

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 378

Introduced by McDonnell, 5.

Read first time January 12, 2023

Committee: Nebraska Retirement Systems

1 A BILL FOR AN ACT relating to retirement; to amend sections 4-108, 4-111,
2 23-2306, 24-703.01, 60-1304, 79-9,118, 81-2016, and 84-1504, Reissue
3 Revised Statutes of Nebraska, and sections 79-915 and 84-1307,
4 Revised Statutes Cumulative Supplement, 2022; to change retirement
5 system participation provisions relating to aliens and lawful
6 presence; to eliminate obsolete provisions; to harmonize provisions;
7 to repeal the original sections; and to declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 4-108, Reissue Revised Statutes of Nebraska, is
2 amended to read:

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

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

14 (3) ~~No On and after October 1, 2009, no~~ employee of a state agency
15 or political subdivision of the State of Nebraska shall be authorized to
16 participate in any retirement system, including, but not limited to, the
17 systems provided for in the Class V School Employees Retirement Act, the
18 County Employees Retirement Act, the Judges Retirement Act, the Nebraska
19 State Patrol Retirement Act, the School Employees Retirement Act, and the
20 State Employees Retirement Act, unless the employee ~~(a) is a United~~
21 ~~States citizen or (b) is a qualified alien under the federal Immigration~~
22 ~~and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on~~
23 ~~January 1, 2009, and~~ is lawfully present in the United States. The
24 employing state agency or political subdivision of the State of Nebraska
25 and the employee shall maintain at least one of the following documents
26 to demonstrate lawful presence in the United States as of the employee's
27 date of hire and produce any such document so maintained upon request of
28 the Public Employees Retirement Board or the Nebraska Public Employees
29 Retirement Systems:

30 (a) A Nebraska driver's license;

31 (b) A Nebraska state identification card;

- 1 (c) A birth certificate or delayed birth certificate issued in any
- 2 state, territory, or possession of the United States;
- 3 (d) A United States certificate of birth abroad;
- 4 (e) A United States passport;
- 5 (f) A foreign passport with a United States visa;
- 6 (g) A United States Certificate of Naturalization;
- 7 (h) A United States Certificate of Citizenship;
- 8 (i) A tribal certificate of Native American blood or similar
- 9 document; or
- 10 (j) A United States Citizenship and Immigration Services Employment
- 11 Authorization Document, Form I-766.

12 Sec. 2. Section 4-111, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 4-111 (1) Verification of lawful presence in the United States
15 pursuant to section 4-108 requires that the applicant for public benefits
16 attest in a format prescribed by the Department of Administrative
17 Services that such applicant : ~~(a) He or she is a United States citizen;~~
18 ~~or (b) He or she is a qualified alien under the federal Immigration and~~
19 ~~Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1,~~
20 ~~2009,~~ and is lawfully present in the United States and maintains the
21 documentation required under subsection (3) of section 4-108.

22 (2) A state agency or political subdivision of the State of Nebraska
23 may adopt and promulgate rules and regulations or procedures for the
24 electronic filing of the attestation required under subsection (1) of
25 this section if such attestation is substantially similar to the format
26 prescribed by the Department of Administrative Services.

27 (3)(a) The Legislature finds that it is in the best interest of the
28 State of Nebraska to make full use of the skills and talents in the state
29 by ensuring that a person who is work-authorized is able to obtain a
30 professional or commercial license and practice his or her profession.

31 (b) For purposes of a professional or commercial license, the

1 Legislature finds that a person not described in subdivision (1)(a) or
2 (1)(b) of this section who submits (i) an unexpired employment
3 authorization document issued by the United States Department of Homeland
4 Security, Form I-766, and (ii) documentation issued by the United States
5 Department of Homeland Security, the United States Citizenship and
6 Immigration Services, or any other federal agency, such as one of the
7 types of Form I-797 used by the United States Citizenship and Immigration
8 Services, demonstrating that such person is described in section 202(c)
9 (2)(B)(i) through (x) of the federal REAL ID Act of 2005, Public Law
10 109-13, has demonstrated lawful presence pursuant to section 4-108 and is
11 eligible to obtain such license. Such license shall be valid only for the
12 period of time during which such person's employment authorization
13 document is valid. Nothing in this subsection shall affect the
14 requirements to obtain a professional or commercial license that are
15 unrelated to the lawful presence requirements demonstrated pursuant to
16 this subsection.

17 (c) Nothing in this subsection shall be construed to grant
18 eligibility for any public benefits other than obtaining a professional
19 or commercial license.

20 (d) Any person who has complied with the requirements of this
21 subsection shall have his or her employment authorization document
22 verified through the Systematic Alien Verification for Entitlements
23 Program operated by the United States Department of Homeland Security or
24 an equivalent program designated by the United States Department of
25 Homeland Security.

26 (e) The Legislature enacts this subsection pursuant to the authority
27 provided in 8 U.S.C. 1621(d), as such section existed on January 1, 2016.

28 Sec. 3. Section 23-2306, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 23-2306 (1) The membership of the retirement system shall be
31 composed of all persons who are or were employed by member counties and

1 who maintain an account balance with the retirement system.

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

16 (3) ~~No On and after July 1, 2010, no~~ employee of a member county
17 shall be authorized to participate in the retirement system provided for
18 in the County Employees Retirement Act unless the employee ~~(a) is a~~
19 ~~United States citizen or (b) is a qualified alien under the federal~~
20 ~~Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act~~
21 ~~existed on January 1, 2009, and is lawfully present in the United States.~~
22 The employing member county and the employee shall maintain at least one
23 of the following documents to demonstrate lawful presence in the United
24 States as of the employee's date of hire and produce any such document so
25 maintained upon request of the Public Employees Retirement Board or the
26 Nebraska Public Employees Retirement Systems:

27 (a) A Nebraska driver's license;

28 (b) A Nebraska state identification card;

29 (c) A birth certificate or delayed birth certificate issued in any
30 state, territory, or possession of the United States;

31 (d) A United States certificate of birth abroad;

- 1 (e) A United States passport;
- 2 (f) A foreign passport with a United States visa;
- 3 (g) A United States Certificate of Naturalization;
- 4 (h) A United States Certificate of Citizenship;
- 5 (i) A tribal certificate of Native American blood or similar
- 6 document; or
- 7 (j) A United States Citizenship and Immigration Services Employment
- 8 Authorization Document, Form I-766.

9 (4)(a) The board may determine that a governmental entity currently
10 participating in the retirement system no longer qualifies, in whole or
11 in part, under section 414(d) of the Internal Revenue Code as a
12 participating employer in a governmental plan.

13 (b)(i) To aid governmental entities in their business decisionmaking
14 process, any governmental entity currently participating in the
15 retirement system contemplating a business transaction that may result in
16 such entity no longer qualifying, in whole or in part, under section
17 414(d) of the Internal Revenue Code may notify the board in writing as
18 soon as reasonably practicable, but no later than one hundred eighty days
19 before the transaction is to occur.

20 (ii) The board when timely notified shall, as soon as is reasonably
21 practicable, obtain from its contracted actuary the cost of any actuarial
22 study necessary to determine the potential funding obligation. The board
23 shall notify the entity of such cost.

24 (iii) If such entity pays the board's contracted actuary pursuant to
25 subdivision (4)(c)(vi) of this section for any actuarial study necessary
26 to determine the potential funding obligation, the board shall, as soon
27 as reasonably practicable following its receipt of the actuarial study,
28 (A) determine whether the entity's contemplated business transaction will
29 cause the entity to no longer qualify under section 414(d) of the
30 Internal Revenue Code, (B) determine whether the contemplated business
31 transaction constitutes a plan termination by the entity, (C) determine

1 the potential funding obligation, (D) determine the administrative costs
2 that will be incurred by the board or the Nebraska Public Employees
3 Retirement Systems in connection with the entity's removal from the
4 retirement system, and (E) notify the entity of such determinations.

5 (iv) Failure to timely notify the board pursuant to subdivision (4)
6 (b)(i) of this section may result in the entity being treated as though
7 the board made a decision pursuant to subdivision (4)(a) of this section.

8 (c) If the board makes a determination pursuant to subdivision (4)
9 (a) of this section, or if the entity engages in the contemplated
10 business transaction reviewed under subdivision (4)(b) of this section
11 that results in the entity no longer qualifying under section 414(d) of
12 the Internal Revenue Code:

13 (i) The board shall notify the entity that it no longer qualifies
14 under section 414(d) of the Internal Revenue Code within ten business
15 days after the determination;

16 (ii) The affected plan members shall be immediately considered fully
17 vested;

18 (iii) The affected plan members shall become inactive within ninety
19 days after the board's determination;

20 (iv) The entity shall pay to the County Employees Retirement Fund an
21 amount equal to any funding obligation;

22 (v) The entity shall pay to the County Employees Cash Balance
23 Retirement Expense Fund an amount equal to any administrative costs
24 incurred by the board or the Nebraska Public Employees Retirement Systems
25 in connection with the entity's removal from the retirement system; and

26 (vi) The entity shall pay directly to the board's contracted actuary
27 an amount equal to the cost of any actuarial study necessary to aid the
28 board in determining the amount of such funding obligation, if not
29 previously paid.

30 (d) For purposes of this subsection:

31 (i) Business transaction means a merger; consolidation; sale of

1 assets, equipment, or facilities; termination of a division, department,
2 section, or subgroup of the entity; or any other business transaction
3 that results in termination of some or all of the entity's workforce; and

4 (ii) Funding obligation means the financial liability of the
5 retirement system to provide benefits for the affected plan members
6 incurred by the retirement system due to the entity's business
7 transaction calculated using the methodology and assumptions recommended
8 by the board's contracted actuary and approved by the board. The
9 methodology and assumptions used must be structured in a way that ensures
10 the entity is financially liable for all the costs of the entity's
11 business transaction, and the retirement system is not financially liable
12 for any of the cost of the entity's business transaction.

13 (e) The board may adopt and promulgate rules and regulations to
14 carry out this subsection including, but not limited to, the methods of
15 notifying the board of pending business transactions, the acceptable
16 methods of payment, and the timing of such payment.

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

26 (6) Any employee who qualifies for membership in the retirement
27 system pursuant to this section may not be disqualified from membership
28 in the retirement system solely because such employee also maintains
29 separate employment which qualifies the employee for membership in
30 another public retirement system, nor may membership in this retirement
31 system disqualify such an employee from membership in another public

1 retirement system solely by reason of separate employment which qualifies
2 such employee for membership in this retirement system.

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

8 (8) A full-time or part-time employee of a city, village, fire
9 protection district, or township who becomes a municipal county employee
10 shall receive credit for his or her years of employment with the city,
11 village, fire protection district, or township for purposes of the
12 vesting provisions of this section.

13 (9) A full-time or part-time employee of the state who becomes a
14 county employee pursuant to transfer of assessment function to a county
15 shall not be deemed to have experienced a termination of employment and
16 shall receive vesting credit for his or her years of participation in the
17 State Employees Retirement System of the State of Nebraska.

18 (10) Counties shall ensure that employees authorized to participate
19 in the retirement system pursuant to this section shall enroll and make
20 required contributions to the retirement system immediately upon becoming
21 an employee. Information necessary to determine membership in the
22 retirement system shall be provided by the employer.

23 Sec. 4. Section 24-703.01, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 24-703.01 ~~No~~ On and after July 1, 2010, no judge shall be
26 authorized to participate in the retirement system provided for in the
27 Judges Retirement Act unless the judge ~~(a) is a United States citizen or~~
28 ~~(b) is a qualified alien under the federal Immigration and Nationality~~
29 ~~Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and~~
30 is lawfully present in the United States. The court and the judge shall
31 maintain at least one of the following documents to demonstrate lawful

1 presence in the United States as of the judge's date of hire and produce
2 any such document so maintained upon request of the Public Employees
3 Retirement Board or the Nebraska Public Employees Retirement Systems:

4 (a) A Nebraska driver's license;

5 (b) A Nebraska state identification card;

6 (c) A birth certificate or delayed birth certificate issued in any
7 state, territory, or possession of the United States;

8 (d) A United States certificate of birth abroad;

9 (e) A United States passport;

10 (f) A foreign passport with a United States visa;

11 (g) A United States Certificate of Naturalization;

12 (h) A United States Certificate of Citizenship;

13 (i) A tribal certificate of Native American blood or similar
14 document; or

15 (j) A United States Citizenship and Immigration Services Employment
16 Authorization Document, Form I-766.

17 Sec. 5. Section 60-1304, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 60-1304 (1) Carrier enforcement officers described in subdivision
20 (2)(b) of section 60-1303 who, on or after July 20, 2002, are transferred
21 to the Nebraska State Patrol and become officers of the Nebraska State
22 Patrol with the powers and duties prescribed in sections 81-2001 to
23 81-2009 shall, within ninety days of transfer, elect to participate in
24 the Nebraska State Patrol Retirement System or elect to remain members of
25 the State Employees Retirement System of the State of Nebraska.

26 (2) An officer who elects to become a member of the Nebraska State
27 Patrol Retirement System pursuant to this section shall (a) receive
28 eligibility and vesting credit pursuant to subsection (3) ~~(2)~~ of section
29 81-2016 for his or her years of participation in the State Employees
30 Retirement System of the State of Nebraska, (b) be vested in the employer
31 account with the State Employees Retirement System of the State of

1 Nebraska regardless of his or her period of participation in the State
2 Employees Retirement System, and (c) be treated for all other purposes of
3 the Nebraska State Patrol Retirement Act as a new member of the Nebraska
4 State Patrol Retirement System.

5 (3) Transferring participation from the State Employees Retirement
6 System of the State of Nebraska to the Nebraska State Patrol Retirement
7 System pursuant to this section does not constitute a termination for
8 purposes of the State Employees Retirement Act.

9 Sec. 6. Section 79-915, Revised Statutes Cumulative Supplement,
10 2022, is amended to read:

11 79-915 (1) Persons residing outside of the United States and engaged
12 temporarily as school employees in the State of Nebraska shall not become
13 members of the retirement system.

14 (2) ~~No~~ ~~On and after July 1, 2010,~~ ~~no~~ school employee shall be
15 authorized to participate in the retirement system provided for in the
16 School Employees Retirement Act unless the employee ~~(a) is a United~~
17 ~~States citizen or (b) is a qualified alien under the federal Immigration~~
18 ~~and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on~~
19 ~~January 1, 2009,~~ and is lawfully present in the United States. The
20 employing public school and the school employee shall maintain at least
21 one of the following documents to demonstrate lawful presence in the
22 United States as of the employee's date of hire and produce any such
23 document so maintained upon request of the Public Employees Retirement
24 Board or the Nebraska Public Employees Retirement Systems:

25 (a) A Nebraska driver's license;

26 (b) A Nebraska state identification card;

27 (c) A birth certificate or delayed birth certificate issued in any
28 state, territory, or possession of the United States;

29 (d) A United States certificate of birth abroad;

30 (e) A United States passport;

31 (f) A foreign passport with a United States visa;

1 (g) A United States Certificate of Naturalization;

2 (h) A United States Certificate of Citizenship;

3 (i) A tribal certificate of Native American blood or similar
4 document; or

5 (j) A United States Citizenship and Immigration Services Employment
6 Authorization Document, Form I-766.

7 (3)(a) The board may determine that a governmental entity currently
8 participating in the retirement system no longer qualifies, in whole or
9 in part, under section 414(d) of the Internal Revenue Code as a
10 participating employer in a governmental plan.

11 (b)(i) To aid governmental entities in their business decisionmaking
12 process, any governmental entity currently participating in the
13 retirement system contemplating a business transaction that may result in
14 such entity no longer qualifying, in whole or in part, under section
15 414(d) of the Internal Revenue Code may notify the board in writing as
16 soon as reasonably practicable, but no later than one hundred eighty days
17 before the transaction is to occur.

18 (ii) The board when timely notified shall, as soon as is reasonably
19 practicable, obtain from its contracted actuary the cost of any actuarial
20 study necessary to determine the potential funding obligation. The board
21 will notify the entity of such cost.

22 (iii) If such entity pays the board's contracted actuary pursuant to
23 subdivision (3)(c)(vi) of this section for any actuarial study necessary
24 to determine the potential funding obligation, the board shall, as soon
25 as reasonably practicable following its receipt of the actuarial study,
26 (A) determine whether the entity's contemplated business transaction will
27 cause the entity to no longer qualify under section 414(d) of the
28 Internal Revenue Code, (B) determine whether the contemplated business
29 transaction constitutes a plan termination by the entity, (C) determine
30 the potential funding obligation, (D) determine the administrative costs
31 that will be incurred by the board or the Nebraska Public Employees

1 Retirement Systems in connection with the entity's removal from the
2 retirement system, and (E) notify the entity of such determinations.

3 (iv) Failure to timely notify the board pursuant to subdivision (3)
4 (b)(i) of this section may result in the entity being treated as though
5 the board made a decision pursuant to subdivision (3)(a) of this section.

6 (c) If the board makes a determination pursuant to subdivision (3)
7 (a) of this section, or if the entity engages in the contemplated
8 business transaction reviewed under subdivision (3)(b) of this section
9 that results in the entity no longer qualifying under section 414(d) of
10 the Internal Revenue Code:

11 (i) The board shall notify the entity that it no longer qualifies
12 under section 414(d) of the Internal Revenue Code within ten business
13 days after the determination;

14 (ii) The affected plan members shall be immediately considered fully
15 vested;

16 (iii) The affected plan members shall become inactive within ninety
17 days after the board's determination;

18 (iv) The entity shall pay to the School Retirement Fund an amount
19 equal to any funding obligation;

20 (v) The entity shall pay to the Expense Fund an amount equal to any
21 administrative costs incurred by the board or the Nebraska Public
22 Employees Retirement Systems in connection with the entity's removal from
23 the retirement system; and

24 (vi) The entity shall pay directly to the board's contracted actuary
25 an amount equal to the cost of any actuarial study necessary to aid the
26 board in determining the amount of such funding obligation, if not
27 previously paid.

28 (d) For purposes of this subsection:

29 (i) Business transaction means a merger; consolidation; sale of
30 assets, equipment, or facilities; termination of a division, department,
31 section, or subgroup of the entity; or any other business transaction

1 that results in termination of some or all of the entity's workforce; and
2 (ii) Funding obligation means the financial liability of the
3 retirement system to provide benefits for the affected plan members
4 incurred by the retirement system due to the entity's business
5 transaction calculated using the methodology and assumptions recommended
6 by the board's contracted actuary and approved by the board. The
7 methodology and assumptions used must be structured in a way that ensures
8 the entity is financially liable for all the costs of the entity's
9 business transaction, and the retirement system is not financially liable
10 for any of the cost of the entity's business transaction.

11 (e) The board may adopt and promulgate rules and regulations to
12 carry out this subsection including, but not limited to, the methods of
13 notifying the board of pending business transactions, the acceptable
14 methods of payment, and the timing of such payment.

15 Sec. 7. Section 79-9,118, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 79-9,118 ~~No~~ ~~On and after July 1, 2011,~~ no employee shall be
18 authorized to participate in the retirement system unless the employee
19 ~~(1) is a United States citizen or (2) is a qualified alien under the~~
20 ~~federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such~~
21 ~~act existed on January 1, 2009, and is lawfully present in the United~~
22 ~~States. The employing public school and the school employee shall~~
23 maintain at least one of the following documents to demonstrate lawful
24 presence in the United States as of the employee's date of hire and
25 produce any such document so maintained upon request of the Public
26 Employees Retirement Board or the Nebraska Public Employees Retirement
27 Systems:

28 (a) A Nebraska driver's license;

29 (b) A Nebraska state identification card;

30 (c) A birth certificate or delayed birth certificate issued in any
31 state, territory, or possession of the United States;

- 1 (d) A United States certificate of birth abroad;
- 2 (e) A United States passport;
- 3 (f) A foreign passport with a United States visa;
- 4 (g) A United States Certificate of Naturalization;
- 5 (h) A United States Certificate of Citizenship;
- 6 (i) A tribal certificate of Native American blood or similar
- 7 document; or
- 8 (j) A United States Citizenship and Immigration Services Employment
- 9 Authorization Document, Form I-766.

10 Sec. 8. Section 81-2016, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 81-2016 (1) Every member of the Nebraska State Patrol who was
13 employed by the State of Nebraska as such, on September 7, 1947, and
14 every person employed as a member of such patrol thereafter, shall be a
15 member of the system, except for those members of the Nebraska State
16 Patrol who elected pursuant to section 60-1304 to remain members of the
17 State Employees Retirement System of the State of Nebraska.

18 ~~(2) No on and after July 1, 2010, no~~ employee shall be authorized to
19 participate in the retirement system provided for in the Nebraska State
20 Patrol Retirement Act unless the employee ~~(a) is a United States citizen~~
21 ~~or (b) is a qualified alien under the federal Immigration and Nationality~~
22 ~~Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and~~
23 ~~is lawfully present in the United States. The employing state agency and~~
24 ~~the employee shall maintain at least one of the following documents to~~
25 ~~demonstrate lawful presence in the United States as of the employee's~~
26 ~~date of hire and produce any such document so maintained upon request of~~
27 ~~the Public Employees Retirement Board or the Nebraska Public Employees~~
28 ~~Retirement Systems:~~

- 29 (a) A Nebraska driver's license;
- 30 (b) A Nebraska state identification card;
- 31 (c) A birth certificate or delayed birth certificate issued in any

1 state, territory, or possession of the United States;

2 (d) A United States certificate of birth abroad;

3 (e) A United States passport;

4 (f) A foreign passport with a United States visa;

5 (g) A United States Certificate of Naturalization;

6 (h) A United States Certificate of Citizenship;

7 (i) A tribal certificate of Native American blood or similar
8 document; or

9 (j) A United States Citizenship and Immigration Services Employment
10 Authorization Document, Form I-766.

11 (3) ~~(2)~~ Within the first one hundred eighty days of employment, a
12 member may apply to the board for eligibility and vesting credit for
13 years of participation in another Nebraska governmental plan, as defined
14 by section 414(d) of the Internal Revenue Code. During the years of
15 participation in the other Nebraska governmental plan, the employee must
16 have been a full-time employee, as defined in the Nebraska governmental
17 plan in which the credit was earned.

18 (4) ~~(3)~~ Any officer who qualifies for membership pursuant to
19 subsection (1) of this section may not be disqualified from membership in
20 the retirement system solely because such officer also maintains separate
21 employment which qualifies the officer for membership in another public
22 retirement system, nor may membership in this retirement system
23 disqualify such an officer from membership in another public retirement
24 system solely by reason of separate employment which qualifies such
25 officer for membership in this retirement system.

26 (5) ~~(4)~~ Information necessary to determine membership shall be
27 provided by the Nebraska State Patrol.

28 (6) ~~(5)~~ The board may adopt and promulgate rules and regulations
29 governing the assessment and granting of eligibility and vesting credit.

30 Sec. 9. Section 84-1307, Revised Statutes Cumulative Supplement,
31 2022, is amended to read:

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

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

15 (3) ~~No On and after July 1, 2010, no~~ employee shall be authorized to
16 participate in the retirement system provided for in the State Employees
17 Retirement Act unless the employee ~~(a) is a United States citizen or (b)~~
18 ~~is a qualified alien under the federal Immigration and Nationality Act, 8~~
19 ~~U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is~~
20 ~~lawfully present in the United States. The employing state agency and the~~
21 employee shall maintain at least one of the following documents to
22 demonstrate lawful presence in the United States as of the employee's
23 date of hire and produce any such document so maintained upon request of
24 the Public Employees Retirement Board or the Nebraska Public Employees
25 Retirement Systems:

26 (a) A Nebraska driver's license;

27 (b) A Nebraska state identification card;

28 (c) A birth certificate or delayed birth certificate issued in any
29 state, territory, or possession of the United States;

30 (d) A United States certificate of birth abroad;

31 (e) A United States passport;

- 1 (f) A foreign passport with a United States visa;
- 2 (g) A United States Certificate of Naturalization;
- 3 (h) A United States Certificate of Citizenship;
- 4 (i) A tribal certificate of Native American blood or similar
- 5 document; or
- 6 (j) A United States Citizenship and Immigration Services Employment
- 7 Authorization Document, Form I-766.

8 (4) For purposes of this section, (a) permanent full-time employees
9 includes employees of the Legislature or Legislative Council who work
10 one-half or more of the regularly scheduled hours during each pay period
11 of the legislative session and (b) permanent part-time employees includes
12 employees of the Legislature or Legislative Council who work less than
13 one-half of the regularly scheduled hours during each pay period of the
14 legislative session.

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

24 (b) If the contributory retirement plan or contract let pursuant to
25 section 48-609, as such section existed prior to January 1, 2018, is
26 terminated, employees of the Department of Labor who are active
27 participants in such contributory retirement plan or contract on the date
28 of termination of such plan or contract shall be granted vesting credit
29 for their years of participation in such plan or contract.

30 (6) Any employee who qualifies for membership in the retirement
31 system pursuant to this section may not be disqualified for membership in

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

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

12 Sec. 10. Section 84-1504, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 84-1504 (1) The Public Employees Retirement Board, on behalf of the
15 state, may contract with any individual to defer a portion of such
16 individual's compensation or with the Legislative Council to defer any
17 other amount that the Legislative Council agrees to credit to an
18 individual's account pursuant to section 457 of the Internal Revenue
19 Code.

20 (2) The compensation to be deferred at the election of the
21 individual and any other amount credited on behalf of such individual by
22 the Legislative Council shall not exceed the total compensation to be
23 received by the individual from the employer or exceed the limits
24 established by the Internal Revenue Code for such a plan.

25 (3) The deferred compensation program shall serve in addition to but
26 not be a part of any existing retirement or pension system provided for
27 state or county employees or any other benefit program.

28 (4) Any compensation deferred at the election of the individual
29 under such a deferred compensation plan shall continue to be included as
30 regular compensation for the purpose of computing the retirement,
31 pension, or social security contributions made or benefits earned by any

1 employee.

2 (5) Any sum so deferred shall not be included in the computation of
3 any federal or state taxes withheld on behalf of any such individual.

4 (6) The state, the board, the state investment officer, the agency,
5 or the county shall not be responsible for any investment results entered
6 into by the individual in the deferred compensation agreement.

7 (7) Nothing in this section shall in any way limit, restrict, alter,
8 amend, invalidate, or nullify any deferred compensation plan previously
9 instituted by any instrumentality or agency of the State of Nebraska, and
10 any such plan is hereby authorized and approved.

11 (8) ~~No On and after July 1, 2010, no~~ employee of the state or any
12 political subdivision of the state shall be authorized to participate in
13 a deferred compensation plan unless the employee ~~(a) is a United States~~
14 ~~citizen or (b) is a qualified alien under the federal Immigration and~~
15 ~~Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1,~~
16 ~~2009,~~ and is lawfully present in the United States. The employing state
17 agency or political subdivision of the State of Nebraska and the employee
18 shall maintain at least one of the following documents to demonstrate
19 lawful presence in the United States as of the employee's date of hire
20 and produce any such document so maintained upon request of the Public
21 Employees Retirement Board or the Nebraska Public Employees Retirement
22 Systems:

23 (a) A Nebraska driver's license;

24 (b) A Nebraska state identification card;

25 (c) A birth certificate or delayed birth certificate issued in any
26 state, territory, or possession of the United States;

27 (d) A United States certificate of birth abroad;

28 (e) A United States passport;

29 (f) A foreign passport with a United States visa;

30 (g) A United States Certificate of Naturalization;

31 (h) A United States Certificate of Citizenship;

1 (i) A tribal certificate of Native American blood or similar
2 document; or

3 (j) A United States Citizenship and Immigration Services Employment
4 Authorization Document, Form I-766.

5 (9) For purposes of this section, individual means (a) any state
6 employee, whether employed on a permanent or temporary basis, full-time
7 or part-time, (b) a person under contract providing services to the state
8 who is not employed by the University of Nebraska or any of the state
9 colleges or community colleges and who has entered into a contract with
10 the state to have compensation deferred prior to August 28, 1999, and (c)
11 any county employee designated as a permanent part-time or full-time
12 employee or elected official whose employer does not offer a deferred
13 compensation plan and who has entered into an agreement pursuant to
14 section 48-1401.

15 Sec. 11. Original sections 4-108, 4-111, 23-2306, 24-703.01,
16 60-1304, 79-9,118, 81-2016, and 84-1504, Reissue Revised Statutes of
17 Nebraska, and sections 79-915 and 84-1307, Revised Statutes Cumulative
18 Supplement, 2022, are repealed.

19 Sec. 12. Since an emergency exists, this act takes effect when
20 passed and approved according to law.