

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 638

Introduced by Nelson, 6.

Read first time January 23, 2013

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 79-921, 79-922,
2 and 79-972.01, Reissue Revised Statutes of Nebraska, and
3 sections 79-901, 79-902, 79-910.01, 79-920, 79-926,
4 79-947.06, and 84-1501, Revised Statutes Cumulative
5 Supplement, 2012; to provide a cash balance retirement
6 system for new school employees; to change membership of
7 the Public Employees Retirement Board; to harmonize
8 provisions; to provide an operative date; and to repeal
9 the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-901, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 79-901 Sections 79-901 to 79-977.03 and sections 3 to 5
4 and 10 to 29 of this act shall be known and may be cited as the
5 School Employees Retirement Act.

6 Sec. 2. Section 79-902, Revised Statutes Cumulative
7 Supplement, 2012, is amended to read:

8 79-902 For purposes of the School Employees Retirement
9 Act, unless the context otherwise requires:

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

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

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

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

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

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

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

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

24 (9) Regular interest means interest fixed at a rate equal
25 to the daily treasury yield curve for one-year treasury securities,

1 as published by the Secretary of the Treasury of the United States,
2 that applies on July 1 of each year, which may be credited monthly,
3 quarterly, semiannually, or annually as the board may direct;

4 (10) School employee means:

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

17 (b) For purposes of the cash balance benefit, the
18 following persons who become employed as such on and after the
19 operative date of this act and who receive compensation from a public
20 school: (i) Regular employees; (ii) regular employees having retired
21 pursuant to the School Employees Retirement Act prior to the
22 operative date of this act who subsequently provide compensated
23 service on a regular basis in any capacity; and (iii) regular
24 employees hired by a public school on an ongoing basis to assume the
25 duties of other regular employees who are temporarily absent.

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

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

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

20 (13) ~~Retirement~~—(a) Except as provided in subdivision
21 (13)(b) of this section, retirement means qualifying for and
22 accepting a school or disability retirement allowance granted under
23 the School Employees Retirement Act. †

24 (b) For purposes of the cash balance benefit, retirement
25 means qualifying for and accepting the retirement benefit granted

1 under the School Employees Retirement Act after terminating
2 employment;

3 (14) Retirement board or board means the Public Employees
4 Retirement Board;

5 (15) Retirement system means the School Employees
6 Retirement System of the State of Nebraska;

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

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

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

1 79-953;

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

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

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

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

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

23 (24) Emeritus member means a person (a) who has entered
24 retirement under the provisions of the act, including those persons
25 who have retired since July 1, 1945, under any other regularly

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

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

25 (b) For purposes of the cash balance benefit, actuarial

1 equivalent means the equality in value of the aggregate amounts
2 expected to be received under different forms of an annuity payment.
3 The mortality assumption used for purposes of converting the member
4 cash balance account shall be the 1994 Group Annuity Mortality Table
5 using a unisex rate that is fifty percent male and fifty percent
6 female;

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

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

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

25 (29)(a) Except as provided in subdivision (29)(b) of this

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

6 (b) For purposes of the cash balance benefit, eligibility
7 and vesting credit means credit for years, or a fraction of a year,
8 of participation in another Nebraska governmental or political
9 subdivision plan for purposes of determining vesting of the employer
10 account;

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

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

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

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

25 (32) Current benefit means the initial benefit increased

1 by all adjustments made pursuant to the School Employees Retirement
2 Act;

3 (33) Initial benefit means the retirement benefit
4 calculated at the time of retirement;

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

17 (35) Except as provided in subdivision (36) of this
18 section:

19 ~~(35)(a)~~ (a) Compensation means gross wages or salaries
20 payable to the member for personal services performed during the plan
21 year and includes (i) overtime pay, (ii) member retirement
22 contributions, (iii) retroactive salary payments paid pursuant to
23 court order, arbitration, or litigation and grievance settlements,
24 and (iv) amounts contributed by the member to plans under sections
25 125, 403(b), and 457 of the Internal Revenue Code as defined in

1 section 49-801.01 or any other section of the code which defers or
2 excludes such amounts from income; -

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

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

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

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

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

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

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

1 actual annual compensation increase during the preceding plan year;
2 and

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

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

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

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

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

1 and -

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

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

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

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

22 (36) For purposes of the cash balance benefit,
23 compensation means gross wages or salaries payable to the member for
24 personal services performed during the plan year. Compensation does
25 not include insurance premiums converted into cash payments,

1 reimbursement for expenses incurred, fringe benefits, or bonuses for
2 services not actually rendered, including, but not limited to, early
3 retirement inducements, cash awards, and severance pay, except for
4 retroactive salary payments paid pursuant to court order,
5 arbitration, or litigation and grievance settlements. Compensation
6 includes overtime pay, member retirement contributions, and amounts
7 contributed by the member to plans under sections 125, 403(b), and
8 457 of the Internal Revenue Code or any other section of the code
9 which defers or excludes such amounts from income. Compensation in
10 excess of the limitations set forth in section 401(a)(17) of the
11 Internal Revenue Code shall be disregarded;

12 ~~(36)~~-(37) Termination of employment occurs on the date on
13 which the member experiences a bona fide separation from service of
14 employment with the member's employer, the date of which separation
15 is determined by the employer. The employer shall notify the board of
16 the date on which such a termination has occurred. It is the
17 responsibility of the employer that is involved in the termination of
18 employment to notify the board of such change in employment and
19 provide the board with such information as the board deems necessary.
20 If the board determines that termination of employment has not
21 occurred and a retirement benefit has been paid to a member of the
22 retirement system pursuant to section 79-933, the board shall require
23 the member who has received such benefit to repay the benefit to the
24 retirement system. A member shall not be deemed to have terminated
25 employment if the member subsequently provides service to any

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

4 (a) Is bona fide unpaid voluntary service or substitute
5 service, provided on an intermittent basis; or

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

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

10 ~~(37)~~-(38) Disability means an inability to engage in a
11 substantially gainful activity by reason of any medically
12 determinable physical or mental impairment which can be expected to
13 result in death or be of a long and indefinite duration;

14 ~~(38)~~-(39) Substitute employee means a person hired by a
15 public school as a temporary employee to assume the duties of regular
16 employees due to the temporary absence of the regular employees.
17 Substitute employee does not mean a person hired as a regular
18 employee on an ongoing basis to assume the duties of other regular
19 employees who are temporarily absent;

20 ~~(39)~~-(40) Participation means qualifying for and making
21 required deposits to the retirement system during the course of a
22 plan year;

23 ~~(40)~~-(41) Regular employee means an employee hired by a
24 public school or under contract in a regular full-time or part-time
25 position who works a full-time or part-time schedule on an ongoing

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

7 ~~(41)-(42)~~ Temporary employee means an employee hired by a
8 public school who is not a regular employee and who is hired to
9 provide service for a limited period of time to accomplish a specific
10 purpose or task. When such specific purpose or task is complete, the
11 employment of such temporary employee shall terminate and in no case
12 shall the temporary employment period exceed one year in duration; -

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

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

25 (45) Employee contribution credit means an amount equal

1 to the member contribution amount required by subsection (1) of
2 section 10 of this act;

3 (46) Employer contribution credit means an amount equal
4 to the employer contribution amount required by subsection (2) of
5 section 10 of this act;

6 (47) 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 (48) Five-year break in service means five consecutive
13 one-year breaks in service;

14 (49) Guaranteed investment contract means an investment
15 contract or account offering a return of principal invested plus
16 interest at a specified rate. Guaranteed investment contract does not
17 include direct obligations of the United States or its
18 instrumentalities, bonds, participation certificates or other
19 obligations of the Federal National Mortgage Association, the Federal
20 Home Loan Mortgage Corporation, or the Government National Mortgage
21 Association, or collateralized mortgage obligations and other
22 derivative securities;

23 (50) Interest credit rate means the greater of (a) five
24 percent or (b) the applicable federal mid-term rate, as published by
25 the Internal Revenue Service as of the first day of the calendar

1 quarter for which interest credits are credited, plus one and one-
2 half percent, such rate to be compounded annually;

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

19 (52) Member cash balance account means an account equal
20 to the sum of the employee cash balance account and, if vested, the
21 employer cash balance account and dividend amounts credited in
22 accordance with subdivision (4)(c) of section 17 of this act;

23 (53) One-year break in service means a plan year during
24 which the member has not completed more than five hundred hours of
25 service;

1 (54) Participation means qualifying for and making the
2 required deposits to the retirement system during the course of a
3 plan year;

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

8 (56) Required contribution means the deduction to be made
9 from the compensation of school employees as provided in subsection
10 (1) of section 10 of this act; and

11 (57) Cash balance benefit means a member's retirement
12 benefit that is equal to an amount based on annual employee
13 contribution credits plus interest credits and, if vested, employer
14 contribution credits plus interest credits and dividend amounts
15 credited in accordance with subdivision (4)(c) of section 17 of this
16 act.

17 Sec. 3. (1) A cash balance benefit shall be added to the
18 School Employees Retirement Act on and after the operative date of
19 this act. Each member who begins employment and participation in the
20 retirement system on and after such date shall participate in the
21 cash balance benefit.

22 (2) Except as provided in subdivision (2)(b) of section
23 19 of this act, the employee cash balance account within the School
24 Retirement Fund shall, at any time, be equal to the following:

25 (a) Employee contribution credits deposited in accordance

1 with section 10 of this act; plus

2 (b) Interest credits credited in accordance with
3 subdivision (51) of section 79-902; plus

4 (c) Dividend amounts credited in accordance with
5 subdivision (4)(c) of section 17 of this act; and

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

8 (a) Employer contribution credits deposited in accordance
9 with section 10 of this act; plus

10 (b) Interest credits credited in accordance with
11 subdivision (51) of section 79-902; plus

12 (c) Dividend amounts credited in accordance with
13 subdivision (4)(c) of section 17 of this act.

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

23 Sec. 4. The retirement system shall not accept as
24 contributions for the cash balance benefit any money from members or
25 employers except the following:

1 (1) Mandatory contributions established by section 10 of
2 this act;

3 (2) Money that is a repayment of refunded contributions
4 made pursuant to section 20 of this act;

5 (3) Contributions for military service credit made
6 pursuant to section 23 of this act;

7 (4) Actuarially required contributions pursuant to
8 subdivision (4)(b) of section 17 of this act;

9 (5) Trustee-to-trustee transfers pursuant to section 14
10 of this act; or

11 (6) Corrections ordered by the board.

12 Sec. 5. Sections 79-907, 79-927 to 79-929, 79-931,
13 79-933.03 to 79-933.08, 79-938, 79-947.06, 79-956, and 79-958 to
14 79-960 apply to the school retirement allowance.

15 Sec. 6. Section 79-910.01, Revised Statutes Cumulative
16 Supplement, 2012, is amended to read:

17 79-910.01 (1) Each person employed by a public school who
18 is a school employee and who is qualified to participate in the
19 retirement system shall participate in the retirement system. School
20 employees who began employment prior to the operative date of this
21 act shall receive the school retirement allowance and school
22 employees who began employment or were rehired on or after such date
23 shall receive the cash balance benefit.

24 (2) Public schools shall ensure that all school employees
25 who qualify for participation pursuant to this section shall begin

1 annual participation on July 1 of each plan year or upon such
2 person's date of hire, if later than July 1, and that all required
3 deposits are made on behalf of such employees.

4 Sec. 7. Section 79-920, Revised Statutes Cumulative
5 Supplement, 2012, is amended to read:

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

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

23 (b) An individual shall be required to participate in the
24 State Employees Retirement System if (i) the individual terminated
25 employment from a public school participating in the School Employees

1 Retirement System and retired pursuant to the School Employees
2 Retirement Act and ~~(ii)~~—the employment by the State Department of
3 Education began or will begin within one hundred eighty days after
4 terminating employment from the school or (ii) the individual is
5 employed by the department on or after the operative date of this
6 act.

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

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

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

25 Sec. 8. Section 79-921, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 79-921 (1) The membership of any person in the retirement
3 system shall cease only if he or she (a) withdraws his or her
4 accumulated contributions under section 79-955, (b) retires on a
5 school or formula or disability retirement allowance, or (c) dies.

6 (2) ~~The~~ Prior to the operative date of this act, the
7 retirement board shall reinstate to membership, with the same status
8 as when such membership ceased, a school employee who has withdrawn
9 his or her accumulated contributions under the following conditions:

10 (a) If he or she again becomes an employee and if such
11 employee chooses within three years after rejoining the system to
12 repay, within five years after the date on which he or she rejoins
13 the retirement system or prior to termination of employment,
14 whichever is first, to the retirement board part or all of the amount
15 he or she has withdrawn plus interest which would have accrued on
16 that amount under the retirement system; or

17 (b) If, more than three years after again becoming an
18 employee and rejoining the system but prior to termination of
19 employment, he or she chooses to repay part or all of the amount he
20 or she has withdrawn, plus an amount equal to the actuarial assumed
21 rate of return for the period repaid. Payment must be completed
22 within five years after electing to repay or prior to termination,
23 whichever is earlier.

24 (3) Prior creditable service shall be restored in
25 proportion to the amounts repaid. A member's prior creditable service

1 shall be fully restored only if the member has repaid all accumulated
2 withdrawals in accordance with either subdivision (2)(a) or (2)(b) of
3 this section, as applicable. Repayment may be made through direct
4 payment, installment payments, or an irrevocable payroll deduction
5 authorization. If the school employee chooses not to repay such
6 withdrawals with interest, the school employee shall enter the system
7 as a new member with no prior rights.

8 Sec. 9. Section 79-922, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 79-922 (1) ~~Commencing on September 13, 1997, a~~ A
11 beneficiary retired under the School Employees Retirement Act who
12 returns to employment as a school employee, except for members
13 retired under sections 79-951 to 79-954, shall continue receiving
14 retirement benefits and shall be treated for all purposes of the act
15 as a new school employee. A new member cash balance account shall be
16 created for such school employee, and the member shall make
17 contributions to such new account. ~~and shall receive service credit~~
18 ~~only for future service commencing from the date of reemployment.~~

19 (2) A person receiving a retirement benefit may accept
20 employment in a postsecondary school under the control and management
21 of the Board of Trustees of the Nebraska State Colleges, the Board of
22 Regents of the University of Nebraska, a community college board of
23 governors for any community college area established by section
24 85-1504, or any other state agency without having to waive retirement
25 payments, without having to notify the retirement board, and without

1 being subject to any withholding of future retirement payments
2 relating to any retirement system which is provided for a public
3 school.

4 Sec. 10. Sections 10 to 29 of this act apply to the cash
5 balance benefit.

6 Sec. 11. (1)(a) Each school employee who is a member of
7 the retirement system shall pay or have paid on his or her behalf a
8 sum equal to XXX percent of his or her monthly compensation. Such
9 amounts shall be deducted monthly pursuant to subsection (2) of this
10 section by the employer. All money received shall be remitted to the
11 State Treasurer and credited to the School Retirement Fund.

12 (b) The employer shall pick up the school employee
13 contributions required by this subsection and the contributions so
14 picked up shall be treated as employer contributions in determining
15 federal tax treatment under the Internal Revenue Code as defined in
16 section 49-801.01, except that the employer shall continue to
17 withhold federal income taxes based upon these contributions until
18 the Internal Revenue Service or the federal courts rule that,
19 pursuant to section 414(h) of the code, these contributions shall not
20 be included as gross income of the employee until such time as they
21 are distributed or made available. The employer shall pay these
22 school employee contributions from the same source of funds which is
23 used in paying earnings to the employee. The employer shall pick up
24 these contributions by a deduction through a reduction in the cash
25 compensation of the employee. School employee contributions picked up

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

4 (2) The employer shall remit an amount each month to the
5 State Treasurer to be credited to the fund a sum equal to one hundred
6 one percent of the amounts deducted pursuant to subsection (1) of
7 this section.

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

20 Sec. 13. (1) For purposes of this section and section 13
21 of this act:

22 (a) Distributee means the member, the member's surviving
23 spouse, or the member's former spouse who is an alternate payee under
24 a qualified domestic relations order as defined in section 414(p) of
25 the Internal Revenue Code;

1 (b) Direct rollover means a payment by the retirement
2 system to the eligible retirement plan or plans specified by the
3 distributee;

4 (c) Eligible retirement plan means (i) an individual
5 retirement account described in section 408(a) of the Internal
6 Revenue Code, (ii) an individual retirement annuity described in
7 section 408(b) of the code, except for an endowment contract, (iii) a
8 qualified plan described in section 401(a) of the code, (iv) an
9 annuity plan described in section 403(a) or 403(b) of the code, (v)
10 except for purposes of section 84-1313, an individual retirement plan
11 described in section 408A of the code, and (vi) a plan described in
12 section 457(b) of the code and maintained by a governmental employer.
13 For eligible rollover distributions to a surviving spouse, an
14 eligible retirement plan means subdivisions (1)(c)(i) through (vi) of
15 this section; and

16 (d) Eligible rollover distribution means any distribution
17 to a distributee of all or any portion of the balance to the credit
18 of the distributee in the plan, except such term shall not include
19 any distribution which is one of a series of substantially equal
20 periodic payments, not less frequently than annually, made for the
21 life of the distributee or joint lives of the distributee and the
22 distributee's beneficiary or for the specified period of ten years or
23 more and shall not include any distribution to the extent such
24 distribution is required under section 401(a)(9) of the Internal
25 Revenue Code.

1 (2) A distributee may elect to have any portion of an
2 eligible rollover distribution paid directly to an eligible
3 retirement plan specified by the distributee.

4 (3) A member's surviving spouse or former spouse who is
5 an alternate payee under a qualified domestic relations order and any
6 designated beneficiary of a member who is not a surviving spouse or
7 former spouse who is entitled to receive an eligible rollover
8 distribution from the retirement system may, in accordance with such
9 rules, regulations, and limitations as may be established by the
10 board, elect to have such distribution made in the form of a direct
11 transfer to a retirement plan eligible to receive such transfer under
12 the provisions of the Internal Revenue Code.

13 (4) An eligible rollover distribution on behalf of a
14 designated beneficiary of a member who is not a surviving spouse or
15 former spouse of the member may be transferred to an individual
16 retirement account or annuity described in section 408(a) or section
17 408(b) of the Internal Revenue Code that is established for the
18 purpose of receiving the distribution on behalf of the designated
19 beneficiary and that will be treated as an inherited individual
20 retirement account or individual retirement annuity described in
21 section 408(d)(3)(C) of the Internal Revenue Code.

22 (5) The board shall adopt and promulgate rules and
23 regulations for direct rollover procedures which are consistent with
24 section 401(a)(31) of the Internal Revenue Code and which include,
25 but are not limited to, the form and time of direct rollover

1 distributions.

2 Sec. 14. (1) The retirement system may accept cash
3 rollover contributions from a member who is making payment pursuant
4 to section 21 or 24 of this act if the contributions do not exceed
5 the amount of payment authorized to be paid by the member pursuant to
6 section 21 or 24 of this act and the contributions represent (a) all
7 or any portion of the balance of the member's interest in a qualified
8 plan under section 401(a) of the Internal Revenue Code or (b) the
9 interest of the member from an individual retirement account or an
10 individual retirement annuity, the entire amount of which is
11 attributable to a qualified total distribution, as defined in the
12 Internal Revenue Code, from a qualified plan under section 401(a) of
13 the code and qualified as a tax-free rollover amount. The member's
14 interest under subdivision (a) or (b) of this subsection must be
15 transferred to the retirement system within sixty days from the date
16 of the distribution from the qualified plan, individual retirement
17 account, or individual retirement annuity.

18 (2) Cash transferred to the retirement system as a
19 rollover contribution shall be deposited as other payments made under
20 section 21 or 24 of this act.

21 (3) Under the same conditions as provided in subsection
22 (1) of this section, the retirement system may accept eligible
23 rollover distributions from (a) an annuity contract described in
24 section 403(b) of the Internal Revenue Code, (b) a plan described in
25 section 457(b) of the code which is maintained by a state, a

1 political subdivision of a state, or any agency or instrumentality of
2 a state or political subdivision of a state, or (c) the portion of a
3 distribution from an individual retirement account or annuity
4 described in section 408(a) or 408(b) of the code that is eligible to
5 be rolled over and would otherwise be includible in gross income.
6 Amounts accepted pursuant to this subsection shall be deposited as
7 all other payments under this section.

8 (4) The retirement system may accept direct rollover
9 distributions made from a qualified plan pursuant to section 401(a)
10 (31) of the Internal Revenue Code. The direct rollover distribution
11 shall be deposited as all other payments under this section.

12 (5) The board shall adopt and promulgate rules and
13 regulations defining procedures for acceptance of rollovers which are
14 consistent with sections 401(a)(31) and 402 of the Internal Revenue
15 Code.

16 Sec. 15. The retirement system may accept as payment for
17 withdrawn amounts made pursuant to the School Employees Retirement
18 Act a direct trustee-to-trustee transfer from (1) an eligible tax-
19 sheltered annuity plan as described in section 403(b) of the Internal
20 Revenue Code or (2) an eligible deferred compensation plan as
21 described in section 457(b) of the code on behalf of a member who is
22 making payments for such amounts. The amount transferred shall not
23 exceed the amount withdrawn and such transferred amount shall qualify
24 as a purchase of permissive service credit by the member as defined
25 in section 415 of the code.

1 Sec. 16. (1) Upon filing an application for benefits with
2 the board, a school employee may elect to retire after the attainment
3 of age fifty-five or a school employee may retire as a result of
4 disability at any age.

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

12 Sec. 17. The retirement value for any school employee who
13 retires under the provisions of section 84-1317 shall be the benefit
14 provided in section 12 of this act as of the date of final account
15 value for participants in the cash balance benefit.

16 Sec. 18. (1) The future service retirement benefit shall
17 be an annuity, payable monthly with the first payment made no earlier
18 than the annuity start date, which shall be the actuarial equivalent
19 of the retirement value as specified in section 17 of this act based
20 on factors determined by the board, except that gender shall not be a
21 factor when determining the amount of such payments except as
22 provided in this section.

23 Except as provided in section 42-1107, at any time before
24 the annuity start date, the retiring school employee may choose to
25 receive his or her annuity either in the form of an annuity as

1 provided under subsection (4) of this section or any optional form
2 that is determined acceptable by the board.

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

12 In any case, the amount of the monthly payment shall be
13 such that the annuity chosen shall be the actuarial equivalent of the
14 retirement value as specified in section 17 of this act except as
15 provided in this section.

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

21 (2) Except as provided in subsection (4) of this section,
22 the monthly annuity income payable to a member shall be as follows:

23 He or she shall receive at retirement the amount which
24 may be purchased by the accumulated contributions based on annuity
25 rates in effect on the annuity start date which do not utilize gender

1 as a factor, except that such amounts shall not be less than the
2 retirement income which can be provided by income provided by the
3 accumulated contributions based on the annuity purchase rates in
4 effect on the date of purchase which do not use gender as a factor.

5 (3) Any amounts, in excess of contributions, which may be
6 required in order to purchase the retirement income specified in
7 subsection (2) of this section shall be withdrawn from the XXXX Fund.

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

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

25 The balance of a member's cash balance account as of the

1 date of final account value shall be converted to an annuity using an
2 interest rate used in the actuarial valuation as recommended by the
3 actuary and approved by the board.

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

1 rate and the rate of all contributions required pursuant to the act.

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

18 (5) At the option of the retiring member, any lump sum or
19 annuity provided under this section may be deferred to commence at
20 any time, except that no benefit shall be deferred later than April 1
21 of the year following the year in which the employee has both
22 attained at least seventy and one-half years of age and has
23 terminated his or her employment with the state. Such election by the
24 retiring member may be made at any time prior to the commencement of
25 the lump-sum or annuity payments.

1 Sec. 19. (1) Except as provided in section 42-1107, upon
2 termination of employment before becoming eligible for retirement
3 under section 15 of this act, a member may, upon application to the
4 board, receive:

5 (a) If not vested, a termination benefit equal to the
6 amount in his or her employee account or member cash balance account
7 as of the date of final account value payable in a lump sum or an
8 annuity with the lump-sum or first annuity payment made at any time
9 after termination but no later than April 1 of the year following the
10 year in which the member attains the age of seventy and one-half
11 years; or

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

1 year following the year in which the member attains the age of
2 seventy and one-half years.

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

7 (2) At the option of the terminating member, any lump sum
8 of the vested portion of the employer account or member cash balance
9 account or any annuity provided under subsection (1) of this section
10 shall commence as of the first of the month at any time after such
11 member has terminated his or her employment with a participating
12 school or may be deferred, except that no benefit shall be deferred
13 later than April 1 of the year following the year in which the
14 employee has both attained at least seventy and one-half years of age
15 and has terminated his or her employment with the state. Such
16 election by the terminating member shall be made at any time prior to
17 the commencement of the lump-sum or annuity payments.

18 (3) Members of the retirement system shall be vested
19 after a total of five years of participation in the system as a
20 member, including vesting credit. If an employee retires pursuant to
21 section 16 of this act, such an employee shall be fully vested in the
22 retirement system.

23 Sec. 20. (1) For a member who has terminated employment
24 and is not vested, the balance of the member's employer cash balance
25 account shall be forfeited. The forfeited account shall be credited

1 to the School Retirement Fund. Except as provided in subdivision (4)
2 (c) of section 18 of this act, no forfeited amounts shall be applied
3 to increase the benefits any member would otherwise receive under the
4 School Employees Retirement Act.

5 (2)(a) If a member ceases to be a school employee due to
6 the termination of his or her employment and a grievance or other
7 appeal of the termination is filed, transactions involving forfeiture
8 of his or her employer account or employer cash balance account and,
9 except as provided in subdivision (b) of this subsection,
10 transactions for payment of benefits under sections 15 and 18 of this
11 act shall be suspended pending the final outcome of the grievance or
12 other appeal.

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

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

25 (2)(a) A member who ceases to be a school employee before

1 becoming eligible for retirement under section 16 of this act and
2 again becomes a permanent full-time or permanent part-time school
3 employee prior to having a five-year break in service shall
4 immediately be reenrolled in the retirement system and resume making
5 contributions. For purposes of vesting employer contributions made
6 prior to and after reentry into the retirement system under
7 subsection (3) of section 19 of this act, years of participation
8 include years of participation prior to such employee's original
9 termination. For a member who is not vested and has received a
10 termination benefit pursuant to section 19 of this act, the years of
11 participation prior to such employee's original termination shall be
12 limited in a ratio equal to the amount that the member repays divided
13 by the termination benefit withdrawn pursuant to section 19 of this
14 act.

15 (b) The reemployed member may repay the value of, or a
16 portion of the value of, the termination benefit withdrawn pursuant
17 to section 19 of this act. A reemployed member who elects to repay
18 all or a portion of the value of the termination benefit withdrawn
19 pursuant to section 19 of this act shall repay the actual earnings on
20 such value. Repayment of the termination benefit shall commence
21 within three years after reemployment and shall be completed within
22 five years after reemployment or prior to termination of employment,
23 whichever occurs first, through (i) direct payments to the retirement
24 system, (ii) installment payments made pursuant to a binding
25 irrevocable payroll deduction authorization made by the member, (iii)

1 an eligible rollover distribution as provided under the Internal
2 Revenue Code, or (iv) a direct rollover distribution made in
3 accordance with section 401(a)(31) of the Internal Revenue Code.

4 (c) The value of the member's forfeited employer account
5 or employer cash balance account, as of the date of forfeiture, shall
6 be restored in a ratio equal to the amount of the benefit that the
7 member has repaid divided by the termination benefit received. The
8 employer account or employer cash balance account shall be restored
9 first out of the current forfeiture amounts and then by additional
10 employer contributions.

11 (3) For a member who retired pursuant to section 16 of
12 this act and becomes a permanent full-time employee or permanent
13 part-time school employee more than one hundred twenty days after his
14 or her retirement date, the member shall continue receiving
15 retirement benefits. Such a retired member or a retired member who
16 received a lump-sum distribution of his or her benefit shall be
17 considered a new employee as of the date of reemployment and shall
18 not receive credit for any service prior to the member's retirement
19 for purposes of the act.

20 (4) A member who is reinstated as a school employee
21 pursuant to a grievance or appeal of his or her termination shall be
22 a member upon reemployment and shall not be considered to have a
23 break in service for such period of time that the grievance or appeal
24 was pending. Following reinstatement, the member shall repay the
25 value of the amount received from his or her employee account or

1 member cash balance account under subdivision (2)(b) of section 20 of
2 this act.

3 Sec. 22. (1) Any member who is a school employee,
4 disregarding the length of service, may be retired as a result of
5 disability either upon the member's own application or upon the
6 application of the member's employer or any person acting in the
7 member's behalf. Before any member may be so retired, a medical
8 examination shall be made at the expense of the retirement system,
9 which examination shall be conducted by a disinterested physician
10 legally authorized to practice medicine under the laws of the state
11 in which he or she practices, such physician to be selected by the
12 retirement board, and the physician shall certify to the board that
13 the member suffers from an inability to engage in a substantially
14 gainful activity by reason of any medically determinable physical or
15 mental impairment which began while the member was a participant in
16 the plan and which can be expected to result in death or to be of
17 long-continued and indefinite duration and should be retired. The
18 application for disability retirement shall be made within one year
19 of termination of employment.

20 (2) The retirement board may require any disability
21 beneficiary who has not attained the age of fifty-five to undergo a
22 medical examination at the expense of the board once each year. If
23 any disability beneficiary refuses to undergo such an examination,
24 the disability retirement benefit may be discontinued by the board.

25 Sec. 23. (1) Except as provided in subsection (2) of this

1 section, all annuities or benefits which any person shall be entitled
2 to receive under the School Employees Retirement Act shall not be
3 subject to garnishment, attachment, levy, the operation of bankruptcy
4 or insolvency laws, or any other process of law whatsoever and shall
5 not be assignable except to the extent that such annuities or
6 benefits are subject to a qualified domestic relations order under
7 the Spousal Pension Rights Act. The payment of any annuities or
8 benefits subject to such order shall take priority over any payment
9 made pursuant to subsection (2) of this section.

10 (2) If a member of the retirement system is convicted of
11 or pleads no contest to a felony that is defined as assault, sexual
12 assault, kidnapping, child abuse, false imprisonment, or theft by
13 embezzlement and is found liable for civil damages as a result of
14 such felony, following distribution of the member's annuities or
15 benefits from the retirement system, the court may order the payment
16 of the member's annuities or benefits under the retirement system for
17 such civil damages, except that the annuities or benefits to the
18 extent reasonably necessary for the support of the member or any of
19 his or her beneficiaries shall be exempt from such payment. Any order
20 for payment of annuities or benefits shall not be stayed on the
21 filing of any appeal of the conviction. If the conviction is reversed
22 on final judgment, all annuities or benefits paid as civil damages
23 shall be forfeited and returned to the member. This section shall
24 apply to persons convicted of or who have pled no contest to such a
25 felony and who have been found liable for civil damages as a result

1 of such felony prior to, on, or after the operative date of this act.

2 Sec. 24. (1) Any school employee who, while a school
3 employee, entered into and served in the armed forces of the United
4 States and who, within ninety days after honorable discharge or
5 honorable separation from active duty, again became a school
6 employee, shall be credited with all the time actually served in the
7 armed forces as if such person had been a school employee throughout
8 such service in the armed forces pursuant to the terms and conditions
9 of subsection (2) of this section.

10 (2) Under such rules and regulations as the retirement
11 board adopts and promulgates, any school employee who is reemployed
12 pursuant to 38 U.S.C. 4301 et seq., may pay to the retirement system
13 an amount equal to the sum of all deductions which would have been
14 made from the school employee's compensation during such period of
15 military service. Payment shall be made within the period required by
16 law, not to exceed five years. To the extent that payment is made,
17 (a) the school employee shall be treated as not having incurred a
18 break in service by reason of his or her period of military service,
19 (b) the period of military service shall be credited for the purposes
20 of determining the nonforfeitability of the member's accrued benefits
21 and the accrual of benefits under the plan, and (c) the employer
22 shall allocate the amount of employer contributions to the member's
23 employer account in the same manner and to the same extent the
24 allocation occurs for other school employees during the period of
25 service. For purposes of member and employer contributions under this

1 subsection, the member's compensation during the period of military
2 service shall be the rate the member would have received but for the
3 military service or, if not reasonably determinable, the average rate
4 the member received during the twelve-month period immediately
5 preceding military service.

6 (3) The employer shall pick up the member contributions
7 made through irrevocable payroll deduction authorizations pursuant to
8 this section, and the contributions so picked up shall be treated as
9 employer contributions in the same manner as contributions picked up
10 under subsection (1) of section 11 of this act.

11 Sec. 25. Persons who have become members of the
12 retirement system shall not thereafter lose their status as members
13 while they remain school employees.

14 Sec. 26. Any person who, knowing it to be false or
15 fraudulent, presents or causes to be presented a false or fraudulent
16 claim or benefit application, any false or fraudulent proof in
17 support of such a claim or benefit, or false or fraudulent
18 information which would affect a future claim or benefit application
19 to be paid under the retirement system for the purpose of defrauding
20 or attempting to defraud the retirement system shall be guilty of a
21 Class II misdemeanor. The retirement board shall deny any benefits
22 that it determines are based on false or fraudulent information and
23 shall have a cause of action against the member to recover any
24 benefits already paid on the basis of such information.

25 Sec. 27. The retirement allowances and benefits shall be

1 in addition to benefits and allowances payable under the provisions
2 of the federal Social Security Act.

3 Sec. 28. All contributions to the retirement system, all
4 property and rights purchased with the contributions, and all
5 investment income attributable to the contributions, property, or
6 rights shall be held in trust by the State of Nebraska for the
7 exclusive benefit of members and their beneficiaries and shall only
8 be used to pay benefits to such persons and to pay administrative
9 expenses according to the provisions of the School Employees
10 Retirement Act.

11 Sec. 29. Upon termination or partial termination of the
12 retirement system or upon complete discontinuance of contributions
13 under the retirement system, the rights of all affected members to
14 the amounts credited to the members' accounts shall be
15 nonforfeitable.

16 Sec. 30. Section 79-926, Revised Statutes Cumulative
17 Supplement, 2012, is amended to read:

18 79-926 (1) Under such rules and regulations as the
19 retirement board adopts and promulgates, each person who was a school
20 employee at any time prior to the establishment of the retirement
21 system and who becomes a member of the retirement system shall,
22 within two years after becoming a member, file a detailed statement
23 of all service as a school employee rendered by him or her prior to
24 the date of establishment of the retirement system. In order to
25 qualify for prior service credit toward a service annuity, a school

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

18 (2) ~~Any~~ Prior to the operative date of this act, any
19 person who, after having served or signing a contract to serve as a
20 school employee, entered into and served or enters into and serves in
21 the armed forces of the United States during a declared emergency or
22 was drafted under a federal mandatory draft law into the armed forces
23 of the United States during a time of peace, as described and
24 prescribed under such rules and regulations as the retirement board
25 adopts and promulgates, and who, within three calendar years after

1 honorable discharge or honorable separation from active duty or
2 within one year from the date of completion of training provided in
3 the federal Servicemen's Readjustment Act of 1944 or the federal
4 Veterans' Readjustment Assistance Act of 1952, became or becomes a
5 school employee shall be credited, in determining benefits due such
6 member from the retirement system, for a maximum of five years of the
7 time actually served in the armed forces as if such person had been a
8 school employee throughout such time.

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

18 (4) On or after the operative date of this act, military
19 service shall be granted in accordance with section XXX of this act.

20 Sec. 31. Section 79-947.06, Revised Statutes Cumulative
21 Supplement, 2012, is amended to read:

22 79-947.06 (1) Beginning July 1, 2011, and each July 1
23 thereafter, the board shall determine the number of retired members
24 or beneficiaries described in subdivision (4)(b) of this section who
25 participates in the school retirement allowance in the retirement

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

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

1 the purchasing power of the initial benefit as calculated in this
2 subsection, the adjustment shall instead be equal to the percentage
3 change in the Consumer Price Index for Urban Wage Earners and
4 Clerical Workers factor from the prior year to the current year.

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

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

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

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

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

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

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

1 Clerical Workers from the last adjustment of the minimum accrual
2 rate.

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

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

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

1 be a reasonable representative measurement of the cost-of-living for
2 retired employees.

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

8 Sec. 32. Section 79-972.01, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 79-972.01 The School Retirement Fund is created. The
11 required deposits of the employer, the state, and the employees shall
12 be credited to the fund and all savings annuities, service annuities,
13 ~~and formula annuities, and cash balance benefits~~ shall be paid from
14 the fund as provided in the School Employees Retirement Act. ~~Any~~
15 ~~unexpended balance existing on June 30, 2002, in the School Employers~~
16 ~~Deposit Account, the Service Annuity Account, the School Employees~~
17 ~~Savings Account, the Annuity Reserve Account, and the School~~
18 ~~Employees Retirement System Reserve Fund shall be transferred to the~~
19 ~~School Retirement Fund. The Department of Administrative Services~~
20 ~~may, for accounting purposes, create subfunds of the School Employees~~
21 ~~Retirement Fund to separately account for school retirement allowance~~
22 ~~and cash balance plan assets.~~

23 Sec. 33. Section 84-1501, Revised Statutes Cumulative
24 Supplement, 2012, is amended to read:

25 84-1501 (1) The Public Employees Retirement Board is

1 hereby established.

2 (2)(a) The board shall consist of ~~eight~~twelve appointed
3 members as described in this subsection and the state investment
4 officer as a nonvoting, ex officio member. Six of the appointed
5 members shall be active or retired participants in the retirement
6 systems administered by the board, and ~~two~~six of the appointed
7 members (i) shall not be employees of the State of Nebraska or any of
8 its political subdivisions and (ii) shall have at least ten years of
9 experience in the management of a public or private organization or
10 have at least five years of experience in the field of actuarial
11 analysis or the administration of an employee benefit plan.

12 (b) The six appointed members who are participants in the
13 systems shall be as follows:

14 (i) Two of the appointed members shall be participants in
15 the School Employees Retirement System of the State of Nebraska and
16 shall include one administrator and one teacher;

17 (ii) One of the appointed members shall be a participant
18 in the Nebraska Judges Retirement System as provided in the Judges
19 Retirement Act;

20 (iii) One of the appointed members shall be a participant
21 in the Nebraska State Patrol Retirement System;

22 (iv) One of the appointed members shall be a participant
23 in the Retirement System for Nebraska Counties; and

24 (v) One of the appointed members shall be a participant
25 in the State Employees Retirement System of the State of Nebraska.

1 (c) Appointments to the board shall be made by the
2 Governor and shall be subject to the approval of the Legislature. All
3 appointed members shall be citizens of the State of Nebraska.

4 (3) All members shall serve for terms of five years or
5 until a successor has been appointed and qualified. The terms shall
6 begin on January 1 of the appropriate year. The members of the board
7 shall be reimbursed for their actual and necessary expenses as
8 provided in sections 81-1174 to 81-1177. The appointed members of the
9 board may be removed by the Governor for cause after notice and an
10 opportunity to be heard.

11 Sec. 34. This act becomes operative on July 1, 2014.

12 Sec. 35. Original sections 79-921, 79-922, and 79-972.01,
13 Reissue Revised Statutes of Nebraska, and sections 79-901, 79-902,
14 79-910.01, 79-920, 79-926, 79-947.06, and 84-1501, Revised Statutes
15 Cumulative Supplement, 2012, are repealed.