

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 1147**

FINAL READING

Introduced by Nebraska Retirement Systems Committee: Synowiecki, 7,  
Chairperson; Erdman, 47; Karpisek, 32; White, 8.

Read first time January 23, 2008

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 79-933,  
2 79-947.04, and 81-2027.06, Reissue Revised Statutes  
3 of Nebraska, sections 23-2306, 23-2309.01, 23-2310.05,  
4 24-708, 24-710.07, 24-710.10, 81-2027.03, 84-1307,  
5 84-1310.01, and 84-1311.03, Revised Statutes Cumulative  
6 Supplement, 2006, and sections 23-2320, 79-947.01, and  
7 84-1322, Revised Statutes Supplement, 2007; to change  
8 contribution allocation provisions and contribution  
9 requirements under the County Employees Retirement Act  
10 and the State Employees Retirement Act; to provide  
11 for early retirement with reduced monthly retirement  
12 income under the Judge's Retirement Act; to change

1 benefit adjustment provisions relating to the Judges  
2 Retirement Act, the School Employees Retirement Act,  
3 and the Nebraska State Patrol Retirement Act; to change  
4 provisions relating to service annuities under the School  
5 Employees Retirement Act; to provide for a comprehensive  
6 review of the Nebraska Investment Council; to provide  
7 operative dates; to repeal the original sections; and to  
8 declare an emergency.

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

1           Section 1. Section 23-2306, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           23-2306 (1) The membership of the retirement system shall  
4 be composed of all persons who are or were employed by member  
5 counties and who maintain an account balance with the retirement  
6 system.

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

20           (3) Within the first thirty days of employment, a  
21 full-time employee may apply to the board for vesting credit  
22 for years of participation in another Nebraska governmental plan,  
23 as defined by section 414(d) of the Internal Revenue Code. During  
24 the years of participation in the other Nebraska governmental plan,  
25 the employee must have been a full-time employee, as defined in

1 the Nebraska governmental plan in which the credit was earned. The  
2 board may adopt and promulgate rules and regulations governing the  
3 assessment and granting of vesting credit.

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

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

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

24 (7) Counties shall ensure that employees authorized to  
25 participate in the retirement system pursuant to this section

1 shall enroll and make required contributions to the retirement  
2 system ~~within sixty days under rules and regulations adopted and~~  
3 ~~promulgated by the board.~~ immediately upon becoming an employee.  
4 Information necessary to determine membership in the retirement  
5 system shall be provided by the employer.

6           Sec. 2. Section 23-2309.01, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8           23-2309.01 (1) Each member employed and participating in  
9 the retirement system prior to January 1, 2003, who has elected  
10 not to participate in the cash balance benefit, shall be allowed  
11 to allocate all contributions to his or her employee account to  
12 various investment options. The investment options shall include,  
13 but not be limited to, the following:

14           (a) An investor select account which shall be invested  
15 under the direction of the state investment officer with an asset  
16 allocation and investment strategy substantially similar to the  
17 investment allocations made by the state investment officer for  
18 the defined benefit plans under the retirement systems described  
19 in subdivision (1)(a) of section 84-1503. Investments shall most  
20 likely include domestic and international equities, fixed income  
21 investments, and real estate, as well as potentially additional  
22 asset classes;

23           (b) A stable return account which shall be invested by or  
24 under the direction of the state investment officer in one or more  
25 guaranteed investment contracts;

1           (c) An equities account which shall be invested by or  
2 under the direction of the state investment officer in equities;

3           (d) A balanced account which shall be invested by or  
4 under the direction of the state investment officer in equities and  
5 fixed income instruments;

6           (e) An index fund account which shall be invested by or  
7 under the direction of the state investment officer in a portfolio  
8 of common stocks designed to closely duplicate the total return of  
9 the Standard and Poor's 500 Index;

10           (f) A fixed income account which shall be invested by or  
11 under the direction of the state investment officer in fixed income  
12 instruments;

13           (g) A money market account which shall be invested by or  
14 under the direction of the state investment officer in short-term  
15 fixed income securities; and

16           (h) Beginning July 1, 2006, an age-based account which  
17 shall be invested under the direction of the state investment  
18 officer with an asset allocation and investment strategy that  
19 changes based upon the age of the member. The board shall  
20 develop an account mechanism that changes the investments as  
21 the employee nears retirement age. The asset allocation and asset  
22 classes utilized in the investments shall move from aggressive, to  
23 moderate, and then to conservative as retirement age approaches.

24           If a member fails to select an option or combination of  
25 options, all of his or her funds shall be placed in the option

1 described in subdivision (b) of this subsection. Each member shall  
2 be given a detailed current description of each investment option  
3 prior to making or revising his or her allocation.

4 (2) Members of the retirement system may allocate their  
5 contributions to the investment options in percentage increments as  
6 set by the board in any proportion, including full allocation to  
7 any one option. A member under subdivision (1) of section 23-2321  
8 or his or her beneficiary may transfer any portion of his or her  
9 funds among the options, except for restrictions on transfers to or  
10 from the stable return account pursuant to rule or regulation. The  
11 board shall adopt and promulgate rules and regulations for changes  
12 of a member's allocation of contributions to his or her accounts  
13 after his or her most recent allocation and for transfers from one  
14 investment account to another.

15 (3) The board shall develop a schedule for the allocation  
16 of administrative costs of maintaining the various investment  
17 options and shall assess the costs so that each member pays a  
18 reasonable fee as determined by the board. The money forfeited  
19 pursuant to section 23-2319.01 shall not be used to pay the  
20 administrative costs incurred pursuant to this section.

21 (4) In order to carry out this section, the board  
22 may enter into administrative services agreements for accounting  
23 or record-keeping services. No agreement shall be entered into  
24 unless the board determines that it will result in administrative  
25 economy and will be in the best interests of the county and its

1 participating employees.

2 (5) The state, the board, the state investment officer,  
3 the members of the Nebraska Investment Council, or the county  
4 shall not be liable for any investment results resulting from  
5 the member's exercise of control over the assets in the employee  
6 account.

7 Sec. 3. Section 23-2310.05, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9 23-2310.05 (1) Each member employed and participating in  
10 the retirement system prior to January 1, 2003, who has elected  
11 not to participate in the cash balance benefit, shall be allowed  
12 to allocate all contributions to his or her employer account to  
13 various investment options. Such investment options shall be the  
14 same as the investment options of the employee account as provided  
15 in subsection (1) of section 23-2309.01. If a member fails to  
16 select an option or combination of options, all of his or her funds  
17 in the employer account shall be placed in the balanced account  
18 option described in subdivision (1)(d) of section 23-2309.01.  
19 Each member shall be given a detailed current description of  
20 each investment option prior to making or revising his or her  
21 allocation.

22 (2) Each member of the retirement system may allocate  
23 contributions to his or her employer account to the investment  
24 options in percentage increments as set by the board in any  
25 proportion, including full allocation to any one option. A member



1 under subdivision (1) of section 23-2321 or his or her beneficiary  
2 may transfer any portion of his or her funds among the options. The  
3 board shall adopt and promulgate rules and regulations for changes  
4 of a member's allocation of contributions to his or her accounts  
5 after his or her most recent allocation and for transfers from one  
6 investment account to another.

7 (3) The board shall develop a schedule for the allocation  
8 of administrative costs of maintaining the various investment  
9 options and shall assess the costs so that each member pays a  
10 reasonable fee as determined by the board. The money forfeited  
11 pursuant to section 23-2319.01 shall not be used to pay the  
12 administrative costs incurred pursuant to this section.

13 (4) In order to carry out the provisions of this section,  
14 the board may enter into administrative services agreements for  
15 accounting or record-keeping services. No agreement shall be  
16 entered into unless the board determines that it will result  
17 in administrative economy and will be in the best interests of the  
18 state and participating employees.

19 (5) The state, the board, the state investment officer,  
20 the members of the Nebraska Investment Council, or the county  
21 shall not be liable for any investment results resulting from  
22 the member's exercise of control over the assets in the employer  
23 account.

24 Sec. 4. Section 23-2320, Revised Statutes Supplement,  
25 2007, is amended to read:

1                   23-2320 (1) Except as otherwise provided in this section,  
2 a member of the retirement system who has a five-year break in  
3 service shall upon reemployment be considered a new employee with  
4 respect to the County Employees Retirement Act and shall not  
5 receive credit for service prior to his or her reemployment date.

6                   (2) (a) A member who ceases to be an employee before  
7 becoming eligible for retirement under section 23-2315 and again  
8 becomes a permanent full-time or permanent part-time county  
9 employee prior to having a five-year break in service shall  
10 immediately be reenrolled in the retirement system and resume  
11 making contributions ~~under rules and regulations adopted by the~~  
12 ~~board~~. For purposes of vesting employer contributions made prior to  
13 and after the reentry into the retirement system under subsection  
14 (3) of section 23-2319, years of participation include years of  
15 participation prior to such employee's original termination. For a  
16 member who is not vested and has received a termination benefit  
17 pursuant to section 23-2319, the years of participation prior  
18 to such employee's original termination shall be limited in a  
19 ratio equal to the amount that the member repays divided by the  
20 termination benefit withdrawn pursuant to section 23-2319.

21                   (b) The reemployed member may repay the value of, or  
22 a portion of the value of, the termination benefit withdrawn  
23 pursuant to section 23-2319. A reemployed member who elects to  
24 repay all or a portion of the value of the termination benefit  
25 withdrawn pursuant to section 23-2319 shall repay the actual

1 earnings on such value. Repayment of the termination benefit shall  
2 commence within three years of reemployment and shall be completed  
3 within five years of reemployment or prior to termination of  
4 employment, whichever occurs first, through (i) direct payments to  
5 the retirement system, (ii) installment payments made pursuant to  
6 a binding irrevocable payroll deduction authorization made by the  
7 member, (iii) an eligible rollover distribution as provided under  
8 the Internal Revenue Code, or (iv) a direct rollover distribution  
9 made in accordance with section 401(a)(31) of the Internal Revenue  
10 Code.

11 (c) The value of the member's forfeited employer account  
12 or employer cash balance account, as of the date of forfeiture,  
13 shall be restored in a ratio equal to the amount of the benefit  
14 that the member has repaid divided by the termination benefit  
15 received. The employer account or employer cash balance account  
16 shall be restored first out of the current forfeiture amounts and  
17 then by additional employer contributions.

18 (3) For a member who retired pursuant to section 23-2315  
19 and becomes a permanent full-time employee or permanent part-time  
20 employee with a county under the County Employees Retirement Act  
21 more than one hundred twenty days after his or her retirement  
22 date, the member shall continue receiving retirement benefits. Such  
23 a retired member or a retired member who received a lump-sum  
24 distribution of his or her benefit shall be considered a new  
25 employee as of the date of reemployment and shall not receive

1 credit for any service prior to the member's retirement for  
2 purposes of the act.

3 (4) A member who is reinstated as an employee pursuant to  
4 a grievance or appeal of his or her termination by the county shall  
5 be a member upon reemployment and shall not be considered to have  
6 a break in service for such period of time that the grievance or  
7 appeal was pending.

8 Sec. 5. Section 24-708, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 24-708 (1) Except as provided in section 24-721, a judge  
11 may retire upon reaching the age of sixty-five years and upon  
12 making application to the board. Upon retiring each such judge  
13 shall receive retirement annuities as provided in section 24-710.

14 (2) Except as provided in section 24-721, a judge may  
15 retire upon reaching the age of fifty-five years and elect  
16 to receive a reduced monthly retirement income in lieu of a  
17 deferred vested annuity. The judge may request that the reduced  
18 monthly retirement income commence at any date, beginning on the  
19 first day of the month following the actual retirement date and  
20 ending on the normal retirement date. The amount of the reduced  
21 monthly retirement income shall be calculated based on the length  
22 of creditable service and average compensation at the actual  
23 retirement date. When a judge has elected to receive a reduced  
24 monthly retirement income to commence at the age of sixty-four  
25 years, the monthly payments shall be reduced by three percent.

1 When a judge has elected to receive a reduced monthly retirement  
2 income to commence at the age of sixty-three years, the monthly  
3 payments shall be reduced by six percent. When a judge has elected  
4 to receive a reduced monthly retirement income to commence at  
5 the age of sixty-two years, the monthly payments shall be reduced  
6 by nine percent. When a judge has elected to receive a reduced  
7 monthly retirement income to commence prior to the age of sixty-two  
8 years, the monthly payments shall be further reduced and shall be  
9 reduced when the payments commence prior to the normal retirement  
10 date to an amount that is actuarially equivalent to the deferred  
11 vested annuity amount payable at the normal retirement date. ~~age of~~  
12 sixty-two years.

13 (3) Payment of any benefit provided under the Judges  
14 Retirement Act may not be deferred later than April 1 of the year  
15 following the year in which the judge has both attained at least  
16 age seventy and one-half years and terminated his or her employment  
17 as a judge.

18 (4) The effective date of retirement payments shall be  
19 the first day of the month following (a) the date a member  
20 qualifies for retirement as provided in this section or (b) the  
21 date upon which a member's request for retirement is received on  
22 an application form provided by the retirement system, whichever  
23 is later. An application may be filed no more than ninety days in  
24 advance of qualifying for retirement.

25 (5) The board shall make reasonable efforts to locate

1 the member or the member's beneficiary and distribute benefits by  
2 the required beginning date as specified by section 401(a)(9) of  
3 the Internal Revenue Code and the regulations issued thereunder. If  
4 the board is unable to make such a distribution, the benefit shall  
5 be distributed pursuant to the Uniform Disposition of Unclaimed  
6 Property Act and no amounts may be applied to increase the benefits  
7 any member would otherwise receive under the Judges Retirement Act.

8 Sec. 6. Section 24-710.07, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 24-710.07 (1) Beginning July 1, 2000, and each July 1  
11 thereafter, current benefits paid to a member or beneficiary shall  
12 be adjusted so that the purchasing power of the benefit being  
13 paid is not less than seventy-five percent of the purchasing power  
14 of the initial benefit. The amount of the adjustment shall be  
15 equal to the difference in the percentage change in the Consumer  
16 Price Index for Urban Wage Earners and Clerical Workers during the  
17 benefit payment period and one hundred thirty-three and one-third  
18 percent, such percentage times the initial benefit, less the total  
19 of all previous supplemental benefit and cost-of-living adjustments  
20 granted. The purchasing power of the initial benefit in any year  
21 following the year in which the initial benefit commenced shall  
22 be calculated by dividing the United States Department of Labor,  
23 Bureau of Labor Statistics, Consumer Price Index for Urban Wage  
24 Earners and Clerical Workers factor on June 30 of the current year  
25 by the Consumer Price Index for Urban Wage Earners and Clerical

1 Workers factor on June 30 of the year in which the benefit  
2 commenced. The result shall be multiplied by the product that  
3 results when the amount of the initial benefit is multiplied by  
4 seventy-five percent. In any year in which applying the adjustment  
5 provided in subsection (2) of this section results in a benefit  
6 which would be less than seventy-five percent of the purchasing  
7 power of the initial benefit as calculated above, the adjustment  
8 shall instead be equal to the percentage change in the Consumer  
9 Price Index for Urban Wage Earners and Clerical Workers factor  
10 from the prior year to the current year. In all other years, the  
11 adjustment provided under subsection (2) of this section shall  
12 be provided. The adjustment pursuant to this subsection shall not  
13 cause a current benefit to be reduced.

14 ~~(2)(a)~~ (2) Except as provided in subsection (1) of this  
15 section:

16 (a) Beginning July 1, 2000, and until July 1, 2001, the  
17 current benefit of a member or the beneficiary of such a member  
18 shall be increased annually by the lesser of (i) the percentage  
19 change in the Consumer Price Index for Urban Wage Earners and  
20 Clerical Workers factor published by the Bureau of Labor Statistics  
21 of the United States Department of Labor for the prior year or (ii)  
22 two percent; ~~and-~~

23 (b) Beginning July 1, 2001, the current benefit of a  
24 member or the beneficiary of such a member shall be increased  
25 annually by the lesser of (i) the percentage change in the Consumer

1 Price Index for Urban Wage Earners and Clerical Workers factor  
2 published by the Bureau of Labor Statistics of the United States  
3 Department of Labor for the prior year or (ii) two and one-half  
4 percent.

5 (3) The state shall contribute to the Nebraska Retirement  
6 Fund for Judges an annual level dollar payment certified by the  
7 board. For the 1996-97 fiscal year through the 2010-11 fiscal year,  
8 the annual level dollar payment certified by the board shall equal  
9 1.04778 percent of six million eight hundred ninety-five thousand  
10 dollars.

11 (4) The board shall adjust the annual benefit adjustment  
12 provided in this section so that the total amount of all  
13 cost-of-living adjustments provided to the eligible retiree at  
14 the time of the annual benefit adjustment does not exceed the  
15 percentage change in the National Consumer Price Index for Urban  
16 Wage Earners and Clerical Workers factor published by the Bureau  
17 of Labor Statistics for the period between June 30 of the prior  
18 year to June 30 of the present year. If the consumer price index  
19 used in this section is discontinued or replaced, a substitute  
20 index published by the United States Department of Labor shall be  
21 selected by the board which shall be a reasonable representative  
22 measurement of the cost of living for retired employees.

23 Sec. 7. Section 24-710.10, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 24-710.10 The minimum accrual rate is thirty-five dollars



1 until adjusted pursuant to this section. Commencing June 30, 1999,  
2 the retirement board shall annually adjust the minimum accrual  
3 rate to reflect the cumulative percentage change in the National  
4 Consumer Price Index for Urban Wage Earners and Clerical Workers  
5 factor published by the Bureau of Labor Statistics of the United  
6 States Department of Labor from the last adjustment of the minimum  
7 accrual rate.

8           Sec. 8. Section 79-933, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           79-933 (1) Upon retirement under section 79-931, a member  
11 or emeritus member shall receive a school retirement allowance  
12 which shall consist of the sum of: ~~(1)~~ (a) A savings annuity which  
13 shall be the actuarial equivalent, as determined by the retirement  
14 board, of the member's accumulated contributions at the time of  
15 his or her retirement or, in the case of an emeritus member, the  
16 savings annuity fixed by the retirement board at the time of his or  
17 her original retirement; and ~~(2)~~ (b) a service annuity to be paid  
18 by the State of Nebraska.

19           (2) The amount of any individual service annuity for (a)  
20 a full-time school employee hired on or before April 1, 1988, who  
21 retires with thirty-five or more years of service or who retires  
22 under the provisions of disability retirement, (b) a full-time  
23 school employee who provided compensated service after April 1,  
24 1988, but prior to July 19, 1996, if the service annuity commences  
25 on or after the member's sixty-fifth birthday, who retires with

1 thirty-five or more years of service or who retires under the  
2 provisions of disability retirement, or (c) an emeritus member  
3 shall be three dollars and fifty cents per month for each year  
4 of creditable service commencing with his or her retirement on or  
5 after May 19, 1981. For employees not enumerated in subdivision (a)  
6 or (b) of this subsection or for employees hired on or after July  
7 19, 1996, ~~7~~ except that if the service annuity commences prior to  
8 the member's sixty-fifth birthday, it shall be on an actuarially  
9 reduced basis. Each school employee or emeritus member who retired  
10 before July 1, 1973, and who is receiving a service annuity as of  
11 that date shall have such service annuity adjusted by the increase  
12 in the cost of living as determined by the difference between the  
13 Consumer Price Index for Urban Wage Earners and Clerical Workers  
14 from the date the service annuity commenced and July 1, 1973,  
15 except that such annuity shall not exceed three dollars and fifty  
16 cents monthly per year of service based on the same number of years  
17 of service that is currently being used to determine his or her  
18 service annuity. Such increased service annuity shall commence on  
19 July 1, 1973.

20           Sec. 9. Section 79-947.01, Revised Statutes Supplement,  
21 2007, is amended to read:

22           79-947.01 (1) Beginning July 1, 2000, and each July 1  
23 thereafter, current benefits paid to a member or beneficiary shall  
24 be adjusted so that the purchasing power of the benefit being  
25 paid is not less than seventy-five percent of the purchasing power

1 of the initial benefit. The amount of the adjustment shall be  
2 equal to the difference in the percentage change in the Consumer  
3 Price Index for Urban Wage Earners and Clerical Workers during the  
4 benefit payment period and one hundred thirty-three and one-third  
5 percent, such percentage times the initial benefit, less the total  
6 of all previous supplemental benefit and cost-of-living adjustments  
7 granted. The purchasing power of the initial benefit in any year  
8 following the year in which the initial benefit commenced shall  
9 be calculated by dividing the United States Department of Labor,  
10 Bureau of Labor Statistics, Consumer Price Index for Urban Wage  
11 Earners and Clerical Workers factor on June 30 of the current year  
12 by the Consumer Price Index for Urban Wage Earners and Clerical  
13 Workers factor on June 30 of the year in which the benefit  
14 commenced. The result shall be multiplied by the product that  
15 results when the amount of the initial benefit is multiplied by  
16 seventy-five percent. In any year in which applying the adjustment  
17 provided in subsection (2) of this section results in a benefit  
18 which would be less than seventy-five percent of the purchasing  
19 power of the initial benefit as calculated above, the adjustment  
20 shall instead be equal to the percentage change in the Consumer  
21 Price Index for Urban Wage Earners and Clerical Workers factor  
22 from the prior year to the current year. In all other years, the  
23 adjustment provided under subsection (2) of this section shall  
24 be provided. The adjustment pursuant to this subsection shall not  
25 cause a current benefit to be reduced.

1           ~~(2)(a)~~ (2) Except as provided in subsection (1) of this  
2 section:

3           (a) Beginning July 1, 2000, and until July 1, 2001, the  
4 current benefit of a member or the beneficiary of such a member  
5 shall be increased annually by the lesser of (i) the percentage  
6 change in the Consumer Price Index for Urban Wage Earners and  
7 Clerical Workers factor published by the Bureau of Labor Statistics  
8 of the United States Department of Labor for the prior year or (ii)  
9 two percent; and-

10           (b) Beginning July 1, 2001, the current benefit to a  
11 member or the beneficiary of such a member shall be increased  
12 annually by the lesser of (i) the percentage change in the Consumer  
13 Price Index for Urban Wage Earners and Clerical Workers factor  
14 published by the Bureau of Labor Statistics of the United States  
15 Department of Labor for the prior year or (ii) two and one-half  
16 percent.

17           (3) The state shall contribute to the Annuity Reserve  
18 Fund an annual level dollar payment certified by the board. For  
19 the 1996-97 fiscal year through the 2010-11 fiscal year, the annual  
20 level dollar payment certified by the board shall equal 81.7873  
21 percent of six million eight hundred ninety-five thousand dollars.

22           (4) The retirement board shall adjust the annual benefit  
23 adjustment provided in this section so that the total amount of  
24 all cost-of-living adjustments provided to the eligible retiree  
25 at the time of the annual benefit adjustment does not exceed the

1 percentage change in the National Consumer Price Index for Urban  
2 Wage Earners and Clerical Workers factor published by the Bureau  
3 of Labor Statistics for the period between June 30 of the prior  
4 year to June 30 of the present year. If the consumer price index  
5 used in this section is discontinued or replaced, a substitute  
6 index published by the United States Department of Labor shall be  
7 selected by the board which shall be a reasonable representative  
8 measurement of the cost of living for retired employees.

9           (5) In addition to the adjustments provided in  
10 subsections (1), (2), and (4) of this section, the current benefit  
11 to a member or beneficiary of such member, and for which the first  
12 payment was dated on or before June 30, 2007, shall be subject to  
13 adjustment of the greater of (a) the annuity payable to the member  
14 or beneficiary as adjusted, if applicable, under the provisions  
15 of subsection (1), (2), or (4) of this section or (b) eighty-five  
16 percent of the annuity which results when the original annuity that  
17 was paid to the member or beneficiary, before any cost-of-living  
18 adjustments under this section, is adjusted by the increase in the  
19 Consumer Price Index for Urban Wage Earners and Clerical Workers  
20 for the period between the commencement date of the annuity and  
21 June 30, 2007.

22           Sec. 10. Section 79-947.04, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           79-947.04 The minimum accrual rate is eighteen dollars  
25 until adjusted pursuant to this section. Commencing June 30, 1999,

1 the retirement board shall annually adjust the minimum accrual  
2 rate to reflect the cumulative percentage change in the National  
3 Consumer Price Index for Urban Wage Earners and Clerical Workers  
4 factor published by the Bureau of Labor Statistics of the United  
5 States Department of Labor from the last adjustment of the minimum  
6 accrual rate.

7           Sec. 11. Section 81-2027.03, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9           81-2027.03 (1) Beginning July 1, 2000, and each July  
10 1 thereafter, current benefits paid to a member or beneficiary  
11 shall be adjusted so that the purchasing power of the benefit  
12 being paid is not less than sixty percent of the purchasing power  
13 of the initial benefit. The amount of the adjustment shall be  
14 equal to the difference in the percentage change in the Consumer  
15 Price Index for Urban Wage Earners and Clerical Workers during the  
16 benefit payment period and one hundred sixty-six and two-thirds  
17 percent, such percentage times the initial benefit, less the total  
18 of all previous supplemental benefit and cost-of-living adjustments  
19 ~~granted.~~ The purchasing power of the initial benefit in any year  
20 following the year in which the initial benefit commenced shall  
21 be calculated by dividing the United States Department of Labor,  
22 Bureau of Labor Statistics, Consumer Price Index for Urban Wage  
23 Earners and Clerical Workers factor on June 30 of the current  
24 year by the Consumer Price Index for Urban Wage Earners and  
25 Clerical Workers factor on June 30 of the year in which the

1 benefit commenced. The result shall be multiplied by the product  
2 that results when the amount of the initial benefit is multiplied  
3 by sixty percent. In any year in which applying the adjustment  
4 provided in subsection (2) of this section results in a benefit  
5 which would be less than sixty percent of the purchasing power  
6 of the initial benefit as calculated above, the adjustment shall  
7 instead be equal to the percentage change in the Consumer Price  
8 Index for Urban Wage Earners and Clerical Workers factor from the  
9 prior year to the current year. In all other years, the adjustment  
10 provided under subsection (2) of this section shall be provided.  
11 The adjustment pursuant to this subsection shall not cause a  
12 current benefit to be reduced.

13 ~~(2)(a)~~ (2) Except as provided in subsection (1) of this  
14 section:

15 (a) Beginning July 1, 2000, and until July 1, 2001, the  
16 current benefit of a member or the beneficiary of such a member  
17 shall be increased annually by the lesser of (i) the percentage  
18 change in the Consumer Price Index for Urban Wage Earners and  
19 Clerical Workers factor published by the Bureau of Labor Statistics  
20 of the United States Department of Labor for the prior year or (ii)  
21 two percent; ~~and-~~

22 (b) Beginning July 1, 2001, the current benefit of a  
23 member or the beneficiary of such a member shall be increased  
24 annually by the lesser of (i) the percentage change in the Consumer  
25 Price Index for Urban Wage Earners and Clerical Workers factor

1 published by the Bureau of Labor Statistics of the United States  
2 Department of Labor for the prior year or (ii) two and one-half  
3 percent.

4 (3) The state shall contribute to the State Patrol  
5 Retirement Fund an annual level dollar payment certified by the  
6 board. For the 1996-97 fiscal year through the 2010-11 fiscal year,  
7 the annual level dollar payment certified by the board shall equal  
8 3.04888 percent of six million eight hundred ninety-five thousand  
9 dollars.

10 (4) The board shall adjust the annual benefit adjustment  
11 provided in this section so that the total amount of all  
12 cost-of-living adjustments provided to the eligible retiree at  
13 the time of the annual benefit adjustment does not exceed the  
14 percentage change in the National Consumer Price Index for Urban  
15 Wage Earners and Clerical Workers factor published by the Bureau  
16 of Labor Statistics for the period between June 30 of the prior  
17 year to June 30 of the present year. If the consumer price index  
18 used in this section is discontinued or replaced, a substitute  
19 index published by the United States Department of Labor shall be  
20 selected by the board which shall be a reasonable representative  
21 measurement of the cost of living for retired employees.

22 Sec. 12. Section 81-2027.06, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 81-2027.06 The minimum accrual rate is thirty dollars  
25 until adjusted pursuant to this section. Commencing June 30, 1999,



1 the retirement board shall annually adjust the minimum accrual  
2 rate to reflect the cumulative percentage change in the National  
3 Consumer Price Index for Urban Wage Earners and Clerical Workers  
4 factor published by the Bureau of Labor Statistics of the United  
5 States Department of Labor from the last adjustment of the minimum  
6 accrual rate.

7           Sec. 13. Section 84-1307, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9           84-1307 (1) The membership of the retirement system shall  
10 be composed of all persons who are or were employed by the State  
11 of Nebraska and who maintain an account balance with the retirement  
12 system.

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

24           (3) For purposes of this section, (a) permanent full-time  
25 employees includes employees of the Legislature or Legislative

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

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

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

24 (6) State agencies shall ensure that employees authorized  
25 to participate in the retirement system pursuant to this section

1 shall enroll and make required contributions to the retirement  
2 system ~~within sixty days under rules and regulations adopted and~~  
3 ~~promulgated by the board.~~ immediately upon becoming an employee.  
4 Information necessary to determine membership in the retirement  
5 system shall be provided by the employer.

6           Sec. 14. Section 84-1310.01, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8           84-1310.01 (1) Each member employed and participating in  
9 the retirement system prior to January 1, 2003, who has elected  
10 not to participate in the cash balance benefit, shall be allowed  
11 to allocate all contributions to his or her employee account to  
12 various investment options. Such investment options shall include,  
13 but not be limited to, the following:

14           (a) An investor select account which shall be invested  
15 under the direction of the state investment officer with an asset  
16 allocation and investment strategy substantially similar to the  
17 investment allocations made by the state investment officer for  
18 the defined benefit plans under the retirement systems described  
19 in subdivision (1)(a) of section 84-1503. Investments shall most  
20 likely include domestic and international equities, fixed income  
21 investments, and real estate, as well as potentially additional  
22 asset classes;

23           (b) A stable return account which shall be invested by or  
24 under the direction of the state investment officer in one or more  
25 guaranteed investment contracts;

1           (c) An equities account which shall be invested by or  
2 under the direction of the state investment officer in equities;

3           (d) A balanced account which shall be invested by or  
4 under the direction of the state investment officer in equities and  
5 fixed income instruments;

6           (e) An index fund account which shall be invested by or  
7 under the direction of the state investment officer in a portfolio  
8 of common stocks designed to closely duplicate the total return of  
9 the Standard and Poor's 500 Index;

10           (f) A fixed income account which shall be invested by or  
11 under the direction of the state investment officer in fixed income  
12 instruments;

13           (g) A money market account which shall be invested by or  
14 under the direction of the state investment officer in short-term  
15 fixed income securities; and

16           (h) Beginning on July 1, 2006, an age-based account which  
17 shall be invested under the direction of the state investment  
18 officer with an asset allocation and investment strategy that  
19 changes based upon the age of the member. The board shall  
20 develop an account mechanism that changes the investments as  
21 the employee nears retirement age. The asset allocation and asset  
22 classes utilized in the investments shall move from aggressive, to  
23 moderate, and then to conservative as retirement age approaches.

24           If a member fails to select an option or combination of  
25 options, all of his or her funds shall be placed in the option

1 described in subdivision (b) of this subsection. Each member shall  
2 be given a detailed current description of each investment option  
3 prior to making or revising his or her allocation.

4 (2) Members of the retirement system may allocate their  
5 contributions to the investment options in percentage increments as  
6 set by the board in any proportion, including full allocation to  
7 any one option. A member under subdivision (1) of section 84-1323  
8 or his or her beneficiary may transfer any portion of his or her  
9 funds among the options, except for restrictions on transfers to or  
10 from the stable return account pursuant to rule or regulation. The  
11 board shall adopt and promulgate rules and regulations for changes  
12 of a member's allocation of contributions to his or her accounts  
13 after his or her most recent allocation and for transfers from one  
14 investment account to another.

15 (3) The board shall develop a schedule for the allocation  
16 of administrative costs of maintaining the various investment  
17 options and shall assess the costs so that each member pays a  
18 reasonable fee as determined by the board. The money forfeited  
19 pursuant to section 84-1321.01 shall not be used to pay the  
20 administrative costs incurred pursuant to this section.

21 (4) In order to carry out the provisions of this section,  
22 the board may enter into administrative services agreements for  
23 accounting or record-keeping services. No agreement shall be  
24 entered into unless the board determines that it will result  
25 in administrative economy and will be in the best interests of the

1 state and its participating employees.

2 (5) The state, the board, the state investment officer,  
3 the members of the Nebraska Investment Council, or the agency  
4 shall not be liable for any investment results resulting from  
5 the member's exercise of control over the assets in the employee  
6 account.

7 Sec. 15. Section 84-1311.03, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9 84-1311.03 (1) Each member employed and participating in  
10 the retirement system prior to January 1, 2003, who has elected  
11 not to participate in the cash balance benefit, shall be allowed  
12 to allocate all contributions to his or her employer account to  
13 various investment options. Such investment options shall be the  
14 same as the investment options of the employee account as provided  
15 in subsection (1) of section 84-1310.01. If a member fails to  
16 select an option or combination of options, all of his or her funds  
17 in the employer account shall be placed in the balanced account  
18 option described in subdivision (1)(d) of section 84-1310.01.  
19 Each member shall be given a detailed current description of  
20 each investment option prior to making or revising his or her  
21 allocation.

22 (2) Each member of the retirement system may allocate  
23 contributions to his or her employer account to the investment  
24 options in percentage increments as set by the board in any  
25 proportion, including full allocation to any one option. A member

1 under subdivision (1) of section 84-1323 or his or her beneficiary  
2 may transfer any portion of his or her funds among the options. The  
3 board shall adopt and promulgate rules and regulations for changes  
4 of a member's allocation of contributions to his or her accounts  
5 after his or her most recent allocation and for transfers from one  
6 investment account to another.

7 (3) The board shall develop a schedule for the allocation  
8 of administrative costs of maintaining the various investment  
9 options and shall assess the costs so that each member pays a  
10 reasonable fee as determined by the board. The money forfeited  
11 pursuant to section 84-1321.01 shall not be used to pay the  
12 administrative costs incurred pursuant to this section.

13 (4) In order to carry out the provisions of this section,  
14 the board may enter into administrative services agreements for  
15 accounting or record-keeping services. No agreement shall be  
16 entered into unless the board determines that it will result  
17 in administrative economy and will be in the best interests of the  
18 state and its participating employees.

19 (5) The state, the board, the state investment officer,  
20 the members of the Nebraska Investment Council, or the agency  
21 shall not be liable for any investment results resulting from  
22 the member's exercise of control over the assets in the employer  
23 account.

24 Sec. 16. Section 84-1322, Revised Statutes Supplement,  
25 2007, is amended to read:

1           84-1322 (1) Except as otherwise provided in this section,  
2 a member of the retirement system who has a five-year break in  
3 service shall upon reemployment be considered a new employee with  
4 respect to the State Employees Retirement Act and shall not receive  
5 credit for service prior to his or her reemployment date.

6           (2)(a) A member who ceases to be an employee before  
7 becoming eligible for retirement under section 84-1317 and again  
8 becomes a permanent full-time or permanent part-time state employee  
9 prior to having a five-year break in service shall immediately  
10 be reenrolled in the retirement system and resume making  
11 contributions\_ under rules and regulations established by the  
12 ~~board~~. For purposes of vesting employer contributions made prior  
13 to and after reentry into the retirement system under subsection  
14 (3) of section 84-1321, years of participation include years of  
15 participation prior to such employee's original termination. For a  
16 member who is not vested and has received a termination benefit  
17 pursuant to section 84-1321, the years of participation prior  
18 to such employee's original termination shall be limited in a  
19 ratio equal to the amount that the member repays divided by the  
20 termination benefit withdrawn pursuant to section 84-1321. This  
21 subsection shall apply whether or not the person was a state  
22 employee on April 20, 1986, or July 17, 1986.

23           (b) The reemployed member may repay the value of, or a  
24 portion of the value of, the termination benefit withdrawn pursuant  
25 to section 84-1321. A reemployed member who elects to repay all



1 or a portion of the value of the termination benefit withdrawn  
2 pursuant to section 84-1321 shall repay the actual earnings on  
3 such value. Repayment of the termination benefit shall commence  
4 within three years after reemployment and shall be completed  
5 within five years after reemployment or prior to termination of  
6 employment, whichever occurs first, through (i) direct payments to  
7 the retirement system, (ii) installment payments made pursuant to  
8 a binding irrevocable payroll deduction authorization made by the  
9 member, (iii) an eligible rollover distribution as provided under  
10 the Internal Revenue Code, or (iv) a direct rollover distribution  
11 made in accordance with section 401(a)(31) of the Internal Revenue  
12 Code.

13 (c) The value of the member's forfeited employer account  
14 or employer cash balance account, as of the date of forfeiture,  
15 shall be restored in a ratio equal to the amount of the benefit  
16 that the member has repaid divided by the termination benefit  
17 received. The employer account or employer cash balance account  
18 shall be restored first out of the current forfeiture amounts and  
19 then by additional employer contributions.

20 (3) For a member who retired pursuant to section 84-1317  
21 and becomes a permanent full-time employee or permanent part-time  
22 employee with the state more than one hundred twenty days after  
23 his or her retirement date, the member shall continue receiving  
24 retirement benefits. Such a retired member or a retired member who  
25 received a lump-sum distribution of his or her benefit shall be

1 considered a new employee as of the date of reemployment and shall  
2 not receive credit for any service prior to the member's retirement  
3 for purposes of the act.

4 (4) A member who is reinstated as an employee pursuant to  
5 a grievance or appeal of his or her termination by the state shall  
6 be a member upon reemployment and shall not be considered to have  
7 a break in service for such period of time that the grievance or  
8 appeal was pending.

9 Sec. 17. The Legislature finds that:

10 (1) The Nebraska Investment Council was created by the  
11 Legislature in Laws 1967, LB 335. Additional legislation was  
12 passed in Laws 1969, LB 1345, which provided for centralization of  
13 the investment of state funds and addressed types of authorized  
14 investments and since then the statutory framework of the council  
15 has been modified periodically by the Legislature;

16 (2) The laws of Nebraska provide that the appointed  
17 members of the council and the state investment officer are deemed  
18 fiduciaries with respect to investment of the assets (a) in the  
19 retirement systems and the Nebraska educational savings plan trust  
20 and as fiduciaries are required to discharge their duties with  
21 respect to such assets solely in the best interest of the members  
22 and beneficiaries of such plans and (b) of other state funds solely  
23 in the best interest of the residents of Nebraska;

24 (3) As fiduciaries, the appointed members of the council  
25 and the officer must act with the care, skill, prudence, and

1 diligence under the circumstances then prevailing that a prudent  
2 person acting in like capacity and familiar with such matters would  
3 use in the conduct of an enterprise of like character with like  
4 aims by diversifying the investments of assets in the various plans  
5 so as to minimize the risk of large losses;

6 (4) The council managed over fifteen billion three  
7 hundred million dollars of assets as of September 30, 2007.  
8 Those assets have quadrupled since 1995. The assets managed by the  
9 council produced almost one billion five hundred million dollars  
10 in investment earnings in 2006 and almost seven billion dollars of  
11 investment earnings since December 31, 1995;

12 (5) The council has the responsibility of the management  
13 of portfolios for over thirty state entities. The financial  
14 markets and investment strategies that must be employed to  
15 achieve satisfactory returns have become more complex and the  
16 best practices of similar state government investment agencies have  
17 evolved since the creation of the council; and

18 (6) Pursuant to section 72-1249.02, the operating costs  
19 of the council are charged to the income of each fund managed  
20 by the council, and such charges are transferred to the State  
21 Investment Officer's Cash Fund. Management, custodial, and service  
22 costs that are a direct expense of state funds are paid from the  
23 income of such funds.

24 Sec. 18. The Nebraska Investment Council shall enter  
25 into a contract with a qualified independent organization familiar

1 with similar state investment offices to complete a comprehensive  
2 review of the current statutory, regulatory, and organizational  
3 situation of the council, review best practices of similar state  
4 investment offices, and make recommendations to the council, the  
5 Governor, and the Legislature for changes needed to ensure that  
6 the council has adequate authority to independently execute its  
7 fiduciary responsibilities to the members and beneficiaries of the  
8 retirement systems and the Nebraska educational savings plan trust  
9 and the residents of Nebraska with regards to other state funds.

10           Sec. 19. Sections 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12,  
11 13, 14, 15, 16, 17, 18, and 20 of this act become operative three  
12 calendar months after the adjournment of this legislative session.  
13 The other sections of this act become operative on their effective  
14 date.

15           Sec. 20. Original sections 79-947.04 and 81-2027.06,  
16 Reissue Revised Statutes of Nebraska, sections 23-2306, 23-2309.01,  
17 23-2310.05, 24-708, 24-710.07, 24-710.10, 81-2027.03, 84-1307,  
18 84-1310.01, and 84-1311.03, Revised Statutes Cumulative Supplement,  
19 2006, and sections 23-2320, 79-947.01, and 84-1322, Revised  
20 Statutes Supplement, 2007, are repealed.

21           Sec. 21. Original section 79-933, Reissue Revised  
22 Statutes of Nebraska, is repealed.

23           Sec. 22. Since an emergency exists, this act takes effect  
24 when passed and approved according to law.