

## LEGISLATIVE BILL 366

Passed over the Governor's veto April 13, 2006.

Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Erdman, 47; D. Pederson, 42; Price, 26; Synowiecki, 7

AN ACT relating to retirement; to amend sections 2-1608, 23-2301, 23-2306, 23-2306.03, 23-2319, 84-1301, 84-1307, 84-1308, and 84-1321, Revised Statutes Cumulative Supplement, 2004, and sections 23-2308.01 and 84-1309.02, Revised Statutes Supplement, 2005; to change membership and contribution provisions relating to county and state retirement systems; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 23-2306.01 and 84-1326.02, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 2-1608, Revised Statutes Cumulative Supplement, 2004, is amended to read:

2-1608 Whenever two or more county extension organizations have united as provided in section 2-1607 for the purpose of support and management of extension work, county extension employees jointly employed by the participating extension organizations shall be considered persons employed by a county for the purpose of subdivision ~~(11)~~ (10) of section 23-2301 and shall participate in the Retirement System for Nebraska Counties under the County Employees Retirement Act. To accomplish such participation, the participating county extension organizations shall (1) pick up employee contributions as salary deductions on behalf of such county extension employees in the manner required for a county in section 23-2307, and (2) pay to the Public Employees Retirement Board or an entity designated by the board an amount in accordance with the provisions of section 23-2308. In all other respects the participation of such county extension employees in the retirement system shall be in accordance with the act.

Sec. 2. Section 23-2301, Revised Statutes Cumulative Supplement, 2004, is amended to read:

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

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

(2) Annuity means equal monthly payments provided by the retirement system to a member or beneficiary under forms determined by the board beginning the first day of the month after an annuity election is received in the office of the Nebraska Public Employees Retirement Systems or the first day of the month after the employee's termination of employment, whichever is later;

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

(4) Cash balance benefit means a member's retirement benefit that is equal to an amount based on annual employee contribution credits plus interest credits and, if vested, employer contribution credits plus interest credits;

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

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning

after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

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

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

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

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

~~(10) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in another Nebraska governmental plan for purposes of determining membership in the retirement system and vesting the employer account;~~

~~(11)~~ (10) Employee means all persons or officers who are employed by a county of the State of Nebraska on a permanent basis, persons or officers employed by or serving in a municipal county formed by at least one county participating in the retirement system, persons employed as provided in section 2-1608, all elected officers of a county, and such other persons or officers as are classified from time to time as permanent employees by the county board of the county by which they are employed, except that employee does not include judges, employees or officers of any county having a population in excess of one hundred fifty thousand inhabitants, or, except as provided in section 23-2306, persons making contributions to the School Retirement System of the State of Nebraska;

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

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

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

~~(15)~~ (14) Five-year break in service means a period of five consecutive one-year breaks in service;

~~(16)~~ (15) Full-time employee means an employee who is employed to work one-half or more of the regularly scheduled hours during each pay period;

~~(17)~~ (16) Future service means service following the date of adoption of the retirement system;

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

~~(19)~~ (18) Interest credit rate means the greater of (a) five percent or (b) the applicable federal mid-term rate, as published by the Internal Revenue Service as of the first day of the calendar quarter for which interest credits are credited, plus one and one-half percent, such rate to be compounded annually;

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

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

~~(21)~~ (20) Member cash balance account means an account equal to the sum of the employee cash balance account and, if vested, the employer cash balance account;

~~(22)~~ (21) One-year break in service means a plan year during which the member has not completed more than five hundred hours of service;

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

~~(24)~~ (23) Part-time employee means an employee who is employed to work less than one-half of the regularly scheduled hours during each pay period;

~~(25)~~ (24) Plan year means the twelve-month period beginning on January 1 and ending on December 31;

~~(26)~~ (25) Prior service means service prior to the date of adoption of the retirement system;

~~(27)~~ (26) Regular interest means the rate of interest earned each calendar year as determined by the retirement board in conformity with actual and expected earnings on the investments through December 31, 1985;

~~(28)~~ (27) Required contribution means the deduction to be made from the compensation of employees as provided in the act;

~~(29)~~ (28) Retirement means qualifying for and accepting the retirement benefit granted under the act after terminating employment;

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

~~(31)~~ (30) Retirement system means the Retirement System for Nebraska Counties;

~~(32)~~ (31) Service means the actual total length of employment as an employee and is not deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under section 23-2315;

~~(33)~~ (32) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

~~(34)~~ (33) Termination of employment occurs on the date on which a county which is a member of the retirement system determines that its employer-employee relationship with an employee is dissolved. The county shall notify the board of the date on which such a termination has occurred. Termination of employment does not occur if an employee whose employer-employee relationship with a county is dissolved enters into an employer-employee relationship with the same or another county which participates in the Retirement System for Nebraska Counties and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased with the county and the date when the employer-employee relationship commenced with the same or another county which qualifies the employee for participation in the plan. It shall be the responsibility of the current employer to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a termination benefit has been paid to a member of the retirement system pursuant to section 23-2319, the board shall require the member who has received such benefit to repay the benefit to the retirement system; and -

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

Sec. 3. Section 23-2306, Revised Statutes Cumulative Supplement, 2004, is amended to read:

23-2306 (1) The membership of the retirement system shall be

composed of all persons who are or were employed by member counties and who maintain an account balance with the retirement system.

(2) The following employees of member counties are authorized to participate in the retirement system: (a) All permanent full-time employees who have been employees for a period of twelve continuous months shall begin participation in the retirement system, ~~except that upon employment and~~ full-time elected officials shall begin participation in the retirement system ~~on~~ upon taking office, (b) all ~~full-time or permanent~~ part-time employees who have attained the age of twenty and have been employed for a total of twelve months within a five-year period ~~years~~ may exercise the option to begin participation in the retirement system, and (c) all part-time elected officials may exercise the option to begin participation in the retirement system. An employee who exercises the option to begin participation in the retirement system shall remain in the system until termination or retirement, regardless of any change of status as a permanent or temporary employee.

(3) Within the first thirty days of employment, a full-time employee may apply to the board for ~~eligibility and~~ vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as defined in the Nebraska governmental plan in which the credit was earned. The board may adopt and promulgate rules and regulations governing the assessment and granting of ~~eligibility and~~ vesting credit.

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

(5) A full-time or part-time employee of a city, village, or township who becomes a county employee pursuant to a merger of services shall receive ~~credit for his or her years of employment with the city, village, or township for purposes of the membership provisions of this section and shall receive eligibility and~~ vesting credit for his or her years of participation in a Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code, of the city, village, or township.

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

(7) Counties shall ensure that employees authorized to participate in the retirement system pursuant to this section shall enroll and make required contributions to the retirement system within sixty days under rules and regulations adopted and promulgated by the board. Information necessary to determine membership in the retirement system shall be provided by the employer.

Sec. 4. Section 23-2306.03, Revised Statutes Cumulative Supplement, 2004, is amended to read:

23-2306.03 Under such rules and regulations as the retirement board adopts and promulgates, a full-time or part-time employee of a city, village, fire protection district, or township who becomes a municipal county employee shall transfer all of his or her funds in the retirement system of the city, village, fire protection district, or township by paying to the Retirement System for Nebraska Counties from funds held by the retirement system of the city, village, fire protection district, or township an amount equal to one of the following: (1) If the retirement system of the city, village, fire protection district, or township maintains a defined benefit plan, an amount not to exceed the initial benefit transfer value as provided in section 13-2401, leaving no funds attributable to the transferred employee within the retirement system of the city, village, fire protection district, or township; or (2) if the retirement system of the city, village, fire protection district, or township maintains a defined contribution plan, an amount not to exceed the employee and employer accounts of the transferring employee plus earnings during the period of employment with the city, village, fire protection district, or township. The employee shall receive ~~eligibility and~~ vesting credit for his or her years of service in a governmental plan, as defined in section 414(d) of the Internal Revenue Code, maintained by the city, village, fire protection district, or township. Payment shall be made within five years after employment begins with the receiving entity or prior

to retirement, whichever comes first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

Sec. 5. Section 23-2308.01, Revised Statutes Supplement, 2005, is amended to read:

23-2308.01 (1) It is the intent of the Legislature that, in order to improve the competitiveness of the retirement plan for county employees, a cash balance benefit shall be added to the County Employees Retirement Act on and after January 1, 2003. Each member who is employed and participating in the retirement system prior to January 1, 2003, may either elect to continue participation in the defined contribution benefit as provided in the act prior to January 1, 2003, or elect to participate in the cash balance benefit as set forth in this section. The member shall make the election prior to January 1, 2003. If no election is made prior to January 1, 2003, the member shall be treated as though he or she elected to continue participating in the defined contribution benefit as provided in the act prior to January 1, 2003.

(2) For a member employed and participating in the retirement system beginning on and after January 1, 2003, or a member employed and participating in the retirement system on January 1, 2003, who, prior to January 1, 2003, elects to convert his or her employee and employer accounts to the cash balance benefit:

(a) The employee cash balance account shall, at any time, be equal to the following:

(i) The initial employee account balance, if any, transferred from the defined contribution plan account described in section 23-2309; plus

(ii) Employee contribution credits deposited in accordance with section 23-2307; plus

(iii) Interest credits credited in accordance with subdivision ~~(20)~~ (19) of section 23-2301; and

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

(i) The initial employer account balance, if any, transferred from the defined contribution plan account described in section 23-2310; plus

(ii) Employer contribution credits deposited in accordance with section 23-2308; plus

(iii) Interest credits credited in accordance with subdivision ~~(20)~~ (19) of section 23-2301.

(3) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the counties and their participating employees. The board may develop a schedule for the allocation of the administrative services agreements costs for accounting or record-keeping services and may assess the costs so that each member pays a reasonable fee as determined by the board. The money forfeited pursuant to section 23-2319.01 shall not be used to pay the administrative costs incurred pursuant to this subsection.

Sec. 6. Section 23-2319, Revised Statutes Cumulative Supplement, 2004, is amended to read:

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

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

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

The member cash balance account or employer and employee accounts

of a terminating member shall be retained by the board, and the termination benefit shall be deferred until a valid application for benefits has been received.

(2) At the option of the terminating member, any lump sum of the employer account or member cash balance account or any annuity payment provided under subsection (1) of this section shall commence as of the first of the month at any time after such member has terminated his or her employment with the county and no later than April 1 of the year following the year in which the member attains the age of seventy and one-half years. Such election by the terminating member shall be made at any time prior to the commencement of the lump-sum or annuity payments.

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

Sec. 7. Section 84-1301, Revised Statutes Cumulative Supplement, 2004, is amended to read:

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

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

(2) Annuity means equal monthly payments provided by the retirement system to a member or beneficiary under forms determined by the board beginning the first day of the month after an annuity election is received in the office of the Nebraska Public Employees Retirement Systems or the first day of the month after the employee's termination of employment, whichever is later;

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

(4) Cash balance benefit means a member's retirement benefit that is equal to an amount based on annual employee contribution credits plus interest credits and, if vested, employer contribution credits plus interest credits;

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

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

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

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

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

(9) ~~Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in another Nebraska governmental plan for purposes of determining membership in the system and vesting the employer account;~~

~~(10)~~ (9) Employee means any employee of the State Board of Agriculture who is a member of the state retirement system on July 1, 1982, and any person or officer employed by the State of Nebraska whose compensation is paid out of state funds or funds controlled or administered by a state department through any of its executive or administrative officers when acting exclusively in their respective official, executive, or administrative capacities. Employee does not include (a) judges as defined in section 24-701, (b) members of the Nebraska State Patrol, except for those members of the Nebraska State Patrol who elected pursuant to section 60-1304 to remain members of the State Employees Retirement System of the State of Nebraska, (c) employees of the University of Nebraska, (d) employees of the state colleges, (e) employees of community colleges, (f) employees of the Department of Labor employed prior to July 1, 1984, and paid from funds provided pursuant to Title III of the federal Social Security Act or funds from other federal sources, (g) the Commissioner of Labor employed prior to July 1, 1984, (h) employees of the State Board of Agriculture who are not members of the state retirement system on July 1, 1982, (i) the Nebraska National Guard air and army technicians, (j) persons eligible for membership under the School Retirement System of the State of Nebraska who have not elected to become members of the retirement system pursuant to section 79-920 or been made members of the system pursuant to such section, except that those persons so eligible and who as of September 2, 1973, are contributing to the State Employees Retirement System of the State of Nebraska shall continue as members of such system, or (k) employees of the Coordinating Commission for Postsecondary Education who are eligible for and have elected to become members of a qualified retirement program approved by the commission which is commensurate with retirement programs at the University of Nebraska. Any individual appointed by the Governor may elect not to become a member of the State Employees Retirement System of the State of Nebraska;

~~(11)~~ (10) Employee contribution credit means an amount equal to the member contribution amount required by section 84-1308;

~~(12)~~ (11) Employer contribution credit means an amount equal to the employer contribution amount required by section 84-1309;

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

~~(14)~~ (13) Five-year break in service means five consecutive one-year breaks in service;

~~(15)~~ (14) Full-time employee means an employee who is employed to work one-half or more of the regularly scheduled hours during each pay period;

~~(16)~~ (15) Fund means the State Employees Retirement Fund created by section 84-1309;

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

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

~~(19)~~ (18) Interest credits means the amounts credited to the employee cash balance account and the employer cash balance account at the end of each day. Such interest credit for each account shall be determined by applying the daily portion of the interest credit rate to the account balance at the end of the previous day. Such interest credits shall continue to be credited to the employee cash balance account and the employer cash balance account after a member ceases to be an employee, except that no such credit shall be made with respect to the employee cash balance account and the employer cash balance account for any day beginning on or after the member's date of final account value. If benefits payable to the member's surviving spouse or beneficiary are delayed after the member's death, interest credits shall continue to be credited to the employee cash balance account and the employer cash balance account until such surviving spouse or beneficiary

commences receipt of a distribution from the plan;

~~(20)~~ (19) Member cash balance account means an account equal to the sum of the employee cash balance account and, if vested, the employer cash balance account;

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

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

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

~~(24)~~ (23) Plan year means the twelve-month period beginning on January 1 and ending on December 31;

~~(25)~~ (24) Prior service means service before January 1, 1964;

~~(26)~~ (25) Regular interest means the rate of interest earned each calendar year commencing January 1, 1975, as determined by the retirement board in conformity with actual and expected earnings on the investments through December 31, 1984;

~~(27)~~ (26) Required contribution means the deduction to be made from the compensation of employees as provided in section 84-1308;

~~(28)~~ (27) Retirement means qualifying for and accepting the retirement benefit granted under the State Employees Retirement Act after terminating employment;

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

~~(30)~~ (29) Retirement system means the State Employees Retirement System of the State of Nebraska;

~~(31)~~ (30) Service means the actual total length of employment as an employee and shall not be deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under section 84-1317;

~~(32)~~ (31) State department means any department, bureau, commission, or other division of state government not otherwise specifically defined or exempted in the act, the employees and officers of which are not already covered by a retirement plan;

~~(33)~~ (32) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

~~(34)~~ (33) Termination of employment occurs on the date on which the agency which employs the member determines that the member's employer-employee relationship with the State of Nebraska is dissolved. The agency which employs the member shall notify the board of the date on which such a termination has occurred. Termination of employment does not occur if an employee whose employer-employee relationship with the State of Nebraska is dissolved enters into an employer-employee relationship with the same or another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased with the state and the date when the employer-employee relationship commenced with the same or another agency. It shall be the responsibility of the current employer to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a termination benefit has been paid to a member of the retirement system pursuant to section 84-1321, the board shall require the member who has received such benefit to repay the benefit to the retirement system; and -

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

Sec. 8. Section 84-1307, Revised Statutes Cumulative Supplement, 2004, is amended to read:

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

(2) The following employees of the State of Nebraska are authorized to participate in the retirement system: (a) All permanent full-time employees ~~who have twelve continuous months of service~~ shall begin participation in the retirement system upon employment; and (b) all ~~permanent full-time or permanent part-time employees, who have twelve months of service within a five-year period~~ and who have attained the age of twenty, years may exercise the option to begin participation in the retirement system. An employee who exercises the option to begin participation in the retirement system pursuant to this section shall remain in the retirement system until his or her termination of employment or retirement, regardless of any change of status as a permanent or temporary employee.

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

(4) Within the first thirty days of employment, a full-time employee may apply to the board for ~~eligibility and vesting credit~~ for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as defined in the Nebraska governmental plan in which the credit was earned. The board may adopt and promulgate rules and regulations governing the assessment and granting of ~~eligibility and vesting credit~~.

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

(6) State agencies shall ensure that employees authorized to participate in the retirement system pursuant to this section shall enroll and make required contributions to the retirement system within sixty days under rules and regulations adopted and promulgated by the board. Information necessary to determine membership in the retirement system shall be provided by the employer.

Sec. 9. Section 84-1308, Revised Statutes Cumulative Supplement, 2004, is amended to read:

84-1308 (1) Each employee who is a member of the retirement system shall pay or have paid on his or her behalf a sum equal to ~~four and thirty-three hundredths percent of his or her monthly compensation until such time as he or she has paid during any calendar year a total of eight hundred sixty-four dollars, after which time he or she shall pay a sum equal to four and eight-tenths percent of his or her monthly compensation, for the remainder of such calendar year.~~ Such amounts shall be deducted monthly pursuant to subsection (2) of this section by the Director of Administrative Services. All money received shall be set aside by the State Treasurer and credited to the State Employees Retirement Fund.

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

Sec. 10. Section 84-1309.02, Revised Statutes Supplement, 2005, is amended to read:

84-1309.02 (1) It is the intent of the Legislature that, in order to improve the competitiveness of the retirement plan for state employees, a cash balance benefit shall be added to the State Employees Retirement Act on and after January 1, 2003. Each member who is employed and participating in the retirement system prior to January 1, 2003, may either elect to continue participation in the defined contribution benefit as provided in the act prior to January 1, 2003, or elect to participate in the cash balance benefit as set forth in this section. The member shall make the election prior to January 1, 2003. If no election is made prior to January 1, 2003, the member shall be treated as though he or she elected to continue participating in the defined contribution benefit as provided in the act prior to January 1, 2003.

(2) For a member employed and participating in the retirement system beginning on and after January 1, 2003, or a member employed and participating in the retirement system on January 1, 2003, who, prior to January 1, 2003, elects to convert his or her employee and employer accounts to the cash balance benefit:

(a) The employee cash balance account shall, at any time, be equal to the following:

(i) The initial employee account balance, if any, transferred from the defined contribution plan account described in section 84-1310; plus

(ii) Employee contribution credits deposited in accordance with section 84-1308; plus

(iii) Interest credits credited in accordance with subdivision ~~(19)~~ (18) of section 84-1301; and

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

(i) The initial employer account balance, if any, transferred from the defined contribution plan account described in section 84-1311; plus

(ii) Employer contribution credits deposited in accordance with section 84-1309; plus

(iii) Interest credits credited in accordance with subdivision ~~(19)~~ (18) of section 84-1301.

(3) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees. The board may develop a schedule for the allocation of the administrative services agreements costs for accounting or record-keeping services and may assess the costs so that each member pays a reasonable fee as determined by the board. The money forfeited pursuant to section 84-1321.01 shall not be used to pay the administrative costs incurred pursuant to this subsection.

Sec. 11. Section 84-1321, Revised Statutes Cumulative Supplement, 2004, is amended to read:

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

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

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

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

(2) At the option of the terminating member, any lump sum of the

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

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

Sec. 12. This act becomes operative on January 1, 2007.

Sec. 13. Original sections 2-1608, 23-2301, 23-2306, 23-2306.03, 23-2319, 84-1301, 84-1307, 84-1308, and 84-1321, Revised Statutes Cumulative Supplement, 2004, and sections 23-2308.01 and 84-1309.02, Revised Statutes Supplement, 2005, are repealed.

Sec. 14. The following sections are outright repealed: Sections 23-2306.01 and 84-1326.02, Reissue Revised Statutes of Nebraska.