The value of the~~

1 ~~joint and survivorship feature of an annuity shall not be taken into~~
2 ~~account in applying the limitations provided in this section.~~

3 ~~(4)~~(2) Any payments provided for by sections 79-990,
4 79-991, and 79-992 for the purchase or restoration of creditable
5 service shall be subject to the limitations of section 415 of the
6 Internal Revenue Code on annual additions to the system, and the
7 trustees may suspend payments, alter installment periods, or, if such
8 suspension or alteration is not possible, deny the purchase of all or
9 a portion of the creditable service desired to be purchased, as
10 necessary to comply with the requirements of section 415 of the
11 Internal Revenue Code.

12 ~~(5)~~(3) This section is intended to meet and incorporate
13 the requirements of section 415 of the Internal Revenue Code and
14 regulations under that section that are applicable to governmental
15 plans and shall be construed in accordance with ~~such~~ section 415 of
16 the Internal Revenue Code and the regulations issued thereunder and
17 shall, by this reference, incorporate any subsequent changes made to
18 such section as the same may apply to the retirement system.

19 Sec. 27. Section 79-9,117, Revised Statutes Cumulative
20 Supplement, 2012, is amended to read:

21 79-9,117 (1) The board shall establish a comprehensive
22 preretirement planning program for school employees who are members
23 of the retirement system. The program shall provide information and
24 advice regarding the many changes employees face upon retirement,
25 including, but not limited to, changes in physical and mental health,

1 housing, family life, leisure activity, and retirement income.

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

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

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

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

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

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

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

8 Sec. 28. Section 81-2014, Revised Statutes Cumulative
9 Supplement, 2012, is amended to read:

10 81-2014 For purposes of the Nebraska State Patrol
11 Retirement Act:

12 (1) Actuarial equivalent means the equality in value of
13 the aggregate amounts expected to be received under different forms
14 of payment or to be received at an earlier retirement age than the
15 normal retirement age. The determinations shall be based on the 1994
16 Group Annuity Mortality Table reflecting sex-distinct factors blended
17 using seventy-five percent of the male table and twenty-five percent
18 of the female table. An interest rate of eight percent per annum
19 shall be reflected in making the determinations until such percent is
20 amended by the Legislature;

21 (2) Board means the Public Employees Retirement Board;

22 (3)(a) Compensation means gross wages or salaries payable
23 to the member for personal services performed during the plan year.
24 Compensation does not include insurance premiums converted into cash
25 payments, reimbursement for expenses incurred, fringe benefits, per

1 diems, or bonuses for services not actually rendered, including, but
2 not limited to, early retirement inducements, cash awards, and
3 severance pay, except for retroactive salary payments paid pursuant
4 to court order, arbitration, or litigation and grievance settlements.
5 For any officer employed after January 4, 1979, compensation does not
6 include compensation for unused sick leave or unused vacation leave
7 converted to cash payments. Compensation includes overtime pay,
8 member retirement contributions, and amounts contributed by the
9 member to plans under sections 125 and 457 of the Internal Revenue
10 Code as defined in section 49-801.01 or any other section of the code
11 which defers or excludes such amounts from income.

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

19 (4) Creditable service means service granted pursuant to
20 section 81-2034 and all service rendered while a contributing member
21 of the retirement system. Creditable service includes working days,
22 sick days, vacation days, holidays, and any other leave days for
23 which the officer is paid regular wages. Creditable service does not
24 include eligibility and vesting credit nor service years for which
25 member contributions are withdrawn and not repaid;

1 (5) Current benefit means the initial benefit increased
2 by all adjustments made pursuant to the Nebraska State Patrol
3 Retirement Act;

4 (6) DROP means the deferred retirement option plan as
5 provided in section 81-2041;

6 (7) DROP account means an individual DROP participant's
7 defined contribution account under section 414(k) of the Internal
8 Revenue Code;

9 ~~(7)~~(8) DROP period means the amount of time the member
10 elects to participate in DROP which shall be for a period not to
11 exceed five years from and after the date of the member's DROP
12 election;

13 ~~(8)~~(9) 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 Nebraska State Patrol Retirement Act. Such credit shall be
17 used toward the vesting percentage pursuant to subsection (2) of
18 section 81-2031 but shall not be included as years of service in the
19 benefit calculation;

20 ~~(9)~~(10) Initial benefit means the retirement benefit
21 calculated at the time of retirement;

22 ~~(10)~~(11) Officer means an officer provided for in
23 sections 81-2001 to 81-2009;

24 ~~(11)~~(12) Plan year means the twelve-month period
25 beginning on July 1 and ending on June 30 of the following year;

1 ~~(12)~~(13) Regular interest means interest fixed at a rate
2 equal to the daily treasury yield curve for one-year treasury
3 securities, as published by the Secretary of the Treasury of the
4 United States, that applies on July 1 of each year, which may be
5 credited monthly, quarterly, semiannually, or annually as the board
6 may direct;

7 (14) Retirement application means the form approved and
8 provided by the retirement system for acceptance of a member's
9 request for either regular or disability retirement;

10 (15) Retirement date means (a) the first day of the month
11 following the date upon which a member's request for retirement is
12 received on a retirement application if the member is eligible for
13 retirement and has terminated employment or (b) the first day of the
14 month following termination of employment if the member is eligible
15 for retirement and has filed an application but has not yet
16 terminated employment;

17 ~~(13)~~(16) Retirement system or system means the Nebraska
18 State Patrol Retirement System as provided in the act;

19 ~~(14)~~(17) Service means employment as a member of the
20 Nebraska State Patrol and shall not be deemed to be interrupted by
21 (a) temporary or seasonal suspension of service that does not
22 terminate the employee's employment, (b) leave of absence authorized
23 by the employer for a period not exceeding twelve months, (c) leave
24 of absence because of disability, or (d) military service, when
25 properly authorized by the board. Service does not include any period

1 of disability for which disability retirement benefits are received
2 under subsection (1) of section 81-2025;

3 ~~(15)~~ (18) Surviving spouse means (a) the spouse married
4 to the member on the date of the member's death if married for at
5 least one year prior to death or if married on the date of the
6 member's retirement or (b) the spouse or former spouse of the member
7 if survivorship rights are provided under a qualified domestic
8 relations order filed with the board pursuant to the Spousal Pension
9 Rights Act. The spouse or former spouse shall supersede the spouse
10 married to the member on the date of the member's death as provided
11 under a qualified domestic relations order. If the benefits payable
12 to the spouse or former spouse under a qualified domestic relations
13 order are less than the value of benefits entitled to the surviving
14 spouse, the spouse married to the member on the date of the member's
15 death shall be the surviving spouse for the balance of the benefits;
16 and

17 ~~(16)~~ (19) Termination of employment occurs on the date on
18 which the Nebraska State Patrol determines that the officer's
19 employer-employee relationship with the patrol is dissolved. The
20 Nebraska State Patrol shall notify the board of the date on which
21 such a termination has occurred. Termination of employment does not
22 include ceasing employment with the Nebraska State Patrol if the
23 officer returns to regular employment with the Nebraska State Patrol
24 or another agency of the State of Nebraska and there are less than
25 one hundred twenty days between the date when the employee's

1 employer-employee relationship ceased and the date when the employer-
2 employee relationship commenced with the Nebraska State Patrol or
3 another state agency. Termination of employment does not occur upon
4 an officer's participation in DROP pursuant to section 81-2041. It is
5 the responsibility of the employer that is involved in the
6 termination of employment to notify the board of such change in
7 employment and provide the board with such information as the board
8 deems necessary. If the board determines that termination of
9 employment has not occurred and a retirement benefit has been paid to
10 a member of the retirement system pursuant to section 81-2026, the
11 board shall require the member who has received such benefit to repay
12 the benefit to the retirement system.

13 Sec. 29. Section 81-2016, Revised Statutes Cumulative
14 Supplement, 2012, is amended to read:

15 81-2016 (1) Every member of the Nebraska State Patrol who
16 was employed by the State of Nebraska as such, on September 7, 1947,
17 and every person employed as a member of such patrol thereafter,
18 shall be a member of the system, except for those members of the
19 Nebraska State Patrol who elected pursuant to section 60-1304 to
20 remain members of the State Employees Retirement System of the State
21 of Nebraska. On and after July 1, 2010, no employee shall be
22 authorized to participate in the retirement system provided for in
23 the Nebraska State Patrol Retirement Act unless the employee (a) is a
24 United States citizen or (b) is a qualified alien under the federal
25 Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act

1 existed on January 1, 2009, and is lawfully present in the United
2 States.

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

11 (3) Any officer who qualifies for membership pursuant to
12 subsection (1) of this section may not be disqualified from
13 membership in the retirement system solely because such officer also
14 maintains separate employment which qualifies the officer for
15 membership in another public retirement system, nor may membership in
16 this retirement system disqualify such an officer from membership in
17 another public retirement system solely by reason of separate
18 employment which qualifies such officer for membership in this
19 retirement system.

20 (4) Information necessary to determine membership shall
21 be provided by the Nebraska State Patrol.

22 (5) The board may adopt and promulgate rules and
23 regulations governing the assessment and granting of eligibility and
24 vesting credit.

25 Sec. 30. Section 81-2017, Revised Statutes Cumulative

1 Supplement, 2012, is amended to read:

2 81-2017 (1) Commencing July 1, 2010, and until July 1,
3 2011, each officer while in the service of the Nebraska State Patrol
4 shall pay or have paid on his or her behalf a sum equal to sixteen
5 percent of his or her monthly compensation. Commencing July 1, 2011,
6 and until July 1, 2013, each officer while in the service of the
7 Nebraska State Patrol shall pay or have paid on his or her behalf a
8 sum equal to nineteen percent of his or her monthly compensation.
9 Commencing July 1, 2013, each officer while in the service of the
10 Nebraska State Patrol shall pay or have paid on his or her behalf a
11 sum equal to sixteen percent of his or her monthly compensation. Such
12 amounts shall be deducted monthly by the Director of Administrative
13 Services who shall draw a warrant monthly in the amount of the total
14 deductions from the compensation of members of the Nebraska State
15 Patrol in accordance with subsection (4) of this section, and the
16 State Treasurer shall credit the amount of such warrant to the State
17 Patrol Retirement Fund. The director shall cause a detailed report of
18 all monthly deductions to be made each month to the board.

19 (2) In addition, commencing July 1, 2010, and until July
20 1, 2011, there shall be assessed against the appropriation of the
21 Nebraska State Patrol a sum equal to the amount of sixteen percent of
22 each officer's monthly compensation which shall be credited to the
23 State Patrol Retirement Fund. Commencing July 1, 2011, and until July
24 1, 2013, there shall be assessed against the appropriation of the
25 Nebraska State Patrol a sum equal to the amount of nineteen percent

1 of each officer's monthly compensation which shall be credited to the
2 State Patrol Retirement Fund. Commencing July 1, 2013, there shall be
3 assessed against the appropriation of the Nebraska State Patrol a sum
4 equal to the amount of sixteen percent of each officer's monthly
5 compensation which shall be credited to the State Patrol Retirement
6 Fund.

7 (3) For the fiscal year beginning on July 1, 2002, and
8 each fiscal year thereafter, the actuary for the board shall perform
9 an actuarial valuation of the system using the entry age actuarial
10 cost method. Under this method, the actuarially required funding rate
11 is equal to the normal cost rate, plus the contribution rate
12 necessary to amortize the unfunded actuarial accrued liability on a
13 level payment basis. The normal cost under this method shall be
14 determined for each individual member on a level percentage of salary
15 basis. The normal cost amount is then summed for all members.
16 Beginning July 1, 2006, any existing unfunded liabilities shall be
17 reinitialized and amortized over a thirty-year period, and during
18 each subsequent actuarial valuation, changes in the funded actuarial
19 accrued liability due to changes in benefits, actuarial assumptions,
20 the asset valuation method, or actuarial gains or losses shall be
21 measured and amortized over a thirty-year period beginning on the
22 valuation date of such change. If the unfunded actuarial accrued
23 liability under the entry age actuarial cost method is zero or less
24 than zero on an actuarial valuation date, then all prior unfunded
25 actuarial accrued liabilities shall be considered fully funded and

1 the unfunded actuarial accrued liability shall be reinitialized and
2 amortized over a thirty-year period as of the actuarial valuation
3 date. If the actuarially required contribution rate exceeds the rate
4 of all contributions required pursuant to the Nebraska State Patrol
5 Retirement Act, there shall be a supplemental appropriation
6 sufficient to pay for the differences between the actuarially
7 required contribution rate and the rate of all contributions required
8 pursuant to the Nebraska State Patrol Retirement Act. Such valuation
9 shall be on the basis of actuarial assumptions recommended by the
10 actuary, approved by the board, and kept on file with the board.

11 (4) The state shall pick up the member contributions
12 required by this section for all compensation paid on or after
13 January 1, 1985, and the contributions so picked up shall be treated
14 as employer contributions pursuant to section 414(h)(2) of the
15 Internal Revenue Code in determining federal tax treatment under the
16 ~~Internal Revenue Code as defined in section 49-801.01, except that~~
17 ~~the state shall continue to withhold federal income taxes based upon~~
18 ~~these contributions until the Internal Revenue Service or the federal~~
19 ~~courts rule that, pursuant to section 414(h) of the code, these~~
20 ~~contributions~~ code and shall not be included as gross income of the
21 member until such time as they are distributed or made available. The
22 contributions, although designated as member contributions, shall be
23 paid by the employing unit in lieu of member contributions. The state
24 shall pay these member contributions from the same source of funds
25 which is used in paying earnings to the member. The state shall pick

1 up these contributions by a compensation deduction through a
2 reduction in the cash compensation of the member. Member
3 contributions picked up shall be treated for all purposes of the
4 Nebraska State Patrol Retirement Act in the same manner and to the
5 extent as member contributions made prior to the date picked up.

6 Sec. 31. Section 81-2027.08, Revised Statutes Cumulative
7 Supplement, 2012, is amended to read:

8 81-2027.08 (1) Beginning July 1, 2011, and each July 1
9 thereafter, the board shall determine the number of retired members
10 or beneficiaries described in subdivision (4)(b) of this section in
11 the retirement system and an annual benefit adjustment shall be made
12 by the board for each retired member or beneficiary under one of the
13 cost-of-living adjustment calculation methods found in subsection
14 (2), (3), or (4) of this section. Each retired member or beneficiary,
15 if eligible, shall receive an annual benefit adjustment under the
16 cost-of-living adjustment calculation method that provides the
17 retired member or beneficiary the greatest annual benefit adjustment
18 increase. No retired member or beneficiary shall receive an annual
19 benefit adjustment under more than one of the cost-of-living
20 adjustment calculation methods provided in this section.

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

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

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

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

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

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

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

23 (d) The total monthly benefit under this subsection is
24 the total benefit received by a retired member or beneficiary
25 pursuant to the Nebraska State Patrol Retirement Act and previous

1 adjustments made pursuant to this section or any other provision of
2 the act that grants a benefit or cost-of-living increase, but the
3 total monthly benefit shall not include sums received by an eligible
4 retired member or eligible beneficiary from federal sources.

5 (e) The minimum accrual rate under this subsection is
6 ~~thirty eight dollars and eighty four cents~~ forty dollars and
7 seventeen cents until adjusted pursuant to this subsection. Beginning
8 July 1, ~~2011,~~ 2013, the board shall annually adjust the minimum
9 accrual rate to reflect the cumulative percentage change in the
10 Consumer Price Index for Urban Wage Earners and Clerical Workers from
11 the last adjustment of the minimum accrual rate.

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

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

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

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

18 Sec. 32. Section 81-2041, Revised Statutes Cumulative
19 Supplement, 2012, is amended to read:

20 81-2041 (1) Any member who meets the participation
21 requirements of subsection (2) of this section may participate in
22 DROP. DROP provides that subsequent to attaining normal age and
23 service retirement eligibility, a member may voluntarily choose to
24 participate in DROP upon its adoption which, for purposes of this
25 section, shall be the earlier of September 1, 2008, or the first of

1 the month following a favorable letter determination by the Internal
2 Revenue Service. If the member chooses to participate in DROP, the
3 member shall be deemed to have retired but shall not be deemed to be
4 terminated, and the member may continue in active employment for up
5 to a five-year period. During the DROP period, the member's
6 retirement benefit payments shall be deposited into the DROP account
7 for the benefit of the member until the member actually retires from
8 active employment at or before the expiration of the DROP period.
9 Thereafter, future retirement benefit payments shall be made directly
10 to the member, and the member shall have access to all funds in the
11 DROP account designated for the benefit of the member.

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

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

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

1 DROP period, the member must separate from active employment and exit
2 DROP. During the DROP period, a member's retirement benefit shall be
3 payable to the DROP account vendor designated in the member's name.
4 Amounts transferred or paid to a participating member's DROP account
5 shall not constitute annual additions under section 415 of the
6 Internal Revenue Code;

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

1 at the commencement of the DROP period, and shall be paid the balance
2 of the DROP account, if any;

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

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

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

18 (g) Any member that is enrolled in DROP shall be
19 responsible for directing the DROP account designated for the benefit
20 of the member by investing the account in any DROP investment
21 options. There shall be no guaranteed rate of investment return on
22 DROP account assets. Any losses, charges, or expenses incurred by the
23 participating DROP member in such member's DROP account by virtue of
24 the investment options selected by the participating DROP member
25 shall not be made up by the retirement system but all of the same

1 shall be borne by the participating DROP member. The retirement
2 system, the state, the board, and the state investment officer shall
3 not be responsible for any investment results under the DROP
4 agreement. Transfers between investment options shall be in
5 accordance with the rules and regulations of DROP. A DROP account
6 shall be established for each participating DROP member. Such DROP
7 account shall be adjusted no less frequently than annually for the
8 member's retirement benefit distributions and net investment earnings
9 and losses;

10 (h) If the DROP account is subject to administrative or
11 other fees or charges, such fees or charges shall be charged to the
12 participating DROP member's DROP account; ~~and~~

13 (i) Cost-of-living adjustments as provided for in section
14 81-2027.08 shall not be applied to retirement benefits during the
15 DROP period; and -

16 (j) DROP funds are held and invested in a defined
17 contribution account under section 414(k) of the Internal Revenue
18 Code and meet the limitations in section 415 of the code.

19 Sec. 33. Section 84-1301, Revised Statutes Cumulative
20 Supplement, 2012, is amended to read:

21 84-1301 For purposes of the State Employees Retirement
22 Act, unless the context otherwise requires:

23 (1) Actuarial equivalent means the equality in value of
24 the aggregate amounts expected to be received under different forms
25 of an annuity payment. The mortality assumption used for purposes of

1 converting the member cash balance account shall be the 1994 Group
2 Annuity Mortality Table using a unisex rate that is fifty percent
3 male and fifty percent female. For purposes of converting the member
4 cash balance account attributable to contributions made prior to
5 January 1, 1984, that were transferred pursuant to the act, the 1994
6 Group Annuity Mortality Table for males shall be used;

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

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

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

24 (5)(a) Compensation means gross wages or salaries payable
25 to the member for personal services performed during the plan year.

1 Compensation does not include insurance premiums converted into cash
2 payments, reimbursement for expenses incurred, fringe benefits, per
3 diems, or bonuses for services not actually rendered, including, but
4 not limited to, early retirement inducements, cash awards, and
5 severance pay, except for retroactive salary payments paid pursuant
6 to court order, arbitration, or litigation and grievance settlements.
7 Compensation includes overtime pay, member retirement contributions,
8 and amounts contributed by the member to plans under sections 125,
9 403(b), and 457 of the Internal Revenue Code or any other section of
10 the code which defers or excludes such amounts from income.

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

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

20 (7) Defined contribution benefit means a member's
21 retirement benefit from a money purchase plan in which member
22 benefits equal annual contributions and earnings pursuant to section
23 84-1310 and, if vested, employer contributions and earnings pursuant
24 to section 84-1311;

25 (8) Disability means an inability to engage in a

1 substantially gainful activity by reason of any medically
2 determinable physical or mental impairment which can be expected to
3 result in death or to be of long-continued and indefinite duration;

4 (9) Employee means any employee of the State Board of
5 Agriculture who is a member of the state retirement system on July 1,
6 1982, and any person or officer employed by the State of Nebraska
7 whose compensation is paid out of state funds or funds controlled or
8 administered by a state department through any of its executive or
9 administrative officers when acting exclusively in their respective
10 official, executive, or administrative capacities. Employee does not
11 include (a) judges as defined in section 24-701, (b) members of the
12 Nebraska State Patrol, except for those members of the Nebraska State
13 Patrol who elected pursuant to section 60-1304 to remain members of
14 the State Employees Retirement System of the State of Nebraska, (c)
15 employees of the University of Nebraska, (d) employees of the state
16 colleges, (e) employees of community colleges, (f) employees of the
17 Department of Labor employed prior to July 1, 1984, and paid from
18 funds provided pursuant to Title III of the federal Social Security
19 Act or funds from other federal sources, except that if the
20 contributory retirement plan or contract let pursuant to section
21 48-609 is terminated, such employees shall become employees for
22 purposes of the State Employees Retirement Act on the first day of
23 the first pay period following the termination of such contributory
24 retirement plan or contract, (g) employees of the State Board of
25 Agriculture who are not members of the state retirement system on

1 July 1, 1982, (h) the Nebraska National Guard air and army
2 technicians, (i) persons eligible for membership under the School
3 Employees Retirement System of the State of Nebraska who have not
4 elected to become members of the retirement system pursuant to
5 section 79-920 or been made members of the system pursuant to such
6 section, except that those persons so eligible and who as of
7 September 2, 1973, are contributing to the State Employees Retirement
8 System of the State of Nebraska shall continue as members of such
9 system, or (j) employees of the Coordinating Commission for
10 Postsecondary Education who are eligible for and have elected to
11 become members of a qualified retirement program approved by the
12 commission which is commensurate with retirement programs at the
13 University of Nebraska. Any individual appointed by the Governor may
14 elect not to become a member of the State Employees Retirement System
15 of the State of Nebraska;

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

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

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

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

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

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

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

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

24 (18) Interest credits means the amounts credited to the
25 employee cash balance account and the employer cash balance account

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

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

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

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

25 (22) Part-time employee means an employee who is employed

1 to work less than one-half of the regularly scheduled hours during
2 each pay period;

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

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

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

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

12 (27) Retirement means qualifying for and accepting the
13 retirement benefit granted under the State Employees Retirement Act
14 after terminating employment;

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

18 ~~(28)~~ (29) Retirement board or board means the Public
19 Employees Retirement Board;

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

1 terminated employment;

2 ~~(29)~~(31) Retirement system means the State Employees
3 Retirement System of the State of Nebraska;

4 ~~(30)~~(32) Service means the actual total length of
5 employment as an employee and shall not be deemed to be interrupted
6 by (a) temporary or seasonal suspension of service that does not
7 terminate the employee's employment, (b) leave of absence authorized
8 by the employer for a period not exceeding twelve months, (c) leave
9 of absence because of disability, or (d) military service, when
10 properly authorized by the retirement board. Service does not include
11 any period of disability for which disability retirement benefits are
12 received under section 84-1317;

13 ~~(31)~~(33) 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)~~(34) Surviving spouse means (a) the spouse married
18 to the member on the date of the member's death or (b) the spouse or
19 former spouse of the member if survivorship rights are provided under
20 a 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)~~(35) 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 is the
16 responsibility of the employer that is involved in the termination of
17 employment to notify the board of such change in employment and
18 provide the board with such information as the board deems necessary.
19 If the board determines that termination of employment has not
20 occurred and a retirement benefit has been paid to a member of the
21 retirement system pursuant to section 84-1321, the board shall
22 require the member who has received such benefit to repay the benefit
23 to the retirement system; and

24 ~~(34)~~(36) Vesting credit means credit for years, or a
25 fraction of a year, of participation in another Nebraska governmental

1 plan for purposes of determining vesting of the employer account.

2 Sec. 34. Section 84-1307, Revised Statutes Cumulative
3 Supplement, 2012, is amended to read:

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

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

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

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

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

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

23 (6) Any employee who qualifies for membership in the
24 retirement system pursuant to this section may not be disqualified
25 for membership in the retirement system solely because such employee

1 also maintains separate employment which qualifies the employee for
2 membership in another public retirement system, nor may membership in
3 this retirement system disqualify such an employee from membership in
4 another public employment system solely by reason of separate
5 employment which qualifies such employee for membership in this
6 retirement system.

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

13 Sec. 35. Section 84-1308, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 84-1308 (1) Each employee who is a member of the
16 retirement system shall pay or have paid on his or her behalf a sum
17 equal to four and eight-tenths percent of his or her monthly
18 compensation. The contributions, although designated as employee
19 contributions, shall be paid by the employing unit in lieu of
20 employee contributions. Such amounts shall be deducted monthly
21 pursuant to subsection (2) of this section by the Director of
22 Administrative Services. All money received shall be set aside by the
23 State Treasurer and credited to the State Employees Retirement Fund.

24 (2) The employer shall pick up the employee contributions
25 required by this section for all compensation paid on or after

1 January 1, 1985, and the contributions so picked up shall be treated
2 as employer contributions pursuant to section 414(h)(2) of the
3 Internal Revenue Code in determining federal tax treatment under the
4 ~~Internal Revenue Code as defined in section 49-801.01, except that~~
5 ~~the employer shall continue to withhold federal income taxes based~~
6 ~~upon these contributions until the Internal Revenue Service or the~~
7 ~~federal courts rule that, pursuant to section 414(h) of the code,~~
8 ~~these contributions code and shall not be included as gross income of~~
9 the employee until such time as they are distributed or made
10 available. The employer shall pay these employee contributions from
11 the same source of funds which is used in paying earnings to the
12 employee. The employer shall pick up these contributions by a
13 deduction through a reduction in the cash compensation of the
14 employee. Employee contributions picked up shall be treated for all
15 purposes of the State Employees Retirement Act in the same manner and
16 to the extent as employee contributions made prior to the date picked
17 up.

18 Sec. 36. Section 84-1314, Revised Statutes Cumulative
19 Supplement, 2012, is amended to read:

20 84-1314 (1) The State Employees Defined Contribution
21 Retirement Expense Fund is created. The fund shall be credited with
22 money from the retirement system assets and income sufficient to pay
23 the pro rata share of administrative expenses incurred as directed by
24 the board for the proper administration of the State Employees
25 Retirement Act and necessary in connection with the administration

1 and operation of the retirement system, except as provided in
2 sections 84-1309.02, 84-1310.01, and 84-1311.03. Any money in the
3 fund available for investment shall be invested by the state
4 investment officer pursuant to the Nebraska Capital Expansion Act and
5 the Nebraska State Funds Investment Act.

6 (2) The State Employees Cash Balance Retirement Expense
7 Fund is created. The fund shall be credited with money forfeited
8 pursuant to section 84-1321.01 and with money from the retirement
9 system assets and income sufficient to pay the pro rata share of
10 administrative expenses incurred as directed by the board for the
11 proper administration of the State Employees Retirement Act and
12 necessary in connection with the administration and operation of the
13 retirement system, except as provided in sections 84-1309.02,
14 84-1310.01, and 84-1311.03. Any money in the fund available for
15 investment shall be invested by the state investment officer pursuant
16 to the Nebraska Capital Expansion Act and the Nebraska State Funds
17 Investment Act.

18 (3) Forfeiture funds collected from members participating
19 in the defined contribution benefit shall be used to either pay
20 expenses or reduce employer contributions related to the defined
21 contribution benefit. Any unused funds shall be allocated as earnings
22 to the accounts of such members and the forfeiture account holding
23 such funds shall be reduced to a zero balance within twelve months
24 after receipt of the funds by the board.

25 Sec. 37. Section 84-1317, Revised Statutes Cumulative

1 Supplement, 2012, is amended to read:

2 84-1317 (1) Upon filing an application for benefits with
3 the board, an employee may elect to retire after the attainment of
4 age fifty-five or an employee may retire as a result of disability at
5 any age.

6 (2) The member shall specify in the application for
7 benefits the manner in which he or she wishes to receive the
8 retirement benefit under the options provided by the State Employees
9 Retirement Act. Payment under the application for benefits shall be
10 made (a) for annuities, no sooner than the annuity start date, and
11 (b) for other distributions, no sooner than the date of final account
12 value.

13 (3) Payment of any benefit provided under the retirement
14 system may not be deferred later than April 1 of the year following
15 the year in which the employee has both attained at least age seventy
16 and one-half years and terminated his or her employment with the
17 state., ~~except that for members participating in the defined~~
18 ~~contribution benefit, no distribution is required to be made for the~~
19 ~~plan year commencing January 1, 2009, through December 31, 2009.~~

20 (4) The board shall make reasonable efforts to locate the
21 member or the member's beneficiary and distribute benefits by the
22 required beginning date as specified by section 401(a)(9) of the
23 Internal Revenue Code and the regulations issued thereunder. If the
24 board is unable to make such a distribution, the benefit shall be
25 distributed pursuant to the Uniform Disposition of Unclaimed Property

1 Act and no amounts may be applied to increase the benefits any member
2 would otherwise receive under the State Employees Retirement Act.

3 (5) A participant or beneficiary who would have been
4 required to receive required minimum distributions for 2009 but for
5 the enactment of section 401(a)(9)(H) of the Internal Revenue Code,
6 and who would have satisfied that requirement by receiving
7 distributions that are either equal to the 2009 required minimum
8 distributions or one or more payments in a series of substantially
9 equal distributions, including the 2009 required minimum
10 distribution, made at least annually and expected to last for the
11 life or life expectancy of the participant, the joint lives or joint
12 life expectancy of the participant and the participant's designated
13 beneficiary, or for a period of at least ten years, shall receive
14 those distributions for 2009 unless the participant or beneficiary
15 chooses not to receive such distributions. Participants and
16 beneficiaries shall be given the opportunity to elect to stop
17 receiving the distributions described in this subsection.

18 Sec. 38. Section 84-1319, Revised Statutes Cumulative
19 Supplement, 2012, is amended to read:

20 84-1319 (1) The future service retirement benefit shall
21 be an annuity, payable monthly with the first payment made no earlier
22 than the annuity start date, which shall be the actuarial equivalent
23 of the retirement value as specified in section 84-1318 based on
24 factors determined by the board, except that gender shall not be a
25 factor when determining the amount of such payments except as

1 provided in this section.

2 Except as provided in section 42-1107, at any time before
3 the annuity start date, the retiring employee may choose to receive
4 his or her annuity either in the form of an annuity as provided under
5 subsection (4) of this section or any optional form that is
6 determined acceptable by the board.

7 Except as provided in section 42-1107, in lieu of the
8 future service retirement annuity, a retiring employee may receive a
9 benefit not to exceed the amount in his or her employer and employee
10 accounts as of the date of final account value payable in a lump sum
11 and, if the employee chooses not to receive the entire amount in such
12 accounts, an annuity equal to the actuarial equivalent of the
13 remainder of the retirement value, and the employee may choose any
14 form of such annuity as provided for by the board.

15 In any case, the amount of the monthly payment shall be
16 such that the annuity chosen shall be the actuarial equivalent of the
17 retirement value as specified in section 84-1318 except as provided
18 in this section.

19 The board shall provide to any state employee who is
20 eligible for retirement, prior to his or her selecting any of the
21 retirement options provided by this section, information on the
22 federal and state income tax consequences of the various annuity or
23 retirement benefit options.

24 (2) Except as provided in subsection (4) of this section,
25 the monthly annuity income payable to a member retiring on or after

1 January 1, 1984, shall be as follows:

2 He or she shall receive at retirement the amount which
3 may be purchased by the accumulated contributions based on annuity
4 rates in effect on the annuity start date which do not utilize gender
5 as a factor, except that such amounts shall not be less than the
6 retirement income which can be provided by the sum of the amounts
7 derived pursuant to subdivisions (a) and (b) of this subsection as
8 follows:

9 (a) The income provided by the accumulated contributions
10 made prior to January 1, 1984, based on male annuity purchase rates
11 in effect on the date of purchase; and

12 (b) The income provided by the accumulated contributions
13 made on and after January 1, 1984, based on the annuity purchase
14 rates in effect on the date of purchase which do not use gender as a
15 factor.

16 (3) Any amounts, in excess of contributions, which may be
17 required in order to purchase the retirement income specified in
18 subsection (2) of this section shall be withdrawn from the State
19 Equal Retirement Benefit Fund.

20 (4)(a) The normal form of payment shall be a single life
21 annuity with five-year certain, which is an annuity payable monthly
22 during the remainder of the member's life with the provision that, in
23 the event of his or her death before sixty monthly payments have been
24 made, the monthly payments will be continued to his or her estate or
25 to the beneficiary he or she has designated until sixty monthly

1 payments have been made in total. Such annuity shall be equal to the
2 actuarial equivalent of the member cash balance account or the sum of
3 the employee and employer accounts, whichever is applicable, as of
4 the date of final account value. As a part of the annuity, the normal
5 form of payment may include a two and one-half percent cost-of-living
6 adjustment purchased by the member, if the member elects such a
7 payment option.

8 Except as provided in section 42-1107, a member may elect
9 a lump-sum distribution of his or her member cash balance account as
10 of the date of final account value upon termination of service or
11 retirement.

12 For a member employed and participating in the retirement
13 system prior to January 1, 2003, who has elected to participate in
14 the cash balance benefit pursuant to section 84-1309.02, or for a
15 member employed and participating in the retirement system beginning
16 on and after January 1, 2003, the balance of his or her member cash
17 balance account as of the date of final account value shall be
18 converted to an annuity using an interest rate used in the actuarial
19 valuation as recommended by the actuary and approved by the board.

20 For an employee who is a member prior to January 1, 2003,
21 who has elected not to participate in the cash balance benefit
22 pursuant to section 84-1309.02, and who, at the time of retirement,
23 chooses the annuity option rather than the lump-sum option, his or
24 her employee and employer accounts as of the date of final account
25 value shall be converted to an annuity using an interest rate that is

1 equal to the lesser of (i) the Pension Benefit Guaranty Corporation
2 initial interest rate for valuing annuities for terminating plans as
3 of the beginning of the year during which payment begins plus three-
4 fourths of one percent or (ii) the interest rate used in the
5 actuarial valuation as recommended by the actuary and approved by the
6 board.

7 (b) For the calendar year beginning January 1, 2003, and
8 each calendar year thereafter, the actuary for the board shall
9 perform an actuarial valuation of the system using the entry age
10 actuarial cost method. Under this method, the actuarially required
11 funding rate is equal to the normal cost rate plus the contribution
12 rate necessary to amortize the unfunded actuarial accrued liability
13 on a level-payment basis. The normal cost under this method shall be
14 determined for each individual member on a level percentage of salary
15 basis. The normal cost amount is then summed for all members. The
16 initial unfunded actual accrued liability as of January 1, 2003, if
17 any, shall be amortized over a twenty-five-year period. During each
18 subsequent actuarial valuation, changes in the unfunded actuarial
19 accrued liability due to changes in benefits, actuarial assumptions,
20 the asset valuation method, or actuarial gains or losses shall be
21 measured and amortized over a twenty-five-year period beginning on
22 the valuation date of such change. If the unfunded actuarial accrued
23 liability under the entry age actuarial cost method is zero or less
24 than zero on an actuarial valuation date, then all prior unfunded
25 actuarial accrued liabilities shall be considered fully funded and

1 the unfunded actuarial accrued liability shall be reinitialized and
2 amortized over a twenty-five-year period as of the actuarial
3 valuation date. If the actuarially required contribution rate exceeds
4 the rate of all contributions required pursuant to the State
5 Employees Retirement Act, there shall be a supplemental appropriation
6 sufficient to pay for the difference between the actuarially required
7 contribution rate and the rate of all contributions required pursuant
8 to the act.

9 (c) If the unfunded accrued actuarial liability under the
10 entry age actuarial cost method is less than zero on an actuarial
11 valuation date, and on the basis of all data in the possession of the
12 retirement board, including such mortality and other tables as are
13 recommended by the actuary engaged by the retirement board and
14 adopted by the retirement board, the retirement board may elect to
15 pay a dividend to all members participating in the cash balance
16 option in an amount that would not increase the actuarial
17 contribution rate above ninety percent of the actual contribution
18 rate. Dividends shall be credited to the employee cash balance
19 account and the employer cash balance account based on the account
20 balances on the actuarial valuation date. In the event a dividend is
21 granted and paid after the actuarial valuation date, interest for the
22 period from the actuarial valuation date until the dividend is
23 actually paid shall be paid on the dividend amount. The interest rate
24 shall be the interest credit rate earned on regular contributions.

25 (5) At the option of the retiring member, any lump sum or

1 annuity provided under this section or section 84-1320 may be
2 deferred to commence at any time, except that no benefit shall be
3 deferred later than April 1 of the year following the year in which
4 the employee has both attained at least seventy and one-half years of
5 age and has terminated his or her employment with the state. ~~, except~~
6 ~~that for members participating in the defined contribution benefit,~~
7 ~~no distribution is required to be made for the plan year commencing~~
8 ~~January 1, 2009, through December 31, 2009.~~ Such election by the
9 retiring member may be made at any time prior to the commencement of
10 the lump-sum or annuity payments.

11 (6) A participant or beneficiary who would have been
12 required to receive required minimum distributions for 2009 but for
13 the enactment of section 401(a)(9)(H) of the Internal Revenue Code,
14 and who would have satisfied that requirement by receiving
15 distributions that are either equal to the 2009 required minimum
16 distributions or one or more payments in a series of substantially
17 equal distributions, including the 2009 required minimum
18 distribution, made at least annually and expected to last for the
19 life or life expectancy of the participant, the joint lives or joint
20 life expectancy of the participant and the participant's designated
21 beneficiary, or for a period of at least ten years, shall receive
22 those distributions for 2009 unless the participant or beneficiary
23 chooses not to receive such distributions. Participants and
24 beneficiaries shall be given the opportunity to elect to stop
25 receiving the distributions described in this subsection.

1 Sec. 39. Section 84-1321, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 84-1321 (1) Except as provided in section 42-1107, upon
4 termination of employment before becoming eligible for retirement
5 under section 84-1317, a member may, upon application to the board,
6 receive:

7 (a) If not vested, a termination benefit equal to the
8 amount in his or her employee account or member cash balance account
9 as of the date of final account value payable in a lump sum or an
10 annuity with the lump-sum or first annuity payment made at any time
11 after termination but no later than April 1 of the year following the
12 year in which the member attains the age of seventy and one-half
13 years; ~~or, except that for members participating in the defined~~
14 ~~contribution benefit, no distribution is required to be made for the~~
15 ~~plan year commencing January 1, 2009, through December 31, 2009; or~~

16 (b) If vested, a termination benefit equal to (i) the
17 amount of his or her member cash balance account as of the date of
18 final account value payable in a lump sum or an annuity with the
19 lump-sum or first annuity payment made at any time after termination
20 but no later than April 1 of the year following the year in which the
21 member attains the age of seventy and one-half years or (ii)(A) the
22 amount in his or her employee account as of the date of final account
23 value payable in a lump sum or an annuity with the lump-sum or first
24 annuity payment made at any time after termination but no later than
25 April 1 of the year following the year in which the member attains

1 the age of seventy and one-half years plus (B) the amount of his or
2 her employer account as of the date of final account value payable in
3 a lump sum or an annuity with the lump-sum or first annuity payment
4 made at any time after termination but no later than April 1 of the
5 year following the year in which the member attains the age of
6 seventy and one-half years. ~~For purposes of subdivision (1)(b) of~~
7 ~~this section, for members participating in the defined contribution~~
8 ~~benefit, no distribution is required to be made for the plan year~~
9 ~~commencing January 1, 2009, through December 31, 2009.~~

10 The member cash balance account or employer and employee
11 accounts of a terminating member shall be retained by the board, and
12 the termination benefit shall be deferred until a valid application
13 for benefits has been received.

14 (2) At the option of the terminating member, any lump sum
15 of the vested portion of the employer account or member cash balance
16 account or any annuity provided under subsection (1) of this section
17 shall commence as of the first of the month at any time after such
18 member has terminated his or her employment with the state or may be
19 deferred, except that no benefit shall be deferred later than April 1
20 of the year following the year in which the employee has both
21 attained at least seventy and one-half years of age and has
22 terminated his or her employment with the state., ~~except that for~~
23 ~~members participating in the defined contribution benefit, no~~
24 ~~distribution is required to be made for the plan year commencing~~
25 ~~January 1, 2009, through December 31, 2009.~~ Such election by the

1 terminating member shall be made at any time prior to the
2 commencement of the lump-sum or annuity payments.

3 (3) Members of the retirement system shall be vested
4 after a total of three years of participation in the system as a
5 member pursuant to section 84-1307, including vesting credit. If an
6 employee retires pursuant to section 84-1317, such an employee shall
7 be fully vested in the retirement system.

8 (4) A participant or beneficiary who would have been
9 required to receive required minimum distributions for 2009 but for
10 the enactment of section 401(a)(9)(H) of the Internal Revenue Code,
11 and who would have satisfied that requirement by receiving
12 distributions that are either equal to the 2009 required minimum
13 distributions or one or more payments in a series of substantially
14 equal distributions, including the 2009 required minimum
15 distribution, made at least annually and expected to last for the
16 life or life expectancy of the participant, the joint lives or joint
17 life expectancy of the participant and the participant's designated
18 beneficiary, or for a period of at least ten years, shall receive
19 those distributions for 2009 unless the participant or beneficiary
20 chooses not to receive such distributions. Participants and
21 beneficiaries shall be given the opportunity to elect to stop
22 receiving the distributions.

23 Sec. 40. Section 84-1321.01, Revised Statutes Cumulative
24 Supplement, 2012, is amended to read:

25 84-1321.01 (1) For a member who has terminated employment

1 and is not vested, the balance of the member's employer account or
2 employer cash balance account shall be forfeited. The forfeited
3 account shall be credited to the State Employees Retirement Fund and
4 shall first be used to meet the expense charges incurred by the
5 retirement board in connection with administering the retirement
6 system, which charges shall be credited to the State Employees
7 Defined Contribution Retirement Expense Fund, if the member
8 participated in the defined contribution option, or to the State
9 Employees Cash Balance Retirement Expense Fund, if the member
10 participated in the cash balance option, and the remainder, if any,
11 shall then be used to restore employer accounts or employer cash
12 balance accounts. Except as provided in subsection (3) of section
13 84-1314 and subdivision (4)(c) of section 84-1319, no forfeited
14 amounts shall be applied to increase the benefits any member would
15 otherwise receive under the State Employees Retirement Act.

16 (2)(a) If a member ceases to be an employee due to the
17 termination of his or her employment by the state and a grievance or
18 other appeal of the termination is filed, transactions involving
19 forfeiture of his or her employer account or employer cash balance
20 account and, except as provided in subdivision (b) of this
21 subsection, transactions for payment of benefits under sections
22 84-1317 and 84-1321 shall be suspended pending the final outcome of
23 the grievance or other appeal.

24 (b) If a member elects to receive benefits payable under
25 sections 84-1317 and 84-1321 after a grievance or appeal is filed,

1 the member may receive an amount up to the balance of his or her
2 employee account or member cash balance account or twenty-five
3 thousand dollars payable from the employee account or member cash
4 balance account, whichever is less.

5 (3) The State Employer Retirement Expense Fund is
6 created. The fund shall be administered by the Public Employees
7 Retirement Board. Prior to July 1, 2012, the fund shall be used to
8 meet expenses of the State Employees Retirement System of the State
9 of Nebraska whether such expenses are incurred in administering the
10 member's employer account or in administering the member's employer
11 cash balance account when the funds available in the State Employees
12 Defined Contribution Retirement Expense Fund or State Employees Cash
13 Balance Retirement Expense Fund make such use reasonably necessary.
14 On July 1, 2012, or as soon as practicable thereafter, any money in
15 the State Employer Retirement Expense Fund shall be transferred by
16 the State Treasurer to the State Employees Retirement Fund and
17 credited to the cash balance benefit established in section
18 84-1309.02.

19 (4) Prior to July 1, 2012, the director of the Nebraska
20 Public Employees Retirement Systems shall certify to the Accounting
21 Administrator of the Department of Administrative Services when
22 accumulated employer account forfeiture funds are available to reduce
23 the state contribution which would otherwise be required to fund
24 future service retirement benefits or to restore employer accounts or
25 employer cash balance accounts referred to in subsection (1) of this

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

12 Sec. 41. Section 84-1503, Revised Statutes Cumulative
13 Supplement, 2012, is amended to read:

14 84-1503 (1) It shall be the duty of the Public Employees
15 Retirement Board:

16 (a) To administer the retirement systems provided for in
17 the County Employees Retirement Act, the Judges Retirement Act, the
18 Nebraska State Patrol Retirement Act, the School Employees Retirement
19 Act, and the State Employees Retirement Act. The agency for the
20 administration of the retirement systems and under the direction of
21 the board shall be known and may be cited as the Nebraska Public
22 Employees Retirement Systems;

23 (b) To appoint a director to administer the systems under
24 the direction of the board. The appointment shall be subject to the
25 approval of the Governor and a majority of the Legislature. The

1 director shall be qualified by training and have at least five years
2 of experience in the administration of a qualified public or private
3 employee retirement plan. The director shall not be a member of the
4 board. The salary of the director shall be set by the board. The
5 director shall serve without term and may be removed by the board;

6 (c) To provide for an equitable allocation of expenses
7 among the retirement systems administered by the board, and all
8 expenses shall be provided from the investment income earned by the
9 various retirement funds unless alternative sources of funds to pay
10 expenses are specified by law;

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

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

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

19 (g) To adopt and implement procedures for reporting
20 information by employers, as well as testing and monitoring
21 procedures in order to verify the accuracy of such information. The
22 information necessary to determine membership shall be provided by
23 the employer. The board shall adopt and promulgate rules and
24 regulations and prescribe such forms necessary to carry out this
25 subdivision. Nothing in this subdivision shall be construed to

1 require the board to conduct onsite audits of political subdivisions
2 for compliance with statutes, rules, and regulations governing the
3 retirement systems listed in subdivision (1)(a) of this section
4 regarding membership and contributions; and

5 (h) To prescribe and furnish forms for the public
6 retirement system plan reports required to be filed pursuant to
7 sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017,
8 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987.

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

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

16 (b) To determine the eligibility of an individual to be a
17 member of the retirement system and other questions of fact in the
18 event of a dispute between an individual and the individual's
19 employer;

20 (c) To adopt and promulgate rules and regulations for the
21 management of the board;

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

24 (e) To obtain, by a competitive, formal, and sealed
25 bidding process through the materiel division of the Department of

1 Administrative Services, actuarial services on behalf of the State of
2 Nebraska as may be necessary in the administration and development of
3 the retirement systems. Any contract for actuarial services shall
4 contain a provision allowing the actuary, without prior approval of
5 the board, to perform actuarial studies of the systems as requested
6 by entities other than the board, if notice, which does not identify
7 the entity or substance of the request, is given to the board, all
8 costs are paid by the requesting entity, results are provided to the
9 board, the Nebraska Retirement Systems Committee of the Legislature,
10 and the Legislative Fiscal Analyst upon being made public, and such
11 actuarial studies do not interfere with the actuary's ongoing
12 responsibility to the board. The term of the contract shall be for up
13 to three years. A competitive, formal, and sealed bidding process
14 shall be completed at least once every three years, unless the board
15 determines that such a process would not be cost effective under the
16 circumstances and that the actuarial services performed have been
17 satisfactory, in which case the contract may also contain an option
18 for renewal without a competitive, formal, and sealed bidding process
19 for up to three additional years. An actuary under contract for the
20 State of Nebraska shall be a member of the American Academy of
21 Actuaries and meet the academy's qualification standards to render a
22 statement of actuarial opinion;

23 (f) To direct the State Treasurer to transfer funds, as
24 an expense of the retirement systems, to the Legislative Council
25 Retirement Study Fund. Such transfer shall occur beginning on or

1 after July 1, 2005, and at intervals of not less than five years and
2 not more than fifteen years and shall be in such amounts as the
3 Legislature shall direct;

4 (g) To adopt and promulgate rules and regulations to
5 carry out the provisions of each retirement system described in
6 subdivision (1)(a) of this section, which includes, but is not
7 limited to, the crediting of military service, direct rollover
8 distributions, and the acceptance of rollovers;

9 (h) To obtain, by a competitive, formal, and sealed
10 bidding process through the materiel division of the Department of
11 Administrative Services, auditing services for a separate compliance
12 audit of the retirement systems to be completed by December 31, ~~2012,~~
13 2020, and from time to time thereafter at the request of the Nebraska
14 Retirement Systems Committee of the Legislature, to be completed not
15 more than every four years but not less than every ten years. The
16 compliance audit shall be in addition to the annual audit conducted
17 by the Auditor of Public Accounts. The compliance audit shall
18 include, but not be limited to, an examination of records, files, and
19 other documents and an evaluation of all policies and procedures to
20 determine compliance with all state and federal laws. A copy of the
21 compliance audit shall be given to the Governor, the board, and the
22 Nebraska Retirement Systems Committee of the Legislature and shall be
23 presented to the committee at a public hearing;

24 (i) To adopt and promulgate rules and regulations for the
25 adjustment of contributions or benefits, which includes, but is not

1 limited to: (i) The procedures for refunding contributions, adjusting
2 future contributions or benefit payments, and requiring additional
3 contributions or repayment of benefits; (ii) the process for a
4 member, member's beneficiary, employee, or employer to dispute an
5 adjustment to contributions or benefits; (iii) establishing
6 materiality and de minimus amounts for agency transactions,
7 adjustments, and inactive account closures; and (iv) notice provided
8 to all affected persons. Following an adjustment, a timely notice
9 shall be sent that describes the adjustment and the process for
10 disputing an adjustment to contributions or benefits; and

11 (j) To administer all retirement system plans in a manner
12 which will maintain each plan's status as a qualified plan pursuant
13 to the Internal Revenue Code, as defined in section 49-801.01,
14 including: Section 401(a)(9) of the Internal Revenue Code relating to
15 the time and manner in which benefits are required to be distributed,
16 including the incidental death benefit distribution requirement of
17 section 401(a)(9)(G) of the Internal Revenue Code; section 401(a)(16)
18 of the Internal Revenue Code relating to the specification of
19 actuarial assumptions; section 401(a)(31) of the Internal Revenue
20 Code relating to direct rollover distributions from eligible
21 retirement plans; ~~and~~ section 401(a)(37) of the Internal Revenue Code
22 relating to the death benefit of a member whose death occurs while
23 performing qualified military service; and section 414(d) of the
24 Internal Revenue Code relating to the establishment of retirement
25 plans for employees of a state or political subdivision thereof. The

1 board shall adopt and promulgate rules and regulations necessary or
2 appropriate to maintain such status including, but not limited to,
3 rules or regulations which restrict discretionary or optional
4 contributions to a plan or which limit distributions from a plan.

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

15 Sec. 42. Section 84-1511, Revised Statutes Cumulative
16 Supplement, 2012, is amended to read:

17 84-1511 (1) The Public Employees Retirement Board shall
18 establish a comprehensive preretirement planning program for state
19 patrol officers, state employees, judges, county employees, and
20 school employees who are members of the retirement systems
21 established pursuant to the County Employees Retirement Act, the
22 Judges Retirement Act, the School Employees Retirement Act, the
23 Nebraska State Patrol Retirement Act, and the State Employees
24 Retirement Act. The program shall provide information and advice
25 regarding the many changes employees face upon retirement, including,

1 but not limited to, changes in physical and mental health, housing,
2 family life, leisure activity, and retirement income.

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

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

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

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

24 (6) The employer shall provide each eligible employee
25 leave with pay to attend up to two preretirement planning programs.

1 For purposes of this subsection, leave with pay shall mean a day off
2 paid by the employer and shall not mean vacation, sick, personal, or
3 compensatory time. An employee may choose to attend a program more
4 than twice, but such leave shall be at the expense of the employee
5 and shall be at the discretion of the employer. An eligible employee
6 shall not be entitled to attend more than one preretirement planning
7 program per fiscal year prior to actual election of retirement.

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

12 Sec. 43. Section 84-1511.01, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 84-1511.01 (1) The Public Employees Retirement Board
15 shall establish a comprehensive retirement education and financial
16 planning program for all members of the State Employees Retirement
17 System of the State of Nebraska and for all members of the Retirement
18 System for Nebraska Counties, who are under age fifty and not
19 eligible to attend the preretirement planning program established in
20 section 84-1511. The program may be provided to members in a single-
21 day format, or may be provided in equivalent partial-day segments.

22 (2) The retirement education and financial planning
23 program shall include discussion on the retirement system, financial
24 planning, and budgeting as well as any other planning information
25 valuable to employees before they reach age fifty.

1 (3) The employer shall provide each eligible employee
2 leave with pay to attend a retirement education and financial
3 planning program twice prior to age fifty. For purposes of this
4 subsection, leave with pay means time off paid by the employer and
5 shall not mean vacation, sick, personal, or compensatory time. Leave
6 with pay shall be provided to each eligible employee in order that
7 the employee may attend the full retirement education and financial
8 planning program, whether it is provided in a single-day program or
9 in the equivalent partial-day segments. An employee may choose to
10 attend a full program more than twice, but leave to attend any
11 additional single-day programs or equivalent segments shall be at the
12 expense of the employee and shall be at the discretion of the
13 employer. An employee may not attend a full program more than once
14 per fiscal year.

15 (4) Funding to cover the expense of the retirement
16 education and financial planning program shall be charged
17 proportionately to the State Employees Retirement Fund and the County
18 Employees Retirement Fund.

19 (5) A nominal registration fee ~~shall~~may be charged each
20 person attending a retirement education and financial planning
21 program to cover the costs for meals or meeting rooms or other
22 expenses incurred for the program.

23 Sec. 44. Original sections 23-2301, 23-2306, 23-2307,
24 23-2310.04, 23-2315, 23-2317, 23-2319, 23-2319.01, 79-917, 79-921,
25 79-962, 79-984, 79-991, 79-992, 79-996, 79-9,102, 84-1308, and

1 84-1511.01, Reissue Revised Statutes of Nebraska, and sections
2 24-701, 24-703, 24-710.13, 79-902, 79-904.01, 79-947.06, 79-956,
3 79-958, 79-987, 79-990, 79-9,117, 81-2014, 81-2016, 81-2017,
4 81-2027.08, 81-2041, 84-1301, 84-1307, 84-1314, 84-1317, 84-1319,
5 84-1321, 84-1321.01, 84-1503, and 84-1511, Revised Statutes
6 Cumulative Supplement, 2012, are repealed.