

AMENDMENTS TO LB689

Introduced by Lonowski, 33.

1           1. Strike the original sections and insert the following new  
2 sections:

3           **Section 1.** Section 79-930, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5           79-930 (1)(a) A member who experiences a separation from service  
6 with the member's employer but has not submitted a retirement application  
7 or a request for distribution pursuant to section 79-955, or received a  
8 retirement benefit, disability retirement benefit, or distribution  
9 pursuant to section 79-955, from the retirement system, may return to  
10 work as a temporary employee, substitute employee, or volunteer for any  
11 employer participating in the retirement system. Such an employee:

12           (i) Shall be deemed to have incurred a termination for purposes of  
13 sections 79-921, 79-932, 79-933.02 to 79-933.06, and 79-933.08;

14           (ii) Shall not be deemed to have incurred a termination for purposes  
15 of sections 79-933, 79-951, and 79-955, and shall not be eligible to  
16 receive a retirement benefit, disability retirement benefit, or  
17 distribution pursuant to section 79-955, from the retirement system,  
18 until the member incurs a termination of employment as described in  
19 subdivision (45) of section 79-902; and

20           (iii) Except as provided in subdivision (1)(b) of this section,  
21 shall not be eligible to contribute to the retirement system pursuant to  
22 section 79-958 or accrue service credit in the retirement system pursuant  
23 to section 79-927.

24           (b)(i) A member as described in subdivision (1)(a) of this section  
25 who becomes a regular employee for an employer participating in the  
26 retirement system shall immediately begin making contributions pursuant  
27 to section 79-958 on all compensation paid by such employer and accrue

1 service credit pursuant to section 79-927 for all such service performed  
2 for such employer, including any work as a temporary employee or  
3 substitute employee.

4 (ii) A member as described in subdivision (1)(a) of this section who  
5 has not established eligibility as a regular employee at another employer  
6 shall not make contributions pursuant to section 79-958 on all  
7 compensation paid by such employer nor accrue service credit pursuant to  
8 section 79-927 for work performed by the member as a temporary employee  
9 or substitute employee for such employer.

10 (c) Work performed while the member is not contributing to the  
11 retirement system pursuant to subdivision (1)(a) of this section shall  
12 not accrue service credit in the retirement system pursuant to section  
13 79-927 and cannot be purchased as service credit under sections 79-933.03  
14 to 79-933.06 and 79-933.08.

15 (2)(a) A member who experiences a separation from service with the  
16 member's employer and has submitted a retirement application or a request  
17 for distribution pursuant to section 79-955, or received a retirement  
18 benefit, disability retirement benefit, or distribution pursuant to  
19 section 79-955, from the retirement system, shall not be deemed to have  
20 incurred a termination of employment if the member subsequently returns  
21 to work for any employer participating in the retirement system within  
22 one hundred eighty days after separating from service, unless such work  
23 is limited to:

24 (i) Intermittent work as a volunteer or substitute employee. For  
25 purposes of this subsection:

26 (A) Intermittent work means work provided on a day-to-day basis not  
27 to exceed forty days per semester that is not greater than eight days of  
28 work during a calendar month; and

29 (B) Day of work means any length of work as a volunteer or  
30 substitute employee provided during a single calendar day; or

31 (ii) Work as authorized by, and performed in accordance with,

1 section 79-920.

2 (b) The one-hundred-eighty-day period begins on the later of:

3 (i) The date the member experienced a bona fide separation from  
4 service of all employment with all employers participating in the  
5 retirement system; or

6 (ii) The date the Nebraska Public Employees Retirement Systems  
7 receives the member's retirement application or request for distribution  
8 pursuant to section 79-955.

9 (c)(i) A member may seek a determination from the director of the  
10 Nebraska Public Employees Retirement Systems that it has been at least  
11 one hundred eighty days since the member satisfied the requirements  
12 described in this subsection. The director shall make such determination  
13 if the member produces clear and convincing evidence that is received by  
14 the director within forty-five days after the later of:

15 (A) The date the member experienced a bona fide separation of  
16 service of all employment with all employers participating in the  
17 retirement system; or

18 (B) The date the member's retirement application or request for  
19 distribution pursuant to section 79-955 is received by the Nebraska  
20 Public Employees Retirement Systems.

21 (ii) A member may appeal the director's determination to the board  
22 within thirty days after receiving such determination.

23 (iii) The board's determination on the appeal shall be final and  
24 shall not be appealable to any court.

25 **Sec. 2.** Section 79-992, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27 79-992 (1) A member who has five years or more of creditable  
28 service, excluding years of prior service acquired pursuant to section  
29 79-990, 79-991, 79-994, 79-995, or 79-997, and who terminates his or her  
30 employment may elect to leave his or her contributions in the retirement  
31 system, in which event he or she shall receive a retirement allowance at

1 normal retirement age based on the annuity earned to the date of such  
2 termination of employment. Such member may elect to receive a retirement  
3 allowance at early retirement age if such member retires at an early  
4 retirement date. Such annuity shall be adjusted in accordance with  
5 section 79-9,100. Upon termination of employment, except on account of  
6 retirement, a member shall be entitled to receive refunds as follows: (a)  
7 An amount equal to the accumulated contributions to the retirement system  
8 by the member; and (b) any contributions made to a previously existing  
9 system which were refundable under the terms of that system. Any member  
10 receiving a refund of contributions shall thereby forfeit and relinquish  
11 all accrued rights in the retirement system including all accumulated  
12 creditable service, except that if any member who has withdrawn his or  
13 her contributions as provided in this section reenters the service of the  
14 district and again becomes a member of the retirement system, he or she  
15 may restore any or all money previously received by him or her as a  
16 refund, including the interest on the amount of the restored refund for  
17 the period of his or her absence from the district's service as  
18 determined using the interest rate for interest on such restored refunds,  
19 and he or she shall then again receive credit for that portion of service  
20 which the restored money represents. Such restoration may be made as the  
21 board may direct until September 1, 2024, and as the retirement board may  
22 direct beginning September 1, 2024, through direct payments to the system  
23 or on an installment basis pursuant to a binding irrevocable payroll  
24 deduction authorized between the member and the school district over a  
25 period of not to exceed five years from the date of reemployment.  
26 Interest on delayed payments shall be at the rate of interest for  
27 determining interest on delayed payments by members to the retirement  
28 system. Creditable service may be purchased only in one-tenth-year  
29 increments, starting with the most recent years' salary.

30 (2) Except as provided in section 79-992.01:

31 (a)(i) A retired member, or a member described in subdivision (2)(c)

1 or (d) of this subsection, who returns to employment as or again becomes  
2 an employee of the school district shall again participate in the  
3 retirement system as a new member and shall make contributions to the  
4 retirement system commencing upon reemployment as an employee.

5 (ii) The retirement annuity of a retired member who returns to  
6 employment with the school district shall continue to be paid by the  
7 retirement system. A retired member who returns to employment as an  
8 employee of the school district shall receive creditable service only for  
9 service performed after his or her return to employment and in no event  
10 shall creditable service which accrues or the compensation paid to the  
11 member after such return to employment after retirement increase the  
12 amount of the member's original retirement annuity;

13 (b) Upon termination of employment of the reemployed member, the  
14 member shall receive in addition to the retirement annuity which  
15 commenced at the time of the previous retirement (i) if the member has  
16 accrued five years or more of creditable service after his or her return  
17 to employment, excluding years of prior service acquired pursuant to  
18 section 79-990, 79-991, 79-994, 79-995, or 79-997, a retirement annuity  
19 as provided in section 79-999 or 79-9,100, as applicable, calculated  
20 solely on the basis of creditable service and final average compensation  
21 accrued and earned after the member's return to employment after his or  
22 her original retirement, and as adjusted to reflect any payment in other  
23 than the normal form or (ii) if the member has not accrued five years or  
24 more of creditable service after his or her return to employment, a  
25 refund equal to the member's accumulated contributions which were  
26 credited to the member after the member's return to employment. In no  
27 event shall the member's creditable service which accrued prior to a  
28 previous retirement be considered as part of the member's creditable  
29 service after his or her return to employment for any purpose of the  
30 Class V School Employees Retirement Act;

31 (c) A member who experiences a separation from service but has not

1 submitted a retirement application or request for distribution pursuant  
2 to this section or as described in subdivision (32) of section 79-978, or  
3 received a retirement benefit, disability retirement benefit, or refund  
4 may return to work as a temporary employee, substitute employee, or  
5 volunteer. Such a temporary employee, substitute employee, or volunteer:

6 (i) Shall be deemed to have incurred a termination of employment for  
7 purposes of section 79-991;

8 (ii) Shall not be deemed to have incurred a termination of  
9 employment for purposes of this section or section 79-992.01, 79-9,105,  
10 or 79-9,106, or for any other purposes under the Class V School Employees  
11 Retirement Act, and shall not be eligible to receive a retirement  
12 benefit, disability retirement benefit, or distribution pursuant to this  
13 section, until the member incurs a termination of employment as described  
14 in subdivision (42) of section 79-978; and

15 (iii) Except as provided in subdivision (2)(a)(i) of this section,  
16 shall not be eligible to contribute to the retirement system pursuant to  
17 section 79-9,113 or earn membership service credit in the retirement  
18 system as described in subdivision (23) of section 79-978; and

19 (d)(i) A member who experiences a separation from service and has  
20 submitted a retirement application or request for distribution pursuant  
21 to this section or as described in subdivision (32) of section 79-978, or  
22 received a retirement benefit, disability retirement benefit, or  
23 distribution, shall not be deemed to have incurred a termination of  
24 employment if the member subsequently returns to work for the district  
25 within one hundred eighty days after separating from service, unless such  
26 work is limited to:

27 (A) Bona fide unpaid voluntary service;

28 (B) Work performed as a substitute employee on an intermittent  
29 basis; or

30 (C) Work as a temporary employee following a bona fide separation of  
31 service of not less than thirty calendar days and which is provided to

1 accomplish a specific purpose or task for a limited period not to exceed  
2 one year.

3 (ii) For purposes of subdivision (2)(d) of this section:

4 (A) Intermittent basis means work provided on a day-to-day basis not  
5 to exceed forty days per semester ~~that is not greater than eight days of~~  
6 ~~work during a calendar month~~; and

7 (B) Day of work means any length of work as a substitute employee  
8 provided during a single calendar day.

9 (iii) The one-hundred-eighty-day period described in subdivision (2)  
10 (d)(i) of this section begins on the later of:

11 (A) The date the member experienced a bona fide separation from  
12 service of all employment as an employee with the school district; or

13 (B) The date the board receives the member's retirement application  
14 or request for distribution as described in subdivision (32) of section  
15 79-978.

16 (iv) A member may seek a determination from the administrator that  
17 it has been at least one hundred eighty days since the member satisfied  
18 the requirements described in this subdivision (2)(d). The administrator  
19 shall make such determination if the member produces clear and convincing  
20 evidence that is received by the administrator within forty-five days  
21 after the later of:

22 (A) The date the member experienced a bona fide separation of  
23 service of all employment as an employee with the district; or

24 (B) The date the board receives the member's retirement application  
25 or request for distribution as described in subdivision (32) of section  
26 79-978.

27 (v) A member may appeal the administrator's determination to the  
28 board within thirty days after the determination by the administrator.  
29 The board's determination on appeal shall be final and shall not be  
30 appealable to any court.

31 (3) In the event a member is entitled to receive a refund of

1 contributions pursuant to subsection (1) or subdivision (2)(b)(ii) of  
2 this section in an amount greater than one thousand dollars, if the  
3 member does not elect to have the refund paid directly to himself or  
4 herself or transferred to an eligible retirement plan designated by the  
5 member as a direct rollover pursuant to section 79-998, then the refund  
6 of contributions shall be paid in a direct rollover to an individual  
7 retirement plan as designated by the board until September 1, 2024, and  
8 as designated by the retirement board beginning September 1, 2024.

9       **Sec. 3.** Original sections 79-930 and 79-992, Reissue Revised  
10 Statutes of Nebraska, are repealed.